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Wednesday
October 1, 1997

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Presidential Documents

Title 3—

The President

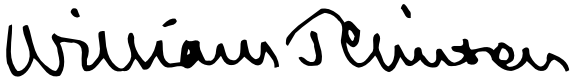
Memorandum of August 5, 1997

Delegation of Authority Under Section 803(a) of the Intelligence Authorization Act for Fiscal Year 1997

Memorandum for Director of Central Intelligence

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate the functions conferred upon the President by section 803(a) of the Intelligence Authorization Act for Fiscal Year 1997, 50 U.S.C. section 404d, to the Director of Central Intelligence.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 5, 1997.

[FR Doc. 97–26191
Filed 9–30–97; 8:45 am]
Billing code 6310–02–M

Rules and Regulations

Federal Register
Vol. 62, No. 190
Wednesday, October 1, 1997

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

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

FARM CREDIT ADMINISTRATION

12 CFR Part 650

RIN 3052–AB72

Federal Agricultural Mortgage Corporation; Receivers and Conservators; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 650 on August 15, 1997 (62 FR 43633). The final rule amends the regulations that apply to the Federal Agricultural Mortgage Corporation by adding a subpart to govern a receivership or conservatorship. The final rule implements the receivership/conservatorship authorities granted to the FCA by the Farm Credit System Reform Act of 1996, Pub. L. 104–105 (Feb. 10, 1996) and by previous law. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 1, 1997.

EFFECTIVE DATE: The regulation amending 12 CFR part 650 published on August 15, 1997 (62 FR 43633) is effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Larry W. Edwards, Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4051, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: September 26, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–25978 Filed 9–30–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 970428099–7227–04]

RIN 0694–AB60

Revision to Entity List: Bharat Electronics, Ltd. (aka Baharat Electronics, Ltd.), India

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule amends the Entity List by revising the entry ''Bharat Electronics LTD, (aka Baharat Electronics, Ltd.) located in India, for all items subject to the EAR''. The entry will now read, ''Bharat Electronics Limited (BEL) in Bangalore, India; and Bharat Electronics Limited (BEL) in Hyderabad, India; for all items subject to the EAR having a classification other than EAR99. In addition, exporters are reminded to follow ''BXA's Know Your Customer Guidance and Red Flags'', see Supplement No. 3 to part 732 of the EAR, with regard to specific end-use of any item subject to the EAR destined to any Bharat Electronics Limited located in India.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

General Prohibition Five (§ 736.2(b)(5) of the EAR) prohibits exports to certain end-users or end-uses, as described in Part 744, without a license. In the form of Supplement No. 4 to part 744, BXA maintains an ''Entity List'' to provide notice informing the public of certain entities subject to such licensing requirements.

This rule narrows the scope of products subject to the end-user license requirement and clarifies the end-user by specifying the facilities of Bharat Electronics by city name. Other Bharat Electronics Limited entities would be subject to normal licensing procedures, with the caveat that you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR, per general prohibition five.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, notice of August 15, 1995 (60 FR 42767), and August 14, 1996 (61 FR 42527); and August 13, 1997 (62 FR 43629).

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. this rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under

5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended, as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); Notice of August 14, 1996 (61 FR 42527, August 15, 1996); and Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

2. Section 744.1 is amended by revising paragraph (c) to read as follows:

§ 744.1 General provisions.

* * * * *

(c) A list of entities is included in Supplement No. 4 to this part 744 of the EAR (Entity List). Exporters are hereby informed that these entities are ineligible to receive any items subject to the EAR without a license to the extent specified in the supplement. License applications will be reviewed under the license review standards set forth in this part 744. No License Exceptions are available for exports or reexports to listed entities of specified items.

3. Supplement No. 4 to part 744 is amended by removing the entity ''Bharat Electronics LTD'' and adding in its place the following entity to read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Bharat Electronics Limited (BEL) in Bangalore, India; and Bharat Electronics Limited (BEL) in Hyderabad, India; for all items subject to the EAR having a classification other than EAR99. In addition, exporters are reminded to follow ''BXA's Know Your Customer Guidance and Red Flags'', see Supplement No. 3 to part 732 of the EAR, with regard to the specific end-use of any item subject to the EAR destined to any Bharat Electronics Limited located in India.

* * * * *

Dated: September 26, 1997.

James A. Lewis,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–26048 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA–166F]

Schedules of Controlled Substances Placement of Butorphanol Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Acting Deputy Administrator of the Drug Enforcement Administration (DEA) places the substance butorphanol, including its salts and optical isomers, into Schedule IV of the Controlled Substances Act (CSA). As a result of this rule, the regulatory controls and criminal sanctions of Schedule IV will be applicable to the manufacture, distribution, dispensing, importation and exportation of butorphanol and products containing butorphanol.

EFFECTIVE DATE: October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Butorphanol is classified as an opioid agonist-antagonist analgesic that is marketed as a prescription drug under the trade name Stadol® for the relief of moderate to severe pain in humans. It is also marketed as a veterinary product under the trade names Torbugesic® and Torbutrol® for use in horses and dogs. It was first marketed as an injectable product in 1979. Although there was limited abuse of the injectable product among certain populations, significant abuse was not observed until after the nasal spray was introduced in 1992.

The Acting Deputy Administrator of the DEA received a letter dated September 30, 1996, from the Assistant Secretary for Health, on behalf of the Secretary of the Department of Health and Human Services (DHHS), recommending that the drug product, Stadol® NS Nasal Spray, be placed into Schedule IV of the CSA. Enclosed with the September 30, 1996, letter from the Assistant Secretary was a scientific and medical evaluation prepared by the Food and Drug Administration (FDA). The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)). Correspondence from the Acting Assistant Secretary for Health dated June 19, 1997, confirmed that the DHHS recommendation included the substance butorphanol and its salts and isomers. The Acting Deputy Administrator of the DEA, in a July 10, 1997, **Federal Register** notice (62 FR 37004 proposed to place butorphanol into Schedule IV of the CSA. The notice provided an opportunity for all interested persons to submit their comments, objections, or requests for a hearing in writing on the proposed scheduling of butorphanol until August 11, 1997. DEA received nine comments regarding the proposal. Comments in support of the proposal were received from six organizations: National Association of Boards of Pharmacy, Missouri Department of Mental Health, Missouri Department of Health, Missouri Department of Economic Development's State Board of Registration for the Healing Arts, Texas State Board of Pharmacy and Public Citizen. The American Veterinary Medical Association noted that controlled substances are subject to additional recordkeeping and storage requirements, but recognized the abuse potential of butorphanol. It recommended that if butorphanol is to be controlled, it be classified at a level no greater than Schedule IV.

Bristol-Myers Squibb commented that the abuse potential of butorphanol nasal spray is low, as evidenced by the low number of adverse reaction reports received by the company per number of prescriptions. Bristol-Myers Squibb did support the placement of butorphanol in Schedule IV. Fort Dodge Animal Health commented that there was little abuse of the butorphanol veterinary products and did not support the scheduling of the veterinary products. This scheduling action, however, is based on the abuse and dependence potentials of the substance butorphanol. It was determined that butorphanol, whether administered orally, intravenously, or intranasally, had an abuse potential consistent with control in Schedule IV of the CSA. Furthermore, available data does not differentiate the abuse potential of butorphanol-containing

human products from that of veterinary products. Fort Dodge presented no additional data in this regard.

Based on the scientific and medical evaluation and the recommendation of the Assistant Secretary for Health, received in accordance with section 201(b) of the Act [21 U.S.C. 811(b)], and the independent review of the DEA, the Acting Deputy Administrator of the DEA, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Butorphanol has a low potential for abuse relative to the drugs or other substances in Schedule III;

(2) Butorphanol has a currently accepted medical use in treatment in the United States; and

(3) Abuse of butorphanol may lead to limited physical dependence and psychological dependence relative to the drugs or other substances in Schedule III.

Based on these findings, the Acting Deputy Administrator of the DEA concludes that butorphanol, including its salts and isomers, warrants control in Schedule IV in the CSA. The Schedule IV controls of butorphanol will be effective on October 31, 1997, except as indicated below. In the event that the regulations impose special hardships on the registrants, the DEA will entertain any justified request for an extension of time to comply with the Schedule IV regulations regarding butorphanol. The applicable regulations are as follows:

1. Registration. Any person who manufactures, distributes, dispenses, imports or exports butorphanol activities or who engages in research or conducts instructional activities with butorphanol, or who proposes to engage in such activities, must submit an application for Schedule IV registration in accordance with Part 1301 of Title 21 of the Code of Federal Regulations. Any person who is currently lawfully engaged in any of the above activities must submit an application for registration by October 31, 1997. Any such person may then continue their lawful activities until the Administration has approved or denied that application.

2. Security. Butorphanol must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(b), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c) and 1301.76 of Title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels on commercial containers of, and all labeling of, butorphanol which is distributed on and after April 1, 1998 shall comply with the requirements of §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations. Any commercial containers of butorphanol packaged on or before April 1, 1998 and not meeting the requirements specified in §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations shall not be distributed on or after July 1, 1998.

4. Inventory. Registrants possessing butorphanol are required to take inventories pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations.

5. Records. All registrants must keep records pursuant to §§ 1304.03, 1304.04 and 1304.21–1304.23 of Title 21 of the Code of Federal Regulations.

6. Prescriptions. All prescriptions for butorphanol are to be issued pursuant to §§ 1306.03–1306.06 and 1306.21–1306.26 of Title 21 of the Code of Federal Regulations. All prescriptions for products containing butorphanol issued on or before October 31, 1997, if authorized for refilling, shall as of that date be limited to five refills and shall not be refilled after April 1, 1998.

7. Importation and Exportation. All importation and exportation of butorphanol shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. Criminal Liability. Any activity with butorphanol not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act shall be unlawful on or after October 31, 1997.

In accordance with the provisions of 21 U.S.C. 811(a) of the CSA, this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, section 3(d)(1). The Acting Deputy Administrator, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small-business entities. Butorphanol products are prescription products. Handlers of butorphanol also handle other controlled substances which are already subject to the regulatory requirements of the CSA.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform act of 1995.

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

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 E.O. 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA [21 U.S.C. 811(a)], and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Acting Deputy Administrator pursuant to 28 CFR 0.104, the Acting Deputy Administrator hereby amends 21 CFR part 1308 as follows.

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.14 is amended by adding a new paragraph (f)(2) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(f) * * *

(2) Butorphanol (including its optical isomers)—9720

Dated: September 22, 1997.

James S. Milford,

Acting Deputy Administration.

[FR Doc. 97–25969 Filed 9–30–97; 8:45 am]

BILLING CODE 4410–09–M

POSTAL SERVICE

39 CFR Part 111

Classification Changes; Bound Printed Matter

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule sets forth the Domestic Mail Manual (DMM) standard to increase the weight of Bound Printed Matter from 10 pounds to 15 pounds adopted by the Postal Service to implement the Decision of the Governors of the Postal Service on Postal Rate Commission Docket No. MC97–3.

EFFECTIVE DATE: October 5, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bennett, (202) 268–6350.

SUPPLEMENTARY INFORMATION: In response to requests from Bound Printed Matter customers, the Postal Service proposed to increase the maximum weight limit for Bound Printed Matter from 10 to 15 pounds in Docket No. MC97–2, Parcel Classification Reform. This increase was to include single-piece, carrier route bulk, and basic bulk Bound Printed Matter. No change in existing rates was proposed for the subclass. Rather, the existing per-piece and per-pound rate elements were to remain in place, with the per-pound elements applied to the additional pounds. After the Postal Service withdrew its request in Docket No. MC97–2, a joint motion was filed by the Advertising Mail Marketing Association (AMMA), the Association of American Publishers (AAP), and the Direct Marketing Association (DMA), requesting that the PRC initiate the current proceeding in order to consider extending the weight limit for Bound Printed Matter.

Pursuant to 39 U.S.C. 3624 on September 4, 1997, the PRC issued its Recommended Decision in Docket No. MC97–3 to increase the weight limit for Bound Printed Matter from 10 pounds to 15 pounds, to the Governors of the Postal Service. Pursuant to 39 U.S.C. 3625, the Governors approved the PRC's recommendation, and the Board of Governors set an implementation date of October 5, 1997, for the increase in weight limit for Bound Printed Matter to take effect.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Amend the Domestic Mail Manual as set forth below:

Domestic Mail Manual (DMM)

C CHARACTERISTICS AND CONTENT

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

* * * * *

1.2 Standard Mail (B)

[Amend 1.2a by replacing ''10 pounds'' with ''15 pounds'' to read as follows:]

These dimensional standards apply to Standard Mail (B):

a. No piece may weigh more than 70 pounds, except matter at Bound Printed Matter rates may not weigh more than 15 pounds.

* * * * *

E ELIGIBILILTY

* * * * *

E600 Standard Mail

* * * * *

E620 Nonautomation Nonpresort Rates

* * * * *

3.0 BOUND PRINTED MATTER

3.1 Description

[Amend 3.1 by replacing ''10 pounds'' with ''15 pounds'' to read as follows:]

Bound Printed Matter is Standard Mail weighing at least 1 pound but not more than 15 pounds and meeting the standards in E611 and E613. Bound Printed Matter rates are based on zones and on the weight of the piece.

* * * * *

P POSTAGE AND PAYMENT METHODS

P000 Basic Information

P010 General Standards

* * * * *

P013 Rate Application and Computation

* * * * *

5.0 RATE APPLICATION—STANDARD MAIL (B)

* * * * *

5.3 Single-Piece Bound Printed Matter

[Amend 5.3 by replacing ''10 pounds'' with ''15 pounds'' to read as follows:]

The single-piece Bound Printed Matter rate is charged per half-pound from 1.5 through 5 pounds, and per pound from more than 5 through 15 pounds. For pieces weighing 1 through 5 pounds or less, any fraction of a half-pound is considered a whole half-pound. For pieces weighing more than 5 but not more than 15 pounds, any fraction of a pound is considered a whole pound. * * *

* * * * *

R RATES AND FEES

* * * * *

R600 Standard Mail

* * * * *

7.0 BOUND PRINTED MATTER

[Amend 7.0 by adding the rates for 11 pounds through 15 pounds in 7.1b, 7.3a, and 7.3b to read as follows:]

7.1 Single-Piece

* * * * *

b. Computed Bound Printed Matter Single-Piece:

Weight not over (pounds)	Zone							
	Local	1 & 2	3	4	5	6	7	8
11.0	$1.40	$2.00	$2.24	$2.62	$3.21	$3.83	$4.58	$5.22
12.0	1.43	2.06	2.31	2.73	3.38	4.05	4.87	5.56
13.0	1.46	2.11	2.39	2.84	3.54	4.27	5.15	5.91
14.0	1.49	2.17	2.46	2.95	3.71	4.49	5.44	6.25
15.0	1.53	2.22	2.54	3.06	3.87	4.71	5.73	6.60

* * * * *

7.3 Bulk Rate Computed Postage Amount With Postage Affixed

a. Basic Bulk Bound Printed Matter:

Weight not over (pounds)	Zone							
	Local	1 & 2	3	4	5	6	7	8
11.0	$0.783	$1.173	$1.393	$1.789	$2.372	$2.999	$3.747	$4.385
12.0	.806	1.216	1.456	1.888	2.524	3.208	4.024	4.720
13.0	.829	1.259	1.519	1.987	2.676	3.417	4.301	5.055
14.0	.852	1.302	1.582	2.086	2.828	3.626	4.578	5.390
15.0	.875	1.345	1.645	2.185	2.980	3.835	4.855	5.725

b. Carrier Route Bulk Bound Printed Matter:

Weight not over (pounds)	Zone							
	Local	1 & 2	3	4	5	6	7	8
11.0	$0.720	$1.110	$1.330	$1.726	$2.309	$2.936	$3.684	$4.322
12.0	.743	1.153	1.393	1.825	2.461	3.145	3.961	4.657
13.0	.766	1.196	1.456	1.924	2.613	3.354	4.238	4.992
14.0	.789	1.239	1.519	2.023	2.765	3.563	4.515	5.327
15.0	.812	1.282	1.582	2.122	2.917	3.772	4.792	5.662

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–26031 Filed 9–30–97; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Part 57

RIN 0906–AA47

Grants for Residency Training and Advanced Education in the General Practice of Dentistry

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: This technical amendment revises the regulations governing the program for Grants for Residency Training and Advanced Education in the General Practice of Dentistry, authorized by section 749 of the Public Health Service Act (the Act), to modify the application and review criteria to be consistent with current Agency streamlining efforts.

DATES: These regulations are effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Bernice Parlak, Acting Director, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–101, Rockville, Maryland 20857; telephone: (301) 443–6853.

SUPPLEMENTARY INFORMATION: This final rule amends the existing regulations for Grants for Residency Training and Advanced Education in the General Practice of Dentistry, governed by section 749 of the Public Health Service (PHS) Act (42 U.S.C. 293m) to remove redundant application and project requirements, and to revise the evaluation criteria to eliminate duplication and bring the language into compliance with current grants policy. Specific changes are discussed below according to the section numbers and headings of the regulations affected.

Section 57.1104 How must an entity apply for a grant?

Section 57.1104 is revised to remove the phrase ''in particular the requirements of § 57.1105'' because this language is unnecessary and redundant.

Section 57.1105 What requirements must a project meet?

The project requirements listed in paragraphs (a), (c), (d), and (f) of this section are being removed because they are redundant to the accreditation standards published by the American Dental Association Commission on Dental Accreditation. Compliance with these accreditation standards is an eligibility requirement of the grant program, as described in § 57.1103. The paragraphs (a), (c), (d) and (f) in § 57.1105 that are being removed are as follows:

(a) The project staff must plan, develop, and/or operate an approved residency or advanced educational program in the general practice of dentistry.

(c) If the training site provides medical care, then the medical and dental care of patients must be coordinated.

(d) If a primary care medical residency program is conducted by the applicant, then joint training experiences must be provided. For purposes of this paragraph, primary care means internal medicine, family medicine, or pediatrics.

(f) The training program, the performance of each participant, and the quality of patient care must be evaluated.

Section 57.1106 What are the criteria for deciding which applications are to be funded?

The heading of the section is being revised to read, ''*How will applications be evaluated?*''

Further, the evaluation criteria are being revised to reflect current Agency initiatives to streamline and standardize the review of health professions education grant applications. The revision shifts the language of the criteria from passive to active voice, and reflects increased attention to measurable performance goals and outcomes. The introductory text of the section will be designated as paragraph (a). The following paragraphs (1) through (8) list the revised evaluation criteria:

(1) The proposal addresses the legislative intent of the program and has a well-documented rationale;

(2) The objectives of the proposed project are consistent with the program's rationale, and are measurable and achievable within the project period;

(3) The proposed project's methodology is consistent with the objectives and explained in appropriate detail;

(4) The evaluation is linked to the objectives and addresses the project outcomes;

(5) The applicant demonstrates the administrative and managerial capability to carry out the proposed project;

(6) The proposed budget is complete, appropriate, cost-effective, and clearly justified;

(7) The plan for institutionalizing the project outcomes is specific and realistic; and

(8) The proposal plans to attract, maintain, and graduate minority and disadvantaged students.

A new paragraph (b) is added to indicate the following:

(b) In determining the funding of applications approved, under paragraph (a) of this section, the Secretary will consider any special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**.

Justification for Omitting Notice of Proposed Rulemaking

These technical changes do not change the focus or intent of the grant program; they are ''housekeeping measures'' which are intended to update the existing regulations to be consistent with current grants policy. Further, in the last two years, the Agency has had numerous concerns about the duplication of the evaluation criteria as well as the project requirements from peer reviewers evaluating the grant applications and from the grantees for compliance in meeting project requirements. These amendments address the concerns raised by our customers.

Since these amendments are of a technical nature, the Secretary has determined, pursuant to 5 U.S.C. 553 and departmental policy, that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Economic Impact

Executive Order 12866 requires all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are ''significant'' because of costs, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department believes the resources required to implement the requirements in this final rule are minimal. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Fairness Act of 1996 which amended the RFA, the Secretary certifies these regulations will not have a significant impact on a substantial number of small entities. For the same reasons, the Secretary also has determined this is not a ''significant'' rule under Executive Order 12866.

Academic and Community Partnerships

As part of its long-range planning, the Health Resources and Services Administration will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Paperwork Reduction Act of 1995

This final rule does not affect the recordkeeping or reporting requirements in the existing regulations for the Grants for Residency Training and Advanced Education in the Practice of General Dentistry Program. The reporting requirements for data collections under § 57.1804 are currently approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 under OMB No. 0915–0060.

List of Subjects Under 42 CFR Part 57

Aged, Dental health, Education of the disadvantaged, Educational facilities, Educational study programs, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Student aid, Reporting and recordkeeping requirements, Scholarships and fellowships.

(Catalog of Federal Domestic Assistance, No. 93.897, Grants for Residency Training and Advanced Education in the General Practice of Dentistry.)

Approved: September 26, 1997.

Claude Earl Fox,

Acting Administrator, Health Resources and Services Administration.

Accordingly, 42 CFR part 57, subpart L is amended as set forth below:

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry

1. The authority for 42 CFR part 57, subpart L continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 786(b) of the Public Health Service Act, 90 Stat. 2317, as amended by 99 Stat. 540–541 (42 U.S.C. 295g–6(b)); redesignated as sec. 785 and amended by 102 Stat. 3130–3131 (42 U.S.C. 295g–5); renumbered as sec. 749, as amended by Pub. L. 102–408, 106 Stat. 2043–2044 (42 U.S.C. 293m).

§ 57.1104 [Amended]

2. Section 57.1104, is amended by removing the phrase '', in particular the requirements of § 57.1105'' at the end of paragraph (c) (1).

3. Section 57.1105 is revised to read as follows:

§ 57.1105 What requirements must a project meet?

A project supported under this subpart must meet the following requirements:

(a) The general practice residency or advanced education program in general dentistry must be accredited by the American Dental Association Commission on Dental Accreditation;

(b) Each project must have at least two participants enrolled in the training program; and

(c) Each participant who receives stipend support must sign a statement of intent to work in the practice of general dentistry.

4. Section 57.1106 is revised to read as follows:

§ 57.1106 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposal as contained in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will award grants to applicants whose projects will best promote the purposes of section 749 of the Act. The Secretary will approve or disapprove applications filed in accordance with § 57.1104, taking into

consideration, among other factors, the degree to which:

(1) The proposal addresses the legislative intent of the program and has a well-documented rationale;

(2) The objectives of the proposed project are consistent with the program's rationale, and are measurable and achievable within the project period;

(3) The proposed project's methodology is consistent with the objectives and explained in appropriate detail;

(4) The evaluation is linked to the objectives and addresses the project outcomes;

(5) The applicant demonstrates the administrative and managerial capability to carry out the proposed project;

(6) The proposed budget is complete, appropriate, cost-effective, and clearly justified;

(7) The plan for institutionalizing the project outcomes is specific and realistic; and

(8) The proposal plans to attract, maintain, and graduate minority and disadvantaged students.

(b) In determining the funding of applications approved under paragraph (a) of this section, the Secretary will consider any special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**.

[FR Doc. 97–26114 Filed 9–29–97; 10:50 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2090

[WO–350–1430–00–24 1A]

RIN 1004–AC65

Nonmineral Entries on Mineral Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends part 2090 of Title 43 of the Code of Federal Regulations (CFR) to completely remove subpart 2093 because it is redundant and unnecessary. Subpart 2093 sets forth the various statutory authorities governing nonmineral entries on mineral lands, and describes BLM procedures for processing claims and other actions under those statutes.

EFFECTIVE DATE: October 31, 1997.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street NW., Washington, DC. 20240.

FOR FURTHER INFORMATION CONTACT: Frances Watson, Telephone: (202) 452–5006 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

Contents

I. Background and Discussion of Final Rule

II. Procedural Matters

I. Background and Discussion of Final Rule

The regulations at 43 CFR part 2090, subpart 2093 repeat language of various statutes dating back to 1902 that govern nonmineral entries on mineral lands, and describe BLM's procedures for processing claims and other actions under those statutes. This subpart is duplicative and unnecessary, and BLM has not used it in over 10 years. The portions of subpart 2093 that contain internal procedures have become largely obsolete since nonmineral entries on mineral lands are extremely rare and are unlikely to become any more widespread, given the scarcity of land on which such entries could be available in the foreseeable future and the repeal of the homestead laws. However, should any applications be submitted in the future, BLM will consider each application based on the guidance provided by applicable statutes; no formal procedural program is necessary. Moreover, internal operating procedures are best suited for publication in the BLM Manual. For these reasons, removing subpart 2093 from the CFR is appropriate.

In the November 1, 1996, **Federal Register** (61 FR 56496), BLM published a proposed rule to completely remove subpart 2093 from 43 CFR. The public was given a 30-day period, ending on December 2, 1996, in which to submit comments on the proposed rule. BLM did not receive any comments , so the final rule is being published unchanged.

II. Procedural Matters

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA), and has found that the rule will not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record, 1620 L Street, NW, Room 401, Washington, DC. BLM invites the public to review these documents at this address during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday.

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 of 1980, 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 in the preamble above, that the rule merely removes redundant and unnecessary requirements, BLM anticipates that this final rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Removal of 43 CFR subpart 2093 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 final 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. Therefore, in accordance with Executive Order 12612, BLM has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

Executive Order 12630

The final rule does not represent a government action that interferes with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to abolish unnecessary regulations, 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 final rule is not a significant regulatory action. As such, the final 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, Civil Justice Reform.

Report 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, BLM submitted a report containing this rule and other required information to the U.S. Senate, U.S. House of Representatives, and the Comptroller General of the General Accounting Office before publication of the rule in today's **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 43 CFR Part 2090

Airports, Alaska, Coal, Grazing lands, Indians—lands, Public lands, Public lands—classification, Public lands—mineral resources, Public lands—withdrawal, Seashores, Veterans.

For the reasons set forth in the preamble and under the authority of 43 U.S.C. 1740, part 2090 of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 2090—SPECIAL LAWS AND RULES

1. The authority citation for part 2090 is revised to read as follows:

Authority: 43 U.S.C. 1740; 43 U.S.C. 1201.

Subpart 2093—[Removed]

2. Part 2090 is amended by removing subpart 2093.

Dated: September 25, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–26007 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5510

RIN 1004–AC92

Use by Settlers and Homesteaders of Timber on Their Pending Claims and Free Use of Timber Upon Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule completely removes certain sections of Title 43, Code of Federal Regulations (CFR), which govern the free use of timber on public lands and upon oil and gas leases. The rule also removes cross references to these sections. These regulations are obsolete and have not been used in many years. Removing them meets one of the objectives of President Clinton's regulatory reform initiative—to eliminate outdated and unnecessary regulations from the CFR.

EFFECTIVE DATE: October 31, 1997.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, (202) 452–7779 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

Contents

I. Background and Discussion of Final Rule
II. Procedural Matters

I. Background and Discussion of Final Rule

Section 5511.1–2 of 43 CFR describes procedures that homesteaders may use to obtain free use of timber on public lands. However, no applications have been submitted to the Bureau of Land Management (BLM) under this subpart for many years, principally because of two laws. First, the Taylor Grazing Act of June 28, 1934, 43 U.S.C. 315–315r, requires that lands be classified for the proposed use before occupancy on the land is allowed. Secondly, section 702 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2787), repealed the homestead laws which, in effect, rendered unnecessary the regulatory requirements of Section 5511.1–2.

Similarly, the procedures under Section 5511.1–4, which lessees must use to obtain free use of timber on oil and gas leases, are outmoded. No applications under this subpart have been submitted to BLM in many years, principally because oil and gas lessees no longer need to use timber on their leases because they now have access to modern industrial techniques.

Because Sections 5511.1–2 and 5511.1–4 are obsolete and have no pending applications, the BLM published a proposed rule in the September 13, 1996, **Federal Register**, 61 FR 48455, to completely remove them from 43 CFR. The public was given a 30-day period in which to submit comments on the proposed rule. BLM did not receive any comments.

BLM is making a conforming change to the final rule that will remove the cross references to Sections 5511.1–2 and 5511–1–4 that appear at 5511.2–1(a), 5511.2–5, and 5511.4(b)(2) in 43 CFR. In all other respects, the final rule is the same as the proposed rule.

II. Procedural Matters

National Environmental Policy Act of 1969

BLM has prepared an environmental assessment (EA) and has found that this rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). No environmental impact statement will be prepared. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C. The notice of proposed rulemaking inaccurately reported at 61 FR 48456 that the rule was categorically excluded from the NEPA process.

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 of 1980, 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 in the preamble above, that the rule merely removes redundant and unnecessary requirements, BLM anticipates that this final rule will have no significant impact on the public at large. Therefore,

BLM has determined under the RFA that this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Removal of sections 5511.1–2, 5511–1.4, 5511.2–1(a), 5511.2–5, and 5511–4(b)(2) of 43 CFR 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 final 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. 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 final rule does not represent a government action capable of interference with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to abolish unnecessary regulations, 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 final rule is not a significant regulatory action. As such the final 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, Civil Justice Reform.

Report 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, BLM 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 before 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).

Author

The principal author of this final rule is Frances Watson, Regulatory Affairs Group, Bureau of Land Management, 1849 C Street, N.W., Room 401 LS, Washington, D.C. 20240; Telephone 202/452–5006.

List of Subjects in 43 CFR Part 5510

Forests and forest products, Public lands.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, Part 5510 of Title 43 of the Code of Federal Regulations is amended as follows:

PART 5510—[AMENDED]

1. The authority citation for part 5510 continues to read as follows:

Authority: 61 Stat. 681, as amended; 69 Stat. 367; 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, R.S. 2478, sec. 32, 41 Stat. 450; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 48 U.S.C. 423, 43 U.S.C. 1201, 30 U.S.C. 189.

§ 5511.1–2 [Removed]

2. Section 5511.1–2 is removed.

§ 5511.1–4 [Removed]

3. Section 5511.1–4 is removed.

§ 5511.2–1 [Amended]

4. Section 5511.2–1 is amended by removing paragraph (a) and removing the paragraph designation (b).

§ 5511.2–5 [Removed]

5. Section 5511.2–5 is removed.

§ 5511.4 [Amended]

6. Section 5511.4 is amended by removing and reserving paragraph (b)(2).

Dated: September 25, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–26005 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 74

Miscellaneous Amendments; Correction

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: HHS published a final rule on August 4, 1997 (62 FR 41877) which made several changes to HHS grant regulations which included updating items to conform them to the Federal Acquisition Streamlining Act of 1994. This document clarifies one of the amendatory instructions in that final rule.

DATES: This correction is effective September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Gale, Director, Office of Grants Management, 202–690–6377; for the hearing impaired only: TDD 202–690–6415.

SUPPLEMENTARY INFORMATION: In the final rule published on August 4, 1997, amendatory instruction number 6. was ambiguous as to whether the entire section was being revised, or only the introductory text. This correction clarifies that instruction.

In final rule document 97–20402, beginning on page 41877, in the issue of Monday, August 4, 1997, make the following correction:

§ 74.44 [Corrected]

On page 41878, in the third column, amendatory instruction 6. is corrected to read ''6. Section 74.44 is amended by revising paragraph (e) introductory text to read as follows:''.

Dated: September 25, 1997.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 97–25984 Filed 9–30–97; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 61, and 63

[IB Docket No. 95–118, FCC 96–79]

Streamlining the International Section 214 Authorization Process and Tariff Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rules; announcement of effective date.

SUMMARY: The Commission's amendments to the international Section 214 authorization process and tariff requirements, which contained new and modified information collection requirements, became effective on June 13, 1996.

EFFECTIVE DATES: The amendments to §§ 1.767, 61.20, 61.21, 61.22, 63.01, 63.02, 63.05, 63.10, 63.11, 63.12, 63.13, 63.14, 64.15, 63.17, 63.18, 63.19, 63.20, and 63.21 became effective on June 13, 1996 (61 FR 15724 April 9, 1996).

FOR FURTHER INFORMATION CONTACT: Troy F. Tanner, Chief, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: On February 29, 1996, the Commission adopted new rules to streamline the international Section 214 authorization process and tariff requirements, a summary of which was published in the **Federal Register**. See 61 FR 15724, April 9, 1996. Because the rules and regulations imposed new and modified information collection requirements, we stated that ''§ 63.23(c) became effective on May 9, 1996. All other regulations take effect either May 9, 1996 or upon approval by the Office of Management and Budget (OMB), whichever occurs later.'' We also stated that ''when approval is received, the agency will publish a document announcing the effective date.'' The information collections were approved by OMB on June 13, 1996. See OMB Nos. 3060–0686. This publication satisfies the statement that the Commission would publish a document announcing the effective date of the rules.

List of Subjects in 47 CFR Parts 1, 61, and 63

Administrative practice and procedure, Communications common carriers.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25677 Filed 9–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 95–117; FCC 96–425]

Satellite Application and Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communication Commission published in the **Federal Register** of February 10, 1997, a document concerning changes to the Commission's rules in 47 CFR part 25. Only the introductory text of § 25.143(e)(1) should have been corrected and a typographical error appeared in § 25.212(c). This document corrects these errors.

EFFECTIVE DATE: Effective upon October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Campbell, International Bureau, Satellite Policy Branch (202) 418–0753.

SUPPLEMENTARY INFORMATION: In December 1996, the Commission adopted modifications to its rules in 47 CFR Part 25. On February 10, 1997, a summary of the final rules was published in the **Federal Register**, 62 FR 5924 (February 10, 1997). This document corrects two errors contained in that summary. The amendatory language for § 25.143 in Item 16 was incorrect and a typographical error appeared in § 25.212(c) of Item 20.

1. The amendatory language of Item 16, page 5930, is corrected to read as follows:

16. Section 25.143(e)(1) is amended by revising the introductory sentence to read as follows:

§ 25.212 [Corrected]

2. In Item 20, page 5931, in § 25.212, paragraph (c) is corrected to read as follows:

* * * * *

(c) In the 14 GHz band, an earth station with an equivalent diameter of 1.2 meters or greater may be routinely licensed for transmission of narrowband analog services with bandwidths up to 200 kHz if the maximum input power density into the antenna does not exceed −8 dBW/4 kHz and the maximum transmitted satellite carrier EIRP density does not exceed 13 dBW/4 kHz, and for transmission of narrowband and/or wideband digital services, if the maximum input power density into the antenna does not exceed −14 dBW/4 kHz and the maximum transmitted satellite carrier EIRP density does not exceed +6.0 dBW/4 kHz.

* * * * *

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–26053 Filed 9–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 90–337, FCC 96–160]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The rule amended by the Commission establishing standards for reporting when a carrier interconnects an international private line to the U.S. Public Switched Network (PSN), shall become effective October 1, 1997. The decision, which contained new information collection requirements, was published in the **Federal Register** on November 21, 1996.

EFFECTIVE DATE: The amendment to 47 CFR § 43.51 published at 61 FR 59198 (November 21, 1996) is effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Susan O'Connell, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: On April 9, 1996, the Commission adopted a *Third Report and Order and Order on Reconsideration* (''Order'') (FCC 96–160) establishing standards for reporting when a carrier interconnects an international private line to the U.S. Public Switched Network (PSN), a summary of which was published in the **Federal Register**. See 61 FR 59198, November 21, 1996. We stated that the ''rule was effective December 23, 1996, except § 43.51(d), which contains new information collections which will not become effective until approval by the Office of Management and Budget (OMB).'' We also stated that ''the Commission will publish a document in the **Federal Register** at a later date establishing the effective date.'' This statement requires further action by the Commission to establish the effective date, notwithstanding the preceding statement in the summary that the rule change would become effective upon OMB approval. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the rule changes adopted in the Order shall become effective October 1, 1997. The information collection contained in § 43.51(d) was approved by OMB on January 6, 1997. See OMB No. 3060–0751.

List of Subjects in 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25680 Filed 9–30–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 16, 36, 37, and 52

Federal Acquisition Regulation; Corrections

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Corrections and technical amendments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing corrections and technical amendments to documents previously published in the **Federal Register** in order to meet the October 1, 1997, deadline for issuance of title 48 of the Code of Federal Regulations. Corrections are being made to provisions relating to the types of contracts available to the Government and contractors, construction and architect-engineer contracts, and service contracting.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson at (202) 501–4786, General Services Administration, FAR Secretariat, Washington, DC 20405.

List of Subjects in 48 CFR Parts 16, 36, 37, and 52

Government procurement.

Corrections

The authority citation for 48 CFR part 16 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 16—TYPES OF CONTRACTS

1. At 48 CFR 16.402–1, paragraph (b) introductory text is corrected to read as follows:

16.402–1 Cost incentives.

* * * * *

(b) Except for award-fee contracts (see 16.404 and 16.405–2), incentive contracts include a target cost, a target profit or fee, and a profit or fee adjustment formula that (within the constraints of a price ceiling or minimum and maximum fee) provides that—

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.602–1 [Technical amendment]

2. At 62 FR 44812, August 22, 1997, in the first column, instruction 18 is corrected to read as follows:

18. Section 36.602–1 is amended by revising paragraph (a)(2), and removing paragraph (a)(6) and redesignating (a)(7) as (a)(6) to read as follows:

PART 37—SERVICE CONTRACTING

37.103 [Corrected]

3. At 62 FR 44815, August 22, 1997, in the second column, instruction 10 is revised to read as follows:

10. Section 37.103 is amended by redesignating paragraph (c) as (d) and adding new paragraph (c) to read as follows:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.247–64 [Corrected]

4. In the Editorial and Technical Changes document appearing in the issue of July 25, 1997 (62 FR 40238), in the third column under section 52.247–64, paragraph (f) is corrected to read as follows:

(f) * * * Office of Costs and Rates, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, Phone: 202–366–4610.

Dated: September 22, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 97–25684 Filed 9–30–97; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards

CFR Correction

In Title 49 of the Code of Federal Regulations, parts 400 to 999, revised as of October 1, 1996, make the following correction:

On page 482, in § 571.208, in the first column, paragraph S4.5.3.5 should be added immediately following paragraph S4.5.3.4 to read as follows:

S4.5.3.5 A replacement automatic belt shall be meet the requirements of S4.1(k) of Standard No. 209.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1241

[Ex Parte No. 431 (Sub–No. 2)]

Review of the General Purpose Costing System

AGENCY: Surface Transportation Board.

ACTION: Policy Statement; Final Rules; Request for Comments.

SUMMARY: The Surface Transportation Board (Board) is modifying the procedures used to determine the variable costs associated with certain types of rail movements; discontinuing the collection of data on switching and terminal companies; and requesting comments on a modification of the procedure for determining the variable cost of using privately-owned rail cars.

DATES: The amendments to 49 CFR part 1241, and the policy statement revising the procedures for costing intermodal traffic and the train switching conversion factor, are effective October 1, 1997. The policy statement modifying the costing of privately-owned cars is effective December 1, 1997; if this effective date is delayed, timely notice will be published in the **Federal Register**.

Comments are due October 31, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 431 (Sub-No. 2) to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, D.C. 20423–001.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 565–1567. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: To provide consistent and comparable information on railroad costs, the Board maintains a general purpose costing system known as the Uniform Railroad Costing System (URCS). This rulemaking was instituted to review the procedures used by the URCS to develop the variable cost of providing

rail service. As a result of the comments received, the Board is discontinuing the collection of cost data on switching and terminal companies found in 49 CFR 1241.14. The Board is also adopting certain modifications to the procedures used to develop the costs associated with movements of intermodal traffic and revising the train switching conversion factor used in its costing procedures. All other proposals previously made in this proceeding are withdrawn. (The Board's decision may be reviewed at the agency's offices in Washington, DC during normal business hours and is available for a charge by calling DC NEWS & DATA INC. at (202) 289–4357.) Finally, as discussed below, the Board modifies the procedures for determining the variable cost of using privately-owned rail cars (an issue which has not been previously noticed for comment), subject to receiving no objections within 30 days.

Privately-Owned Car Costing

In the past, with the exception of unit-coal trains, the Board developed the variable cost associated with using privately-owned rail cars by applying an average car rental cost for privately-owned cars if no mileage rate for that particular car was shown in the Car Hire Rate Master (CHARMS) file.[1] In its comments in Ex Parte No. 347 (Sub-No. 2), *Rate Guidelines—Non-Coal Proceedings,*[2] the AAR pointed out that more than 43% of all U.S.-based rail cars are now owned by entities other than railroads, and that increasingly shippers that provide their own cars obtain lower rates in return for the railroad not incurring any cost for the use of the privately-owned cars.

In view of this current practice, we believe that more accurate costs will be obtained by applying a zero car rental cost to privately-owned cars that do not have mileage rates shown in CHARMS. Thus, we will tentatively modify our costing procedures to assume that all privately-owned car types that show no mileage allowance in the CHARMS file incur no car cost, except for railroad-owned pool cars (for which an allowance is always paid).[3] For such pool cars, we will continue to use an average car rental cost, because it is the best estimate available to us. Absent the receipt of comments voicing opposition to this modification within 30 days of this decision, it will become a permanent change effective December 1, 1997. If the effective date of this modification is delayed, timely notice will be published in the **Federal Register**.

The Board certifies that the new procedures will not have a significant economic effect on a substantial number of small entities. The impact on small entities, if any, will be to provide them with better cost estimates.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1241

Administrative practice and procedure, Railroads.

Decided: September 19, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, 49 CFR Chapter X is amended as set forth below:

PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

1. The authority citation for part 1241 is revised to read as follows:

Authority: 49 U.S.C. 11145.

§ 1241.14 [Removed]

2. Section 1241.14 is removed.

[FR Doc. 97–26029 Filed 9–30–97; 8:45 am]

BILLING CODE 4915–00–P

[1] The CHARMS file is maintained by the Association of American Railroads (AAR) and contains all car-hire rates.

[2] *See* Verified statement of Rockey and Railroad Costing Officers at 17, filed Feb. 20, 1996.

[3] Railroad-owned pool cars are cars that are owned by companies that are themselves owned and controlled by the railroads. Railroad-owned pool cars are generally committed to pools for the benefit of certain shippers. A rental rate is paid for the use of these cars.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 970318057–7158–02; I.D. 022097C]

RIN 0648–AJ42

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1997 Summer Flounder Fishery; Correction

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

ACTION: Correction to final rule.

SUMMARY: NMFS issued a final rule which was published in the **Federal Register** on July 11, 1997 (62 FR 37154). This final rule implemented management measures for the 1997 summer flounder recreational fishery and also made minor technical changes to 50 CFR part 648 that were unrelated to the implementing management measures. The technical changes included the redesignation of two paragraphs. As a result of the redesignation, several errors occured in cross-references to these renumbered paragraphs. This document corrects those cross-references.

DATES: Effective July 8, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Tokarcik, 978–281–9326.

SUPPLEMENTARY INFORMATION:

Background

NMFS is correcting the final regulations published on July 11, 1997 (62 FR 37154). In addition to implementing management measures for the 1997 summer flounder recreational fishery, the final rule made minor technical changes to 50 CFR part 648 that were unrelated to implementing the management measures. The technical changes merely corrected omissions and errors that occurred in making earlier revisions to the consolidated Northeast fisheries regulations. A final rule published on April 1, 1997 (62 FR 15381) was worded as if a paragraph (j) was added to § 648.82, when in effect it actually inadvertently overwrote the original paragraph (j). In the July 11, 1997, final rule, paragraph (j) was redesignated as (k) and the original (j) was added to § 648.82. In § 648.82, cross-references to (j) were revised to reflect its redesignation.

Need for the Correction

The final rule published July 11, 1997, revised the cross-references discussed above contained in § 648.82. However, the cross-references to paragraph § 648.82(k) were not revised in the definition of ''Days-at-Sea (DAS)'' in § 648.2, and paragraphs 648.4(c)(2)(iii)(B) and 648.10(f)(2). This correction document revises those cross-references to reflect accurately the redesignated paragraph (k).

Correction

Accordingly, the publication on July 11, 1997, of the final regulations (I.D. 022097C), which was the subject of FR Doc. 97–18117 is corrected as follows:

Correction to Preamble

On page 37155, in the third column, fifth paragraph, add the following

sentence to the end of the paragraph: ''The redesignation of paragraph (j) as (k) effects three additional cross-references in 50 CFR part 648. Therefore, the cross-references to paragraph (j) contained in the following paragraphs are also revised to reflect paragraph (k). In § 648.2, the cross-reference to § 648.82(j)(1)(iv) contained in the definition for ''Day(s)-at-Sea (DAS)'' is revised to read ''§ 648.82(k)(1)(v)''. In § 648.4(c)(2)(iii)(B), the cross-reference to § 648.80(j) is revised to read ''§ 648.82(k)''. In § 648.10(f)(2), the cross-reference to § 648.82(j)(1)(iii) is revised to read ''§ 648.82(k)(1)(iv)''.

Correction to Regulatory Text

On page 37156, in the first column, the following amendatory instructions are added after the authority citation to read as follows:

1a. In § 648.2, the definition for ''Days-at-Sea (DAS)'' is revised to read as follows:

§ 648.2 Definitions.

* * * * *

Day(s)-at-Sea (DAS), with respect to the NE multispecies and scallop fisheries, except as described in § 648.82(k)(1)(v), means the 24–hour periods of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess or land, or fishes for, possesses, or lands regulated species or scallops.

* * * * *

1b. In § 648.4, the first sentence of paragraph (c)(2)(iii)(B) is revised to read as follows:

§ 648.4 Vessel and individual commercial permits.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(B) For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). * * *

* * * * *

1c. In § 648.10, paragraph (f)(2) is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(f) * * *

(2) *Gillnet call-in*. Vessels subject to the gillnet restriction described in § 648.82(k)(1)(iv) must notify the Regional Administrator of the commencement date of their time out of the NE multispecies gillnet fishery using the procedure described in paragraph (f)(1) of this section.

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

Dated: September 25, 1997.

David L. Evans,

Deputy Assistant Administsrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–25981 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 961227373–6373–01; I.D. 092497C]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Nontrawl Sablefish Mop-Up Fishery

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

ACTION: Announcement of nontrawl sablefish mop-up fishery; fishing restrictions; request for comments.

SUMMARY: NMFS announces adjustments to the management measures for the Pacific Coast groundfish fishery off Washington, Oregon, and California. This action establishes beginning and ending dates and the cumulative period landings limit for the mop-up fishery for nontrawl limited entry sablefish, and sets daily and cumulative trip limits for the nontrawl limited entry sablefish fishery after the mop-up fishery. These actions are intended to provide for harvest of the remainder of the 1997 limited entry nontrawl allocation for sablefish.

DATES: The nontrawl sablefish mop-up fishery will begin at 1201 hours local time (l.t.), October 1, 1997, and will end at 1200 hours l.t., October 15, 1997, at which time the limited entry daily trip limit fishery resumes. The daily trip limits for the nontrawl sablefish fishery will remain in effect until the effective date of the 1998 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted until October 15, 1997.

ADDRESSES: Comments on these actions should be sent to William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator), NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115–0070; or to William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Information relevant to these actions has been compiled in aggregate form and is available for public review during business hours at the office of the Regional Administrator.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140; or Svein Fougner at 562–980–4034.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR 660.323(a)(2) (62 FR 45350, August 27, 1997) established a new season structure for the limited entry nontrawl sablefish fishery in 1997. The ''regular season'' was an equal cumulative limit fishery during which each limited entry permit holder with a sablefish endorsement had the opportunity to fish under an equal cumulative limit. Other than the large, equal cumulative limit, the only trip limit in this fishery was for sablefish smaller than 22 inches (56 cm). The 1997 regular season started at noon on August 25, 1997, and lasted for 9 days to noon on September 3, 1997.

Preseason estimates of the likely total harvest in the regular season fishery were conservative in order to minimize the risk of the fishery exceeding its total allocation. Because of the conservative projections, the regular fishery was not expected to harvest all of the limited entry, fixed gear allocation for north of 36° N. lat. in excess of that required for the daily trip limit fishery. The Regional Administrator is authorized to announce a mop-up fishery for any excess, if it is large enough, about 3 weeks after the end of the regular season and consisting of one cumulative trip limit for each vessel.

Only individuals holding limited entry permits with sablefish endorsements may participate in the mop-up fishery. No more than one cumulative limit may be landed on each limited entry permit with a sablefish endorsement. Approximately 3 weeks are needed for the Pacific Fishery Management Council (Council) Groundfish Management Team to compile all of the landings receipts from the regular season and to calculate the amount available for the mop-up season, if any. This notice establishes the 1997 mop-up fishery for limited entry, fixed gear permit holders with sablefish endorsements.

Following the mop-up fishery, daily trip limits are reimposed until the end of the year. At the September 8–12, 1997, Council meeting, the Council recommended that the limited entry, fixed gear daily trip limits for sablefish

taken north of 36° N. lat. following the mop-up season would be 300 lb (136 kg) per day, with no more than 1,500 lb (680 kg) taken in any one calendar month. Similar changes to the open access trip limits for sablefish taken north of 36° N. lat. will be announced in a separate notice.

A daily trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish may be made in that 24–hour period. Daily trip limits may not be accumulated. If a trip lasts more than 1 day, only one daily trip limit is allowed. Daily trip limits were in effect until the beginning of the regular season, and went back into effect after the post-season closure ended on September 5, 1997. A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

The 1997 limited entry nontrawl sablefish allocation is 2,754 mt (6,071,468 lb). At its June meeting, the Council recommended restricting the total 1997 limited entry daily trip limit catch to 499 mt (1,100,000 lb), leaving 2,255 mt (4,971,373 lb) for the primary limited entry, fixed gear sablefish fishery. The best available information on September 22, 1997, indicated that approximately 1,643 mt (3,622,300 lb) of sablefish were landed during the regular season. Therefore, 612 mt (1,349,215 lb) remains available to the mop-up fishery. The Regional Administrator, after consulting with the Council on September 11, 1997, has determined that the mop-up fishery will occur, and that a cumulative trip limit of 8,500 lb (3,851 kg) (round weight) in a 2-week period (October 1–15, 1997) would provide for the expected fishery participants, leaving enough sablefish for small daily trip limits outside the mop-up fishery, through the end of the year. The trip limit for sablefish smaller than 22 inches (56 cm) total length, or 15.5 inches (39 cm) for sablefish that are headed, that was in effect during the regular season continues during the mop-up season.

The mop-up cumulative trip limit applies to each vessel and permit where the permit is a valid limited entry permit endorsed for pot or longline gear, and with a sablefish endorsement. No more than one cumulative limit may be landed on each permit, and no vessel may land more than one cumulative limit. Once a vessel has landed its 8,500 lb (3,851 kg) cumulative limit, it may not land more sablefish until the daily trip limits resume at 1201 hours on October 15, 1997. There is no limited entry, daily trip limit fishery during the mop-up fishery period. Therefore, holders of limited entry permits without sablefish endorsements may not land any sablefish during the mop-up period. Similarly, once a permit has been used to land its 8,500 lb (3,851 kg) cumulative trip limit, it may not be used to land more sablefish until the daily trip limits resume. Also, acquiring additional limited entry permits does not entitle a vessel to more than one cumulative limit.

The sablefish daily trip limit for the limited entry fishery after the mop-up season is 300 lb (136 kg) per day, with no more than 1,500 lb (680 kg) to be taken in any one calendar month. Since the daily trip limits apply to a 24–hour day starting at 0001 hours, but the mop-up fishery begins and ends at 1200 hours, it will be legal for a vessel in the limited entry fishery to land a daily trip limit between 0001 hours and 1200 hours on October 1, 1997, just before the start of the mop-up season, and between 1201 hours and 2400 hours on October 15, 1997, following the mop-up season.

NMFS Actions

NMFS announces the dates of the nontrawl sablefish limited entry mop-up fishery and the amounts of sablefish that may be taken with limited entry nontrawl gear during and after the limited entry mop-up fishery in 1997. All other provisions remain in effect. In the 1997 annual management measures, paragraph IV.E.(2)(c) at 62 FR 700, January 6, 1997, is revised to read as follows:

IV. * * *

E. * * *

(2) Limited Entry Fishery. * * *

(c) Nontrawl trip and size limits. (i) Daily trip limits. Effective 1201 hours October 15, 1997. The daily trip limit for sablefish taken and retained with nontrawl gear north of 36°00' N. lat. is 300 lb (136 kg), not to exceed 1,500 lb (680 kg) cumulative in a calendar month.

(A) The daily trip limit for sablefish taken and retained with nontrawl gear south of 36°00' N. lat. is (1) 350 lb (159 kg) with no cumulative limit on the amount of sablefish that may be retained in a month; or, (2) one landing of sablefish per week above 350 lb (159 kg) but not to exceed 1,050 lb (476 kg). A week is 7 consecutive days, from 0001 hours (l.t.) Sunday through 2400 hours (l.t.) Saturday.

(ii) Trip limits for small sablefish. During the regular and mop-up seasons, sablefish smaller than 22 inches (56 cm) (total length) may comprise no more than 1,500 lb (680 kg), or 3 percent of all legal sablefish on board 22 inches (56 cm) or larger, whichever is greater. (See paragraph IV.A.(6) of the annual management measures at 62 FR 700, January 6, 1997, regarding length measurement.)

(iii) Mop-Up Fishery. Effective 1201 hours October 1, 1997, until 1200 hours (local time) October 15, 1997, the cumulative trip limit for sablefish caught with nontrawl gear in the limited entry fishery is 8,500 lb (3,851 kg) per vessel.

(Note: The States of Washington, Oregon, and California use a conversion factor of 1.6 to convert dressed sablefish to its round-weight equivalent. Therefore, 8,500 lb (3,851 kg) round weight corresponds to 5,313 lb (2,407 kg) for dressed sablefish.)

Classification

These actions are authorized by the Pacific Coast Groundfish Fishery Management Plan, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Administrator (see **ADDRESSES**) during business hours. Because of the need for immediate action to start the mop-up fishery for sablefish, and because the public had an opportunity to comment on these actions at the September 1997 Council meeting in Portland, OR, NMFS has determined that providing an opportunity for public notice and comment would be impracticable, unnecessary, and contrary to public interest. Participants in the regular season sablefish fishery are anxious to begin fishing. Delay of this rule could push the mop-up season into bad winter weather. Therefore, the agency finds that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(a)(2), and are exempt from review under E.O. 12866.

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

Dated: September 25, 1997

Gary C. Matlock,

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

[FR Doc. 97–26058 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 190
Wednesday, October 1, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–183–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes. This proposal would require a revision to the Airplane Flight Manual (AFM) to include procedures for the flightcrew to follow in the event of radio altimeter height malfunction. This proposal also would require replacement of certain radio altimeter antennas with improved antennas, at which time the AFM revision would no longer be required. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent output of erroneous radio altimeter height information to the flightcrew and autopilot, which could result in reduced ability of the flightcrew to cope with adverse operating conditions.

DATES: Comments must be received by October 27, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 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 (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ‘‘Comments to Docket Number 97–NM–183–AD.’’ The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l’Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 and A321 series airplanes. The DGAC advises that it has received a report indicating that erroneous radio altimeter height information was provided to the flightcrew and to the autopilot on an Airbus Model A320 series airplane. This resulted in a premature autopilot engagement of the FLARE mode during approach, and other aural and visual flight deck indications associated with the radio altimeter height malfunction. Subsequent investigation revealed that a manufacturing flaw in the solder connection of the radio altimeter antenna caused the erroneous indications. This condition, if not corrected, could result in output of erroneous radio altimeter height information to the flightcrew and autopilot, which could result in reduced ability of the flightcrew to cope with adverse operating conditions.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) 34–03, dated February 20, 1996, which describes procedures for replacement of a certain antenna of the radio altimeter with an improved antenna. This AOT states that the operational procedures described in Airbus Flight Operation Telex (FOT) 945.0968/96 must be applied as long as the affected antennas are installed. This FOT has been incorporated into Airbus A319/320/321 Flight Manual Temporary Revision (TR) 2.05.00/13 (not dated) which describes procedures for revising the Limitations Section of the Airplane Flight Manual (AFM) to provide procedures for the flightcrew to follow in the event of radio altimeter malfunction.

Accomplishment of the actions specified in this service information is intended to adequately address the identified unsafe condition. The DGAC classified the AOT as mandatory and issued French airworthiness directive (CN) 96–172–084(B), dated August 28, 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 require accomplishment of the actions specified in the service information described previously.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, and 1 work hour per airplane to accomplish the proposed antenna replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,000, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 97–NM–183–AD.

Applicability: Model A320 and A321 series airplanes; equipped with Collins radio altimeter antennas having part number (P/N) 622–8701–002 and a serial number below 2014; 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 output of erroneous radio altimeter height information to the flightcrew and autopilot, due to inadequate antenna solder connections, which could result in reduced ability of the flightcrew to cope with adverse operating conditions, accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by incorporating Airbus A319/320/321 Flight Manual Temporary Revision (TR) 2.05.00/13 (not dated) into the AFM to provide procedures for the flightcrew to follow in the event of radio altimeter malfunction.

(b) Within 6 months after the effective date of this AD, replace any COLLINS radio altimeter antenna having P/N 622–8701–002, a serial number below 2014, and white paint on the inner side of the C-sink hole, with a new antenna having the same P/N that is fitted with metallic C-sink inserts in its attaching holes; in accordance with Airbus All Operators Telex (AOT) 34–03, dated February 20, 1996. Accomplishment of the actions specified in this paragraph constitutes terminating action for the AFM revision required by paragraph (a) of this AD.

(c) As of the effective date of this AD, no person shall install a Collins radio altimeter antenna having P/N 622–8701–002 and a serial number below 2014, unless the antenna is fitted with metallic C-sink inserts in its attaching holes.

(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 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.

(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.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–172–084(B), dated August 28, 1996.

Issued in Renton, Washington, on September 25, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25976 Filed 9–30–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–140–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 1000 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 Raytheon Model Hawker 1000 series airplanes. This proposal would require modifying the aft core cowl nozzles of the engine nacelles. This proposal is prompted by a report indicating that the sealant on the core cowl nozzles may extend higher than the forward flange of the core cowl nozzles, which could result in contact between the cowl sealant surface and the lever of the engine mechanical over-speed control system. The actions specified by the proposed AD are intended to prevent such contact, which could cause result in the over-speed system to function improperly and consequent engine structural failure.

DATES: Comments must be received by October 27, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–140–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 Raytheon Aircraft Company, Manager, Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Randy Griffith, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4145; fax (316) 946–4407.

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 No. 97–NM–140–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–140–AD, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

Discussion

The FAA received a report indicating that sealant, which is applied on a portion of the aft core cowl nozzle of the engine nacelle to provide fluid drainage, may extend higher than the forward flange of the core cowl nozzle. This may allow the lever of the mechanical engine over-speed system to contact the cowl sealant surface. This condition, if not corrected, could cause the over-speed system to function improperly and consequent engine structural failure.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB.71–48–25F021B, dated May 20, 1997, which describes procedures for modification of the aft core cowl nozzles of the left- and right-hand engine nacelles. (The service bulletin references Nordam Hawker 1000 Service Bulletin PW300 71–9, dated April 29, 1995, as the appropriate source of service information for accomplishment of the modification.) The modification involves replacing the sealant on the aft core cowl nozzle with a filler made from aluminum. Accomplishment of the modification will prevent contact between the surface of the core cowl sealant and the lever of the engine mechanical over-speed control system.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the aft core cowl nozzles of the left- and right-hand engine nacelles. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 52 Model Hawker 1000 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,360, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company (Formerly Raytheon Aircraft Corporation; Beech Aircraft Corporation; Raytheon Corporate Jets, Inc.; British Aerospace, PLC; deHavilland; Hawker Siddeley): Docket 97–NM–140–AD.

Applicability: Model Hawker 1000 series airplanes, serial numbers 258151, 258159, and 259003 through 259052 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the cowl sealant surface and the lever of the engine mechanical over-speed control system, which could cause the over-speed system to function improperly and consequent engine structural failure, accomplish the following:

(a) Within 150 flight hours or 3 months after the effective date of this AD, whichever occurs first, modify the aft core cowl nozzles of the left-and right-hand engine nacelles in accordance with Raytheon Service Bulletin SB.71–48–25F021B, dated May 20, 1997.

Note 2: The Raytheon service bulletin references Nordam Hawker 1000 Service Bulletin PW300 71–9, dated April 29, 1995, as the appropriate source of service information for accomplishment of the modification.

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

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

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

Issued in Renton, Washington, on September 25, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25975 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–146–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 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 British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require a one-time inspection of the tailplane (horizontal stabilizer) leading edges and surrounding area for discrepancies, and corrective action, if necessary. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent separation of the horizontal stabilizer from the fin, which could lead to reduced controllability of the airplane.

DATES: Comments must be received by October 27, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–146–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 AI(R) American Support, Inc., 13850 McLearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2148; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–146–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–146–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that it has received reports of corrosion on the attachment bolts of the tailplane (horizontal stabilizer). This corrosion has been attributed to water contamination caused by the failure of weather seals between the closing panel of the horizontal stabilizer leading edge and the fin. This condition, if not corrected, could result in separation of the horizontal stabilizer from the fin, which could lead to reduced controllability of the airplane.

Explanation of Relevant Service Information

Jetstream has issued Service Bulletin J41–55–002, Revision 1, dated July 25, 1996, which describes procedures for a one-time inspection of the attachment bolts and surrounding area of the horizontal stabilizer for damage or corrosion, and to ensure that the weather seals are positioned correctly; and repair or repositioning of the weather seals, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 004–06–96 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom 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 CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 57 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 $3,420, 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:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited, British Aerospace (Commercial Aircraft) Limited]: Docket 97–NM–146–AD.

Applicability: Jetstream Model 4101 airplanes, constructors numbers 41005 through 41069 inclusive, and 41071 through 41078 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the tailplane (horizontal stabilizer) from the fin, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 3,000 hours time-in-service or 11 months after the effective date of this AD, whichever occurs first, perform a one-time inspection of the attachment bolts and surrounding area of the horizontal stabilizer leading edges for discrepancies, in accordance with Jetstream Service Bulletin J41–55–002, Revision 1, dated July 25, 1996. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the service bulletin.

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

tandardization 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.

(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.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–06–96.

Issued in Renton, Washington, on September 25, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25974 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–140–AD]

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, and –320 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 Aerospatiale Model ATR42–200, –300, –320 series airplanes. This proposal would require an inspection to detect corrosion of the rear spars of the wings, and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct possible corrosion on the rear spars of the wings, which could result in reduced structural integrity of the wings.

DATES: Comments must be received by October 27, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–140–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–140–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. 95–NM–140–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes. The DGAC advises that it has received three reports indicating that, during routine inspections, corrosion was found on the rear spar lower flange of the outer wing. This condition, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing.

Explanation of Relevant Service Information

Aerospatiale has issued Service Bulletin ATR42–57–0044, dated May 30, 1995, and Revision 1, dated June 28, 1995, which describe procedures for performing a one-time detailed visual inspection to detect corrosion of the rear spars of the wings. The service bulletins also describe procedures for repair of corrosion within certain limits, and application of a protective compound to certain areas. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive (CN) 95–127–063(B), dated August 2, 1995, 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, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Differences Between the Proposal and the Related Service Bulletins

The proposed rule would differ from Aerospatiale Service Bulletins ATR42–57–0044, dated May 30, 1995, and Revision 1, dated June 28, 1995, in that it would not permit further flight following removal of corrosion. The FAA has determined that, due to the safety implications and consequences associated with the removal of small amounts of metal from the load-carrying structural elements of the rear spars of the wings (a normal and unavoidable result of the process of removing corrosion), the subject rear spars that are found to be corroded must be repaired prior to further flight. The repair would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 16 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 24 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $23,040, or $1,440 per airplane.

The total 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:

Aerospatiale: Docket 95–NM–140–AD.

Applicability: Model ATR42–200, –300, and –320 series airplanes, as listed in Aerospatiale Service Bulletin ATR42–57–0044, dated May 30, 1995, or Revision 1, dated June 28, 1995; 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 use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion on the rear spars of the wings, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time detailed visual inspection to detect corrosion of the rear spars of the wings, in accordance with Aerospatiale Service Bulletin ATR42–57–0044, dated May 30, 1995, or Revision 1, dated June 28, 1995.

(1) If no corrosion is detected, prior to further flight, apply a protective compound to the areas specified in the service bulletin, in accordance with the service bulletin.

(2) If any corrosion is detected, prior to further flight, repair it in a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

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

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

Note 3: The subject of this AD is addressed in French airworthiness directive (CN) 95–127–063(B), dated August 2, 1995.

Issued in Renton, Washington, on September 25, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25977 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 700

[Docket No. 970827205–7205–01]

RIN 0694–AA02

Defense Priorities and Allocations System

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Department of Commerce proposes to revise the Defense Priorities and Allocations System (DPAS) regulation by updating, modifying or clarifying a number of its provisions. The DPAS implements the priorities and allocations authority of Title I of the Defense Production Act of 1950, as amended, and the priorities authority of Section 18 of the Selective Service Act of 1948 and related authorities, as these authorities pertain to industrial resources.

Provisions to be modified include the time period within which a supplier must accept or reject a rated order, the order of precedence to be given to conflicting rated orders which have equal priority status, and the combining of defense rated requirements with commercial (unrated) requirements.

The Department also proposes to remove all controlled materials provisions and references from the DPAS because the controlled materials program (essentially an emergency preparedness measure) is obsolete and has been deactivated.

These revisions, including a number of other changes to update and clarify the text, are intended to improve the administration of the DPAS and make it more effective and efficient in the post-Cold War era.

The Department will consider public comment on these proposed revisions and on any other provision that may be hindering effective and efficient DPAS administration or implementation.

DATES: Comments must be received no later than October 31, 1997.

ADDRESSES: Address written comments (six copies) to Richard V. Meyers, DPAS Program Manager, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230. The public record of this proposed rule will be available at the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, DPAS Program Manager, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3634, FAX (202) 482–5650, and E-Mail rmeyers@bxa.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The current Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700; formerly 15 CFR part 350) was published by the Department of Commerce as a final rule on July 30, 1984 (49 FR 30412), superseding the regulations of the Defense Materials System and Defense Priorities System. The DPAS regulation implements the priorities and allocations authority of Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), and the priorities authority of Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538 and 2539, and 50 U.S.C. 82, as these authorities pertain to industrial resources.

The Department has received a number of oral and written comments suggesting the need to modify or clarify several provisions of the DPAS which relate to: (1) The time period within which a supplier must accept or reject a rated order [section 700.13(d)(1)]; (2) the order of precedence to be given by contractors and suppliers to conflicting rated orders of equal priority status (section 700.14); and (3) the combining by a contractor of defense rated requirements with commercial (unrated) requirements on one purchase order to a supplier [section 700.17(d)]. Accordingly, for the reasons discussed in the PROPOSED REVISIONS section below, the Department proposes to revise these DPAS rules.

The Department also proposes to remove the controlled materials provisions from the DPAS (sections 700.30–700.31) and delete all other references to the program from throughout the regulation for the following reasons.

During World War II and the Korean War, the production and distribution of certain critical materials called ''controlled materials''—steel, copper, and aluminum—were managed under Controlled Materials Plans. From 1953 to 1988, these materials, with nickel alloys added in 1958, continued to be subject to government allocations regulations.

A 1987 Department of Commerce study of the controlled materials program found that the program had little relevance to current defense requirements for the controlled materials or to the current ability of industry to supply the controlled materials to meet these requirements. The study recommended that the controlled materials procedures be deactivated. An interagency committee, comprised of Commerce and three of the DPAS Delegate Agencies (Federal Emergency Management Agency and the Departments of Defense and Energy), concurred with this recommendation. Action was subsequently taken by these agencies to deactivate the program, including action by Commerce to discontinue the information collection burden imposed upon controlled materials producers, distributors, and users to supply information about controlled materials requirements and shipments. This information was used to support administration of the controlled materials program.

Finally, the Department proposes to make various jurisdictional, technical, administrative, and miscellaneous revisions to a number of DPAS provisions to address changes to delegated authority, to incorporate the delegation of additional authority, to update and clarify the text, and to improve generally the administration, effectiveness, and efficiency of the DPAS in support of our nation's post-Cold War defense requirements and its ability to respond fully to a national security or major disaster emergency situation.

Proposed Revisions

Proposed revisions to the DPAS regulation are described in the following section-by-section analysis.

1. Customer Notification of Acceptance or Rejection of Rated Orders

Section 700.13(d) (Customer notification requirements) of the current DPAS requires a supplier to accept or reject a rated order in writing within ten (10) working days after receipt of a DO rated order and within five (5) working days after receipt of a DX rated order. Subcontractors and suppliers have complained that it is very difficult to comply with this requirement due to production scheduling complexities and other administrative factors.

The proposed rule would revise subparagraph (1) of section 700.13(d) by extending the time within which a person must accept or reject a rated order by five (5) working days. Accordingly, a person must accept or reject a rated order within fifteen (15) working days after receipt of a DO rated order, and within ten (10) working days after receipt of a DX rated order. The Department believes that this change will not significantly impact upon the timely delivery of items against these orders.

The revised subparagraph would also specifically reference electronic data interchange of the acceptance or rejection of rated orders. Electronic placement of rated orders is acceptable provided that the transmission complies in substance with section 700.12 (Elements of a rated order). This section would also be revised to reference the electronic placement of rated orders.

2. Precedence of Rated Orders of Equal Priority Status

A number of companies have requested clarification of the preference to be given to rated orders which have equal priority status (DX or DO) when production scheduling conflicts or other problems arise following acceptance of the rated orders.

The proposed rule would revise paragraph (c) of section 700.14 (Preferential scheduling) of the current

DPAS to provide that if a person finds that production, delivery, or performance against any accepted rated orders conflicts with production, delivery, or performance against any other accepted rated orders of equal priority status, preference shall be given to the conflicting rated orders in the sequence in which they were received (not to the required delivery dates). However, if the conflicting rated orders were received on the same day, the person shall give preference to those orders which have the earliest delivery dates. If under these rules, the production, delivery, or performance conflicts cannot be resolved, or if the customer objects to the rescheduling of the customer's rated order, the proposed rule provides that special priorities assistance should be requested promptly under sections 700.50–700.54 of the DPAS.

Some of the confusion over preferential scheduling appears to have been caused by including paragraph (c) in section 700.14 (Preferential scheduling) of the current DPAS. This paragraph covers acceptance or rejection of rated orders of equal priority status received on the same day. The proposed rule would incorporate this paragraph into section 700.13 (Acceptance and rejection of rated orders).

3. Combining Defense Rated Requirements With Commercial (Unrated) Requirements

Paragraph (d) of section 700.17 (Use of rated orders) of the current DPAS permits a contractor to combine rated and unrated order quantities on a purchase order to a supplier provided that the rated quantities are clearly and separately identified. These quantities must also be contained in a separate rated order which conforms to the requirements of section 700.12 (Elements of a rated order). A special statement and the physical attachment of the separate rated order to the combined order are also required. A number of companies have complained that the requirement for a separate rated order is expensive to implement, an administrative burden, and incompatible with their automated procurement systems.

The proposed rule would eliminate the requirement for a separate rated order but would retain the requirement for clear and separate identification of rated order quantities. It also would require a special statement on the combined purchase order to notify the supplier that the order contains rated quantities certified for national defense use and that the provisions of the DPAS apply only to the rated quantities. This change should contribute to contractor efficiency and cost savings while minimizing the possibility of supplier confusion. The growing commercialization of defense procurement and the development of dual-use products and technology further underscores the need for this change.

4. National Security Emergency Preparedness and Removal of the Controlled Materials Provisions

The proposed rule would remove from the DPAS all provisions and references pertaining to the controlled materials, including the controlled materials information in section 700.4 of Subpart B (Overview), the definitions relating to controlled materials in section 700.8, the special rules for controlled materials in Subpart F (sections 700.30–700.31), and the authorized programs for controlled materials (C8 and H2–H4) listed in Schedule 1 to Part 700. Also removed would be Schedule II to Part 700, which lists the controlled materials, Schedule III to Part 700, which defines the controlled materials, and Schedules IV and V to Part 700, which establish the set-aside base and percentages for copper and nickel alloys producers.

The heading of Subpart F would be renamed ''National Security Emergency Preparedness and Critical Items.'', and the heading of section 700.30 would be retitled ''Priorities and Allocations in a National Security Emergency.'' The text of section 700.30 would be revised to provide a statement as to how the DPAS may be expanded in a national security emergency to ensure rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent defense or major disaster emergency requirements of approved programs.

Included is a discussion of emergency official actions, the allocation of critical and scarce items and facilities to meet emergency requirements, and the delegation of authority under the DPAS to the Regional Emergency Coordinators in the ten Standard Federal Region Council cities in the event that communications with Commerce headquarters in Washington, D.C. is severed as a result of the emergency.

Section 700.4 in Subpart B (Overview) would also be revised to summarize the revised Subpart F, with the section heading retitled ''Priorities and Allocations in a National Security Emergency.''

In Subpart G, section 700.40 (General provisions) would be removed and section 700.41 (Metalworking machines) would be moved into Subpart F and redesignated as section 700.31. Subpart G would be ''Reserved'' for future use.

The removal of the controlled materials provisions would necessitate amendment of DPAS Delegation 1 to the Secretary of Defense (Appendix I to Part 700) and the Memorandum of Understanding on Priorities and Allocations Support Between the U.S. Department of Commerce and the Canadian Public Works and Government Services Canada (formerly Department of Supply and Services) (Appendix IV to Part 700) to delete references to the controlled materials program within these documents.

5. New Approved Programs

The proposed rule would revise Schedule 1 to the current DPAS to retitle it ''Approved Programs and Delegate Agencies'', to include two new programs, ''Special Projects'' and ''Food Resources (combat rations)'', and to change the ''N1'' Federal Emergency Management Agency program name to ''Emergency Preparedness Activities''.

The ''Special Projects'' program would be assigned to the Department of Commerce as Delegate Agency and identified by the Program Identification Symbol ''H8''. It would provide the Department with greater administrative flexibility in authorizing the use of priority ratings, as needed on a case-by-case basis by non-Delegate Agencies to support defense related procurement, where use of a current approved program identification would not be appropriate. Such priority rating authority would be granted only after establishing the appropriate national defense or civil emergency preparedness nexus for the project in consultation with the Department of Defense (DOD), Department of Energy, or Federal Emergency Management Agency, as provided under section 202 of E.O. 12919.

The ''Food Resources (combat rations)'' program would be assigned to DOD as Delegate Agency and identified by the Program Identification Symbol ''C1''. This would enable DOD to place rated orders under the DPAS for food resources to meet troop support requirements for combat rations under the authority delegated to DOD by Commerce in DPAS Delegation 1 (see Appendix I to Part 700). This program was established by agreement between the Departments of Commerce and Agriculture, dated January 28, 1991, and approved by FEMA on February 1, 1991 (see Attachment A to DPAS Delegation 1). It is consistent with the Memorandum of Understanding between the Departments of Agriculture and Commerce Concerning Priorities

and Allocations Jurisdiction and Responsibilities for Foods Which Have Industrial Uses and the Domestic Distribution of Farm Equipment (see Appendix II to Part 700).

The ''N1'' program name change would reflect the expansion of Defense Production Act (Title I) priorities and allocations authority to cover emergency preparedness activities as provided under Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act) (42 U.S.C. 5195, *et seq.*).

6. Other Revisions

Because of recent amendments to the Defense Production Act, the Stafford Act, and the issuance and subsequent amendment of Executive Order 12919 (revision of Executive Order 10480), technical revisions to several sections of the DPAS, including section 700.18(b)(1) (Jurisdictional limitations), are required. The proposed rule sets forth these changes.

Also, on January 8, 1991, priorities authority with respect to industrial resources was delegated to the Department of Commerce under the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538 and 2539, and 50 U.S.C. 82 by Executive Order 12742 (56 FR 1079). The proposed rule would incorporate a reference to these authorities where appropriate, throughout the regulation.

Finally, the proposed rule would make various other technical, administrative, and miscellaneous changes to the current DPAS rules. Among these revisions are improvements to the clarity of the text in section 700.2(b) (Introduction) and subparagraph (2) of section 700.13(d) (Customer notification requirements), and increasing the minimum rated order amount from $5000 to $100,000 in paragraph (f) of section 700.17 (Use of rated orders) to conform with the current simplified Federal Acquisition Regulation small order acquisition threshold. Revision of section 700.21 (Application for priority rating authority) in Subpart E (Industrial Priorities for Energy Programs), section 700.72 (Compulsory process), section 700.80 (Adjustments or exceptions), section 700.81 (Appeals), and section 700.93 (Communications), is necessary to reflect office name, address, telephone number, and Departmental organization changes.

7. Appendices to Part 700

All DPAS Appendices (Appendix I—DPAS Delegations of Authority to the Departments of Defense and Energy, the General Services Administration, and the Federal Emergency Management Agency; Appendix II—Interagency Memoranda of Understanding with the Departments of Agriculture, Energy, and the Interior; Appendix III—Form ITA–999—Request for Special Priorities Assistance; and Appendix IV—Memorandum of Understanding on Priorities and Allocations Support Between the U.S. Department of Commerce and the Canadian Department of Supply and Services) require updating and revision to address various substantive and technical changes, including changes in statutory and delegated authority and removal of obsolete provisions. Of special note is an expanded restriction in each of the DPAS Delegations of Authority on the use of rated orders by the Delegate Agencies to support procurement of any items which are commonly available in commercial markets for general consumption, do not require major modification when purchased for approved program use, and are readily available in sufficient quantity so as to cause no delay in meeting approved program requirements.

A new Appendix V (DPAS Emergency Documents) will be added, containing, for information purposes only, DPAS Emergency Delegation 1. This document will delegate authority to the Regional Emergency Coodinators in the ten Federal Regional Council cities to administer the DPAS if a catastrophic national security emergency situation severs communications with Department of Commerce headquarters in Washington, D.C.

Because the documents in these Appendices are of limited public interest, they will not be published in draft for public comment. They will, however, be reviewed by all involved departments and agencies and copies of the executed originals will be published with the Notice of Final Rulemaking.

Public Comment Requested

Public comment on the sufficiency and reasonableness of these proposed revisions is solicited. In addition, comments are solicited concerning any other DPAS provision. The Department's objective is to ensure that the DPAS is effective, efficient, easy to understand and use, and properly designed not only to ensure the timely delivery of industrial resources in support of current national defense programs with minimal disruption to normal commercial activities, but also to support future emergency requirements.

Section 709 of the Defense Production Act exempts the promulgation of rules and regulations from the rulemaking procedures of the Administrative Procedure Act (5 U.S.C. 551–559). However, the Defense Production Act does require **Federal Register** publication of these proposed revisions and opportunity for public comment, consistent with the requirements 5 U.S.C. 553(b). Therefore, all persons who desire to comment are encouraged to do so at the earliest possible time to receive the fullest consideration of their views. Only those comments received on or before October 31, 1997 will be considered.

In the interest of accuracy and completeness, the Department requires written comments (six copies) which should be sent to the address indicated in the address section above. Oral comments should be directed to Richard V. Meyers, DPAS Program Manager [tel.: (202) 482–3634], and must be followed by written memorandum to Mr. Meyers. All such written comments and memoranda will be placed in the public rulemaking docket and will be available for public review and copying. However, communications from agencies of the U.S. Government or foreign governments will not be made available for public inspection. Written comments accompanied by a request that part or all of the material contained be treated confidentially will not be considered in developing the final rule. Such comments and materials will be returned to the submitter.

The public rulemaking docket concerning this regulation will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, at the address indicated in the address section above. Records in this facility may be inspected and copied in accordance with regulations published in 15 CFR part 4. Information pertaining to the inspection and copying of records may be obtained from Ms. Margaret Cornejo, Freedom of Information Officer, at the Records Inspection Facility, or by calling (202) 482–5653.

Rulemaking Requirements

The Department has made certain determinations with respect to the following rulemaking requirements:

1. Classification Under E.O. 12866

This proposed revision of the current DPAS regulation (15 CFR part 700) has been determined to be ''not significant'' for the purpose of Executive Order 12866.

2. Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy, Small

Business Administration, that this proposed rule to revise the DPAS, if adopted, will not have a significant economic impact on a substantial number of small entities. These revisions would merely update, modify, or clarify a number of provisions to make the current DPAS more effective and efficient in the post Cold War era. Many of the proposed changes are being made in response to comments and recommendations received from the business community, thus ensuring that the updated DPAS will conform to current business practices and enable all business entities subject to its requirements to increase the efficiency of their operations and realize certain cost savings. In addition, some DPAS provisions must be revised to conform the regulation to recent statutory and organizational changes while other provisions must be deleted because they are obsolete.

Because of the self-administered nature of the DPAS, there is no way to accurately estimate the number of business entities throughout the U.S. industrial base to whom the DPAS is applicable. However, it has been roughly estimated that there are at least 18,000 business entities during any one year that on at least one or more occasions must respond to its requirements. It is also estimated that given the nature of defense production, relatively few of these entities are small entities.

The DPAS regulation has been in effect since 1984 and is the successor to priorities and allocations regulations that were first promulgated in the mid-1950s. Thus, most business entities engaged in defense production under the DPAS, including small entities, can and do respond to applicable DPAS requirements in the ordinary course of their business with very little, if any, economic impact. The DPAS revisions, in and of themselves, would impose no economic impact on any business entity, including small entities, and if adopted, will further reduce whatever minimal economic impact is associated with DPAS compliance.

3. Paperwork Reduction Act

The information collection requirements imposed by the DPAS regulation have been submitted to the Office of Management and Budget (OMB) for review under the provisions of Section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) (OMB Control Number 0694–0053). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with these information collection requirements unless the information collection displays a currently valid OMB Control Number.

The collection of information requirements in the DPAS apply to all persons who receive priority rated orders under the DPAS. These requirements are necessary to support proper administration of the DPAS and ensure its effectiveness and efficiency. The total annual public burden per respondent for this collection of information is estimated at 14,476.5 hours. This estimate includes (a) 11,667 total extra record keeping hours to create a record of the receipt of a priority rated order (700,000 priority rated orders annually × 1 minute per order); (b) 972 total hours to provide notice of acceptance of a priority rated order (699,650 priority rated orders accepted annually × 5 seconds per order); (c) 87.5 total hours to provide notice of rejection of a priority rated order (350 total priority rated orders rejected annually × 15 minutes per order); and (d) 1,750 total hours to provide notice of delayed delivery against a priority rated order (7000 total priority rated orders annually against which delivery will be delayed × 15 minutes per order).

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of agency functions, which includes proper administration of the DPAS and ensuring its effectiveness and efficiency; (b) the accuracy of the public burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to further minimize the public information collection burden, including the use of automated collection techniques or other forms of information technology. Written comments should be sent within 30 days of publication of this Notice in the **Federal Register** to Ms. Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Office of Management and Budget, Washington, D.C. 20230; and to Mr. Stephen Baker, BXA Information Collection Officer, Room 6877, U.S. Department of Commerce, Washington, D.C. 20230.

4. Executive Order 12612

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

List of Subjects in 15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

For the reasons stated in the preamble, part 700 of Subchapter A, National Security Industrial Base Regulations (15 CFR part 700), is proposed to be amended as follows:

1. The authority citation for 15 CFR part 700 is revised to read as follows:

Authority: Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195, *et seq.*), and Executive Order 12919 of June 3, 1994 (59 FR 29525), as amended; Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538 and 2539, 50 U.S.C. 82, and Executive Order 12742 of January 8, 1991 (56 FR 1079), as amended; and Executive Order 12656 of November 18, 1988 (53 FR 226), as amended.

PART 700—[AMENDED]

2. Section 700.1 is amended:

a. By revising the phrase ''materials and facilities'' to read ''materials, services, and facilities'', and revising the phrase ''materials and equipment'' to read ''materials, equipment, and services'', in paragraph (a);

b. By revising paragraph (b);

c. By redesignating paragraph (c) as paragraph (e); and

d. By adding new paragraphs (c) and (d); as follows:

§ 700.1 Purpose of this regulation.1

* * * * *

(b) Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468) (Selective Service Act) authorizes the President to place an order with a supplier for any articles or materials required for the exclusive use of the U.S. armed forces whenever the President determines that in the interest of national security, prompt delivery of the articles and materials is required. The supplier must give precedence to the order so as to deliver the articles or materials in a required time period. 10 U.S.C. 2538 and 2539, and 50 U.S.C. 82, provide similar authority specifically for Department of Defense procurement, but only in time of war or when war is imminent.

(c) Section 602(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(b)) provides that the terms ''national defense'' and ''defense'' as used in the Defense Production Act includes ''emergency preparedness activities'' conducted pursuant to Title VI of the Stafford Act. The definition of ''national defense'' in Section 702(13) of the

Defense Production Act provides that this term includes ''emergency preparedness activities'' conducted pursuant to Title VI of the Stafford Act.

(d) The Defense Priorities and Allocations System (DPAS) regulation implements the priorities and allocations authority of the Defense Production Act and as this authority pertains to Title VI of the Stafford Act, and the priorities authority of the Selective Service Act and related statutes, all with respect to industrial resources. The DPAS ensures the timely availability of industrial resources for approved programs and provides a regulatory framework to support rapid industrial response to a national security or major disaster emergency.

* * * * *

3. Section 700.2 is amended by revising paragraphs (a) and (b) to read as follows:

§ 700.2 Introduction.

(a) Certain national defense and energy programs (including emergency preparedness activities) are approved for priorities and allocations support. For example, military aircraft production, ammunition, and certain programs which maximize domestic energy supplies are ''approved programs.'' A complete list of currently approved programs is provided at Schedule 1 to this regulation.

(b) The Department of Commerce administers the DPAS to ensure the timely delivery of industrial items to meet approved program requirements.

* * * * *

§ 700.3 [Amended]

4. Section 700.3(a) is amended by revising the term ''authorized program'' to read ''approved program''.

5. Section 700.4 is amended:

a. By revising the section heading;

b. By revising paragraphs (a) and (b); and

c. By removing paragraphs (c), (d), and (e); as follows:

§ 700.4 Priorities and allocations in a national security emergency.

(a) In the event of a national security emergency, special rules may be established as needed to supplement this regulation, thus ensuring rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent defense or major disaster emergency requirements of approved programs.

(b) The special rules established in response to the emergency may include provisions for the taking of certain emergency official actions and the allocation of critical and scarce materials and facilities.

6. Section 700.7(a) is amended by adding the phrase ''and the Selective Service Act and related statutes'' following the phrase ''the Defense Production Act''.

7. Section 700.8 is amended:

a. By removing the following definitions: ''Authorized program'', ''Controlled materials'', ''Controlled materials suppliers'', ''Distributors of controlled materials'', ''Further conversion'', ''Lead time'', ''Minimum mill quantity'', and ''Person'';

b. By amending the definition of ''Delegate Agency'', revising the term ''authorized programs'' to read ''approved programs'';

c. By amending the definition of ''Official action'', adding a comma followed by the phrase ''the Selective Service Act and related statutes,'' following the phrase ''the Defense Production Act,'';

d. By amending the definition of ''Rated order'', revising the term ''authorized program'' to read ''approved program''; and

e. By revising the introductory sentence after the section heading, and adding new definitions in alphabetical order; as follows:

§ 700.8 Definitions.

In addition to the definitions provided in Section 702 of the Defense Production Act, the following definitions pertain to all sections of the regulation:

Approved program. A program determined as necessary or appropriate for priorities and allocations support to promote the national defense by the Secretary of Defense, the Secretary of Energy, or the Director, Federal Emergency Management Agency, under the authority of the Defense Production Act, the Stafford Act, and Executive Order 12919, or the Selective Service Act and related statutes and Executive Order 12742.

* * * * *

Person. Any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof; or any State or local government or agency thereof; and for purposes of administration of this regulation, includes the United States Government and any foreign government or agency thereof, delegated authority under this regulation.

* * * * *

Selective Service Act and related statutes. Section 18 of the Selective Service Act of 1948 (50 U.S.C. app. 468), 10 U.S.C. 2538 and 2539, and 50 U.S.C. 82.

* * * * *

Stafford Act. Title VI (Emergency Preparedness) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5195, *et seq.*).

8. Section 700.10 is amended:

a. By revising paragraph (a); and

b. By revising the phrase ''Office of Industrial Resource Administration'' to read ''Office of Strategic Industries and Economic Security'', and revising the phrase ''authorized programs'' to read ''approved programs'', in paragraph (b); as follows:

§ 700.10 Delegation of authority.

(a) The priorities and allocations authorities given to the President in Title I of the Defense Production Act with respect to industrial resources, have been delegated to the Secretary of Commerce under Executive Order 12919 of June 3, 1994 (59 FR 29525), as amended. The priorities authorities given to the President in the Selective Service Act and related statutes with respect to industrial resources, have also been given delegated to the Secretary of Commerce under Executive Order 12742 of January 8, 1991 (56 FR 1079), as amended.

* * * * *

§ 700.11 [Amended]

9. Section 700.11(b) is amended by revising the term ''authorized programs'' to read ''approved programs''.

10. Section 700.12 is amended by revising paragraph (c) to read as follows:

§ 700.12 Elements of a rated order.

* * * * *

(c) The written signature on a manually placed order, or the digital signature or name on an electronically placed order, of an individual authorized to sign rated orders for the person placing the order. The signature or use of the name certifies that the rated order is authorized under this regulation and that the requirements of this regulation are being followed; and

* * * * *

11. Section 700.13 is amended:

a. By adding a new paragraph (b)(4);

b. By removing paragraphs (c)(5), (c)(6), and (c)(7);

c. By redesignating paragraph (c)(8) as paragraph (c)(5) and amending redesignated paragraph (c)(5) by adding the phrase ''or the Selective Service Act and related statutes'' following the phrase ''the Defense Production Act'';

d. By revising paragraph (d); and

e. By adding an OMB control number; as follows:

§ 700.13 Acceptance and rejection of rated orders.

* * * * *

(b) Mandatory rejection. * * *

(4) If a person is unable to fill all the rated orders of equal priority status received on the same day, the person must accept, based upon the earliest delivery dates, only those orders which can be filled, and reject the other orders. For example, a person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. However, the person must offer to accept the rejected orders based on the earliest delivery dates otherwise possible.

* * * * *

(d) *Customer notification requirements.* (1) A person must accept or reject a rated order in writing or electronically within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the person must give reasons in writing (not electronically) for the rejection.

(2) If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date. If notification is given verbally, written or electronic confirmation must be provided within five (5) working days.

[The information collection requirements in paragraphs (d)(1) and (d)(2) are approved by the Office of Management and Budget under control number 0694–0053.]

12. Section 700.14 is amended by revising paragraph (c) to read as follows:

§ 700.14 Preferential scheduling.

* * * * *

(c) *Conflicting rated orders.* (1) If a person finds that production, delivery, or performance against any accepted rated orders conflicts with production, delivery, or performance against other accepted rated orders of equal priority status, the person shall give preference to the conflicting orders in the sequence in which they were received (not to the required delivery dates). If the conflicting rated orders were received on the same day, the person shall give preference to those orders which have the earliest delivery dates.

(2) If a person is unable to resolve rated order production, delivery, or performance conflicts under these rules, the person should promptly seek special priorities assistance as provided in §§ 700.50 through 700.54. If the person's customer objects to the rescheduling of a rated order, the customer should promptly seek special priorities assistance as provided in §§ 700.50 through 700.54. For any rated order against which delivery or performance will be delayed, the person must notify the customer as provided in § 700.13(d)(2).

* * * * *

13. Section 700.17 is amended:

a. By removing the parenthetical phrase ''(except as provided in § 700.31(d)—Controlled materials program identification symbols)'' in paragraph (b)(2);

b. By removing the parenthetical phrase ''(not applicable to controlled materials producers)'' in paragraph (b)(3);

c. By removing the phrase found at the end of the paragraph, ''except as provided in § 700.31(d) (Controlled materials program identification symbols)'', in paragraph (c).

d. By revising paragraph (d)(1);

e. By redesignating paragraph (d)(2) as (d)(3);

f. By adding a new paragraph (d)(2); and

g. By revising paragraph (f); as follows:

§ 700.17 Use of rated orders.

* * * * *

(d) *Combining rated and unrated orders.* (1) A person may combine rated and unrated order quantities on one purchase order provided that:

(i) The rated quantities are separately and clearly identified; and

(ii) The four elements of a rated order, as required by § 700.12, are included on the order with the statement required in § 700.12(d) modified to read in substance:

This purchase order contains rated order quantities certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part 700) only as it pertains to the rated quantities.

(2) A supplier must accept or reject the rated portion of the purchase order as provided in § 700.13 and give preferential treatment only to the rated quantities as required by this regulation. This regulation may not be used to give preferential treatment to the unrated portion of the order.

* * * * *

(f) A person is not required to place a priority rating on an order for less than $100,000 provided that delivery can be obtained in a timely fashion without the use of the priority rating.

14. Section 700.18 is amended:

a. By adding a new paragraph (a)(2)(v);

b. By revising paragraph (b)(1); and

c. By removing the first item listed, ''communication services'', and the parenthetical phrase, ''(as defined in Schedule III)'' which follows the item, ''Copper raw materials'', in paragraph (b)(3); as follows:

§ 700.18 Limitations on placing rated orders.

(a) * * *

(2) * * *

(v) Any items related to the development of chemical or biological warfare capabilities or the production of chemical or biological weapons.

(b) *Jurisdictional limitations.* (1) The priorities and allocations authority for certain items has been delegated under Executive Orders 12919 and 12742, other executive order, or Interagency Memoranda of Understanding to other agencies. Unless otherwise agreed to by the concerned agencies, the provisions of this regulation are not applicable to these items which include:

(i) Food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer (Department of Agriculture—see Attachment A to DPAS Delegation 1 in Appendix I to Part 700 concerning combat rations);

(ii) All forms of energy, including radioisotopes, stable isotopes, source material, and special nuclear material produced in Government-owned plants or facilities operated by or for the Department of Energy (Department of Energy);

(iii) Health resources (Department of Health and Human Services);

(iv) All forms of civil transportation (Department of Transportation);

(v) Water resources (Department of Defense/U.S. Army Corps of Engineers);

(vi) Communications services (National Communications System under Executive Order 12472 of April 3, 1984); and

(vii) Mineral resources and mineral processing facilities (Department of the Interior/U.S. Geological Survey—see Memorandum of Understanding Between Interior and Commerce in DPAS Appendix II to Part 700).

* * * * *

15. Section 700.21 is amended:

a. By revising paragraph (a);

b. By revising the phrase ''materials or equipment'' to read ''materials, equipment, or services'' in paragraphs (b)(2), (c) introductory text, (c)(1) introductory text, and (d); and

c. By revising the term ''authorized programs'' to read ''approved programs'' in paragraph (f); as follows:

§ 700.21 Application for priority rating authority.

(a) For projects believed to maximize domestic energy supplies, a person may request priority rating authority for scarce, critical, and essential supplies of materials, equipment, and services (related to the production of materials or equipment, or the installation, repair, or maintenance of equipment) by submitting DOE Form PR 437 to the Department of Energy. Blank applications and further information may be obtained from the U.S. Department of Energy, Office of Clearance and Support, Field/Headquarters Support Division, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Attn.: PR–132.

* * * * *

16. Subpart F is amended:

a. By revising the Subpart heading;

b. By revising § 700.30; and

c. By removing § 700.31; as follows:

Subpart F—National Security Emergency Preparedness and Critical Items

§ 700.30 Priorities and allocations in a national security emergency.

(a) In the event of a national security emergency, special rules may be established as needed to supplement this regulation, thus ensuring rapid industrial response and the timely availability of critical industrial items and facilities to meet the urgent defense or major disaster emergency requirements of approved programs.

(1) *National security emergency.* A ''national security emergency'' is defined in section 101(a) of E.O. 12656 (November 18, 1988), as amended, as any occurrence, including a natural disaster or an accidental or man-caused major disaster event such as military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national or economic security of the United States.

(2) *Emergency official actions.* (i) As needed, this regulation may be supplemented to include additional definitions to cover civilian emergency preparedness industrial items, support for essential civilian programs, and provisions for the taking of certain emergency official actions under sections 700.60 through 700.63.

(ii) Emergency official actions may include:

(A) Controlling inventories of critical and scarce defense and/or emergency preparedness items;

(B) Restricting the purchase, use, or distribution of critical and scarce defense and/or emergency preparedness items, or the use of production or distribution facilities, for non-essential purposes; and

(C) Converting the production or distribution of non-essential items to the production or distribution of critical and scarce defense and/or emergency preparedness items.

(3) *Allocation of critical and scarce items and facilities.* (i) As needed, this regulation may be supplemented to establish special rules for the allocation of scarce and critical items and facilities to ensure the timely availability of these items and facilities for approved programs, and to provide for an equitable and orderly distribution of requirements for such items among all suppliers of the items. These rules may provide for the allocation of individual items or they may be broad enough to direct general industrial activity as required in support of emergency requirements.

(ii) Allocation rules (i.e., controlled materials programs) were established in response to previous periods of national security emergency such as World War II and the Korean Conflict. The basic elements of the controlled materials programs were the set-aside (the amount of an item for which a producer or supplier must reserve order book space in anticipation of the receipt of rated orders), the production directive (requires a producer to supply a specific quantity, size, shape, and type of an item within a specific time period), and the allotment (the maximum quantity of an item authorized for use in a specific program or application). These elements can be used to assure the availability of any scarce and critical item for approved programs. Currently, a set-aside applies only to metalworking machines (see § 700.31).

(4) In the event that certain critical items become scarce, and approved program requirements for these items cannot be met without creating a significant dislocation in the civilian market place so as to create appreciable hardship, Commerce may establish special rules under section 101(b) of the Defense Production Act to control the general distribution of such items in the civilian market.

(b) *Regional Emergency Coordinators.* (1) If due to a catastrophic national security emergency event, communications with Commerce headquarters in Washington, D.C. are severed, DPAS Emergency Delegation 1 will provide authority to the Regional Emergency Coordinators (REC) located in the Standard Federal Region Council cities (Boston, New York, Philadelphia, Atlanta, Dallas, Kansas City, Chicago, Denver, San Francisco, and Seattle) to represent the Secretary of Commerce, and as necessary, act for the Secretary to carry out the emergency industrial production and distribution control functions of Commerce as set forth in this regulation, in any supplement thereto, or other applicable authority. See DPAS Emergency Delegation 1 (Appendix V to Part 700) for further information about the authority and duties of the RECs, and the effective date of the Delegation.

(2) If DPAS Delegation 1 is implemented due to a catastrophic national security emergency event, requests for special priorities assistance under sections 700.50–55 of this regulation should be filed with the nearest Regional Emergency Coordinator located in one of the Standard Federal Region Council cities as provided in DPAS Delegation 1 (Appendix V to Part 700).

17. Subpart G is amended:

a. By removing § 700.40;

b. By redesignating § 700.41 as § 700.31 in Subpart F; and

c. By removing the subpart heading and reserving Subpart G for future use; as follows:

Subpart G—[Reserved]

18. Section 700.50(c) is amended by revising the term ''ITA–999'' to read ''BXA–999'' each of the three times it appears in the paragraph; by revising the term ''(OMB #0625–0015)'' to read ''(OMB #0694–0057)''; and by removing the comma followed by the phrase ''any Commerce District Office''.

19. Section 700.54 is amended by revising the section heading and the second sentence of the introductory text, as follows:

§ 700.54 Instances where assistance may not be provided.

* * * * *

Examples where assistance may not be provided include situations when a person is attempting to:

* * * * *

§ 700.55 [Amended]

20. Section 700.55 is amended:

a. By revising the term ''authorized programs'' to read ''approved programs'' in paragraph (a);

b. By revising the term ''Canadian Department of Supply and Services'' to read ''Canadian Public Works and Government Services Canada'' in paragraphs (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6); and

c. By revising the term ''ITA–999'' to read ''BXA–999'' in paragraph (b)(6).

§§ 700.70, 700.71, 700.72, 700.23, 700.75, 700.80, 700.91 [Amended]

21. The phrase ''the Selective Service Act and related statutes,'' is added following the phrase ''the Defense Production Act,'' wherever it appears in the following places:

Sec.
700.70(a)
700.71(a)
700.71(c)(1)
700.71(c)(2)
700.71(c)(3)
700.72(a)
700.73(a)
700.73(b)
700.75
700.80(a)(2)
700.91(d)

22. Section 700.72(b) is amended by revising the term ''Assistant General Counsel for International Trade'' to read ''Chief Counsel for Export Administration''.

23. Section 700.74 is amended:

a. By revising paragraph (a);

b. By removing paragraph (b);

c. By redesignating paragraph (c) as paragraph (b), and paragraph (d) as paragraph (c); as follows:

§ 700.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act and related statutes, this regulation, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty provided by the Defense Production Act is a $10,000 fine, or one year in prison, or both. The maximum penalty provided by the Selective Service Act and related statutes is a $50,000 fine, or three years in prison, or both.

* * * * *

24. The term ''Office of Industrial Resource Administration'' is revised to read ''Office of Strategic Industries and Economic Security'' in the following places:

§§ 700.80, 700.81, 700.93 [Amended]

Sec.
700.80(a)
700.80(c)
700.80(d)
700.81(a)
700.81(b)
700.93

25. The phrase ''Assistant Secretary for Trade Administration'' is revised to read ''Assistant Secretary for Export Administration'' in the following places:

Sec.
700.80(d)
700.81(a)
700.81(b)
700.81(d)
700.81(e)
700.81(f)
700.81(g)
700.81(h)

26. Section 700.81(b) is amended by revising the term ''International Trade Administration'' to read ''Bureau of Export Administration''.

27. Section 700.91(a) is amended by revising the term ''(OMB #0625–0107)'' to read ''(OMB #0694–0053)''.

28. Section 700.93 is amended by revising the phrase ''telephone: (202) 377–4506'' to read ''telephone: (202) 482–3634, or FAX: (202) 482–5650''.

Schedule 1 to Part 700—[Amended]

29. Schedule 1 to Part 700 is amended:

a. By revising the column heading ''Authorized Program'' to read: ''Approved Program''; and by revising the title of the Schedule and the first paragraph of the two paragraph explanation of the Schedule;

b. By removing the following program identification symbols and associated authorized program names from the Schedule: ''C8—Controlled materials for Defense Industrial Supply Center (DISC)'', ''H2—Controlled materials producers'', ''H3—Further converters (controlled materials)'', and ''H4—Distributors of controlled materials'';

c. By removing the term ''Federal Aviation Administration'' from the list of Associated Agencies of the Department of Defense contained in footnote 1;

d. By adding the following program identification symbols and associated approved program names to the Schedule: ''C1—Food resources (combat rations)'' under the ''Defense Programs'' heading; and ''H8—Special projects'', under the ''Other Defense, Energy and Related Programs'' heading;

e. By revising the ''Other Energy Programs'' heading to read: ''Domestic Energy Programs''; and revising the ''F3'' program name ''Construction and Maintenance'' to read: ''Construction, repair, and maintenance''; and

f. By revising the ''N1'' program name ''Approved civil defense programs'' to read ''Emergency Preparedness Activities''; as follows:

Defense Priorities and Allocations System

Schedule 1 to Part 700—Approved Programs and Delegate Agencies

The programs listed in this schedule have been approved for priorities and allocations support under this regulation. They have equal preferential status.

* * * * *

Schedule II to Part 700—[Amended]

30. Schedule II to part 700 (Controlled Materials), Schedule III to part 700 (Technical Definitions of Controlled Materials Products), Schedule IV to part 700 (Copper Controlled Materials Producers' Set-aside Base and Percentages), and Schedule V to part 700 (Nickel Alloys Controlled Materials Producers' Set-aside Base and Percentages) are removed.

Issued: September 29, 1997.

William V. Skidmore,

Assistant Secretary (Acting) for Export Administration.

[FR Doc. 97–26109 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DT–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300558; FRL–5746–3]

RIN 2070–AC18

Various Inert Ingredients; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA proposes to establish exemptions from the requirement of a tolerance for residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate when used as inert ingredients in pesticide formulations applied to growing crops, crops after harvest, and/or animals. EPA is proposing this regulation on its own initiative.

DATES: Comments, identified by the docket control number [OPP–300558], must be received on or before December 1, 1997.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VII of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Fourth Floor, CS #1, 2800 Crystal Drive, Arlington, VA, (703) 308–8380; e-mail: gandhi.bipin@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Food Quality Protection Act of 1996 (FQPA), EPA proposed that exemptions from the requirement of a tolerance be established for residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate in response to various pesticide petitions submitted pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e). Each of these proposals is summarized at the end of this section.

Pursuant to section 408(e)(1)(B) of FFDCA, the Agency is reproposing upon its own initiative the following tolerance exemptions in view of the new FQPA amendments to the FFDCA.

1. *2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate.* In the **Federal Register** of May 16, 1996 (61 FR 24738)(FRL–5365–3), EPA proposed that an exemption from the requirement of a tolerance be established for residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate (CAS Reg. No. 107568–10–5) when used as an inert ingredient (binding agent) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed rule was issued in response to pesticide petition (PP) 5E04568 submitted by Japan Technical Information Center on behalf of Nippon Goshei (U.S.A.) Co., Ltd., 775 South 23rd Street, Arlington, VA 22202. No comments were received in response to the proposed rule.

2. *Polyvinyl pyrrolidone butylated polymer.* In the **Federal Register** of July 10, 1996 (61 FR 36331)(5380–5), EPA proposed that an exemption from the requirement of a tolerance be established for residues of polyvinyl pyrrolidone butylated polymer (CAS Reg No. 26160–96–3) when used as an inert ingredient (surfactants, related adjuvant of surfactants and binder) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed rule was issued in response to pesticide petition (PP) 6E4644 submitted by International Specialty Products, 1361 Alps Road, Wayne, NJ 07470. No comments were received in response to the proposed rule.

3. *Vinyl pyrrolidone-acrylic acid copolymer.* In the **Federal Register** of June 14, 1996 (61 FR 30202)(FRL–5374–4), EPA proposed that an exemption from the requirement of a tolerance be established for residues of vinyl pyrrolidone-acrylic acid copolymer when used as an inert ingredient (adhesive, dispersion stabilizer and coating for sustained release granules) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed rule was issued in response to pesticide petition (PP) 6E4659 submitted by International Specialty Products, 1361 Alps Road, Wayne, NJ 07470. No comments were received in response to the proposed rule.

4. *Maleic anhydride-diisobutylene copolymer, sodium salt.* In the **Federal Register** of July 10, 1996 (61 FR 36329)(FRL–5374–3), EPA proposed that an exemption from the requirement of a tolerance be established for residues of maleic anhydride-diisobutylene copolymer, sodium salt (CAS Reg. No. 37199–81–8) when used as an inert ingredient (suspending agent and dispersing agent) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed rule was issued in response to pesticide petition (PP) 6E4665 submitted by Rhone-Poulenc North America Chemicals Inc., CN 5255, Princeton, NJ 08543–5255. A comment was received in response to the proposal that stated the proposed deletion of the tolerance exemption for growing crops only under 40 CFR 180.1001(d) for maleic anhydride-diisobutylene copolymer, sodium salt needed to be accompanied by an adjustment in the molecular weight range proposed for maleic anhydride-diisobutylene copolymer, sodium salt under 40 CFR 180.1001(c) and (e) to allow for the other permissible molecular weights of maleic anhydride-diisobutylene copolymer, sodium salt polymers. The Agency agrees with the commentor and has revised the proposed molecular weight range of maleic anhydride-diisobutylene copolymer, sodium salt accordingly.

5. *Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-o*-sodium sulfonate condensate. In the **Federal Register** of July 18, 1996 (61 FR 37433) (FRL–5376–4), EPA proposed that an exemption from the requirement of a tolerance be established for residues of vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate when used as an inert ingredient (water soluble resin) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. This proposed rule was issued in response to pesticide petition (PP) 6E4718 submitted by Mitsui Plastics, Inc., 11 Martine Ave., White Plains, NY 10606. No comments were received in response to the proposed rule.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures.

New section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement of a tolerance for a pesticide chemical residue on food only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is

reliable information.'' This includes exposure through drinking water, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue'' and specifies factors EPA is to consider in establishing an exemption.

II. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert ingredient in conjunction with possible exposure to residues of the inert ingredient in food, drinking water, and other non-occupational exposures. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(c)(2)(B) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of the proposed actions. EPA has sufficient data to assess the hazards of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerance exemptions for the residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate on growing crops, raw agricultural commodities after harvest and animals. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

The data submitted in the petitions and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient.

A. Toxicological Profile

In the case of certain chemical substances that are defined as ''polymers,'' the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting these criteria will present minimal or no risk. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate, all conform to the definition of a polymer given in 40 CFR 723.250(b) and meet the following criteria that are used to identify low risk polymers:

1. They are not cationic polymers, nor is it reasonably anticipated they will become cationic polymers in a natural aquatic environment.

2. They contain as an integral part of their composition the atomic elements carbon, hydrogen, and oxygen.

3. They do not contain as an integral part of their composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. They are not designed, nor are they reasonably anticipated to substantially degrade, decompose or depolymerize.

5. They are not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. They are not water absorbing polymers.

7. The minimum number-average molecular weight of each of the above polymers is greater than 1,000 daltons. Substances with molecular weights (MW) greater than 400 generally are not absorbed through the intact skin, and substances with MW greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

8. Each of the above-listed polymers has an oligomer content less than 2 percent below MW 500 and less than 5 percent MW 1,000.

Based on these chemicals' conformance to the above criteria, no mammalian toxicity is anticipated from dietary, inhalation or dermal exposure to 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate.

B. Exposures and Risks

1. *From food and feed uses, drinking water, and non-dietary exposures.* For the purposes of assessing the potential dietary exposure under these exemptions, EPA considered that under these exemptions 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate could be present in all raw and processed agricultural commodities and drinking water and that non-occupational, non-dietary exposure was possible. EPA concluded that, based on these chemicals' categorization as polymers conforming to the definition of a polymer under 40 CFR 723.250(b) that also meet the criteria used to identify low risk polymers, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable.

2. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.''

In the case of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate, the lack of expected toxicity of these substances based on their conformance to the definition of polymers as given in 40 CFR 723.250(b) as well as the criteria that identify low risk polymers results in no expected cumulative effects; a cumulative risk assessment is therefore not necessary.

C. Aggregate Risks and Determination of Safety for U.S. Population

Based on these chemicals' conformance to the definition of a polymer given in 40 CFR 723.250(b) as well as the criteria that are used to identify low risk polymers, EPA concludes that there is a reasonable certainty that no harm to the U.S. population will result from aggregate exposure to 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate. EPA believes these compounds present no dietary risk under reasonably foreseeable circumstances.

D. Aggregate Risks and Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through the use of margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

Due to the low expected toxicity of these compounds, EPA has not used a safety factor analysis in assessing the risk of these compounds. For the same reasons the additional safety factor is unnecessary.

V. Other Considerations

The Agency proposes to establish exemptions from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that analytical methods are not required for enforcement purposes for 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate.

There are no Codex Alimentarius Commission (Codex), Canadian or Mexican residue limits for 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate; polyvinyl pyrrolidone butylated polymer; vinyl pyrrolidone-acrylic acid copolymer; maleic anhydride-diisobutylene copolymer, sodium salt; and vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate.

VI. Conclusion

Based on the information and data considered, EPA proposes that the exemptions from the requirement of a tolerance be established as set forth in this document.

VII. Public Record and Electronic Submissions

Under FFDCA 408(e)(2), EPA must provide for a public comment period before issuing a final tolerance or tolerance exemption under 408(e)(1). Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [OPP–300558]. All written comments filed in response to this petition will be available in the Public Information and Records Integrity Branch at the Virginia address given above from 8:30 a.m. to 4 p.m. Monday through Friday, except legal holidays.

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number [OPP–300558] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–300558]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

VIII. Regulatory Assessment Requirements

This action proposes an exemption from the tolerance requirement under FFDCA section 408(e). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any

unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require special OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IX. 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, the Agency has 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 is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural Commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 24, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 is revised to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001 the tables in paragraphs (c) and (e) are amended by adding alphabetically the following inert ingredients, and the table in paragraph (d) is amended by removing the entry for ''Maleic anhydride diisobutylene copolymer, sodium salt.''

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
*	* * *	*
Maleic anhydride-diisobutylene copolymer, sodium salt (CAS Reg. No. 37199–81–8), minimum number average molecular weight (in amu) 5,000–18,000.		Suspending agent and dispersing agent.
*	* * *	*
Polyvinylpyrrolidone butylated polymer (CAS Reg No. 26160–96–3), minimum number average molecular weight (in amu) 9,500.		Surfactants, related adjuvant of surfactants and binder.
*	* * *	*
2-Propene-1-sulfonic acid sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000 – 12,000.		Binding Agent.
*	* * *	*
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate, minimum number average molecular weight (in amu) 20,000.		Water soluble resin.
*	* * *	*
Vinyl pyrrolidone-acrylic acid copolymer (CAS Reg. No. 28062–44–4), minimum number average molecular weight (in amu) 6,000.		Adhesive, dispersion stabilizer and coating for sustained release granules.
*	* * *	*

* * * * * * *

(e) * * *

Inert ingredients	Limits	Uses
*	* * *	*
Maleic anhydride-diisobutylene copolymer, sodium salt (CAS Reg. No. 37199–81–8), minimum number average molecular weight (in amu) 5,000–18,000.		Suspending agent and dispersing agent.
*	* * *	*
Polyvinylpyrrolidone butylated polymer (CAS Reg No. 26160–96–3), minimum number-average molecular weight (in amu) 9,500.		Surfactants, related adjuvant of surfactants and binder.
*	* * *	*
2-Propene-1-sulfonic acid sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000 – 12,000.		Binding Agent.

Inert ingredients	Limits	Uses
*	* * *	*
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-*o*-sodium sulfonate condensate, minimum number average molecular weight (in amu) 20,000.		Water soluble resin.
*	* * *	*
Vinyl pyrrolidone-acrylic, acid copolymer (CAS Reg. No. 28062–44–4), minimum number average molecular weight (in amu) 6,000.		Adhesive, dispersion stabilizer and coating for sustained release granules.
*	* * *	*

[FR Doc.97–26015 Filed 9–30–97; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[WO–350–1430–00–24 1A]

RIN 1004–AC83

Application Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to revise 43 CFR part 1820, which addresses general application procedures, to streamline, modernize and clarify the existing provisions, and remove obsolete and unnecessary requirements. The proposed rule describes how to file an application or other documents with BLM; provides guidance on how BLM determines priority for applications filed simultaneously; and contains procedures for payments and refunds, and requirements for publication and posting of notices.

DATES: *Comments:* Any comments must be received by BLM at the address below by December 1, 1997. BLM will not necessarily consider any comments received after the above date during its decisionmaking on the proposed rule.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Bureau of Land Management, Administrative Record, Room 401LS,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: AC 83'''' and your name and return 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.

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 confidentiality, which BLM will consider on a case-by-case basis. If you wish to request that BLM consider withholding your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. 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: Mary Linda Ponticelli, Telephone: (202) 452–0364, or Frances Watson, Telephone: (202) 452–5006 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is 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

Since public land records contain the basic land title information for over two-thirds of the nation's real property, BLM places great importance on providing standardized methods for processing applications for public lands to ensure that BLM processes all applications received in an equitable and efficient manner. When the public lands were open to settlement under various laws, BLM established specific procedures for filing each type of application pertaining to land use authorizations. Despite the existence of detailed application procedures for specific BLM programs, BLM recognized the need to have general procedures applicable to all BLM land use authorization programs addressed in a centralized location in the Code of Federal Regulations. Although there may be certain variances among application procedures for specific land use authorizations, for example, filing fees, the general procedures covered in these regulations have assisted BLM in determining priority among those applications (sometimes numbering in the thousands) competing for the same claim or parcel.

These general procedural regulations continue to serve important functions, such as informing members of the public of proposed BLM actions or decisions through publication and posting of notices. Thus, there is still a need for general procedural direction to ensure consistency in processing documents and uniformity in treatment of all BLM's customers.

III. Discussion of Proposed Rule

This proposed rule, which would revise the application procedures at 43 CFR part 1820, provides general information on how to file documents with BLM, such as applications for various BLM resource programs. The proposed rule will continue to provide addresses and geographical areas of jurisdiction of BLM State Offices, as well as standardized requirements for such things as application procedures, filing times and locations for filing. This proposed rule also contains guidance as

to how BLM determines ''first in line'' priority for applications filed simultaneously; procedures for payments and refunds; and requirements for posting and publication of notices.

Many of the changes in the proposed rule would have no substantive effect on the current regulatory framework, but rather merely rewrite the existing provisions in Plain English, and rename and renumber subparts and sections. To keep the focus of the regulations on general application procedures, we have removed certain regulatory provisions that pertain to specific BLM resource programs, for example, section 1821.5–3 (mining claims), as these provisions are addressed in program-specific regulations found in other parts and subparts of this title. (See 43 CFR 3862.1–1(c).)

The proposed rule also would remove subpart 1823 (Proofs and Testimony) and subpart 1826 (Reinstatement of Cancelled Entries) in their entirety, as their applicability is now limited to desert land entries and pertinent provisions are addressed in part 2520 of this title, Desert Land Entries. Many procedural requirements that are no longer applicable would also be removed, e.g., requirements addressed in section 1821.6, pertaining to time constraints for applications filed in BLM offices in Alaska; and requirements addressed in section 1822.3 (Act of June 16, 1880), pertaining to homesteads. Existing subpart 1822 (Payments and Repayments) would be renamed Payments and Refunds and redesignated subpart 1823, and a new subpart 1822 would be added. We have changed the general rule in § 1821.5 that applications relating to lands in more than one land district must be filed in each office having jurisdiction over the lands. Instead, proposed § 1822.16 would provide that the application could be filed with any BLM State Office having jurisdiction over the lands. This proposed change adopts as the general rule the practice now followed for right-of-way grants, as provided in 43 CFR 2802.2–1(d). We specifically invite comment on this change.

With respect to requests for refunds filed by heirs, executors, administrators, assignees, and mortgagees, we are removing from redesignated subpart 1823 listings of detailed information that adverse claimants may submit for refunds. Very rarely does BLM receive a request for a refund from anyone other than an applicant and, therefore, it is counterproductive to BLM's efforts to streamline and to clarify its regulations to list all the various types of documentation that third parties can file with BLM as proof of entitlement for a refund. Upon request, BLM offices will provide information regarding appropriate documentation. We have deleted details of publishing a notice from subpart 1824, as those details are addressed in program-specific regulations. (See, for example, 43 CFR 2541.5(a).) We have also deleted the specific requirements in § 1824.1–1 regarding qualifications of newspapers in which notices are published.

The more notable substantive changes include proposed section 1822.13, which would allow certain applications that do not require an original signature to be filed electronically, and redesignated section 1823.10, which would provide that BLM now accept payments by Visa or Master Card in addition to more traditionally accepted forms of payment.

The most significant change is the conversion to Plain English, a process that BLM believes will significantly clarify what an applicant must do to complete a successful application. By making its procedures streamlined, modern and easier to understand, BLM can improve its relationship with its customers and use its resources more efficiently. The conversion of part 1820 is, therefore, a key step in BLM's overall regulatory reform effort.

These general regulations are supplemented by specific BLM program regulations. If there is a conflict, the specific program regulations will govern.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the *Written Comments* section above, or contact us directly.

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 of 1995, 44 U.S.C. § 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (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—that the proposed rule would merely convert text to Plain English, update existing provisions, and abolish unnecessary requirements—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

Revising 43 CFR 1820 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 various levels of government. 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 proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the rule is the conversion to Plain English and to abolish unnecessary regulatory provisions, 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 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 Mary Linda Ponticelli, Planning Assessment, and Community Support Group, Telephone: 202–452–0364 (Commercial or FTS), assisted by Frances Watson, Regulatory Affairs Group, Telephone: 202–452–5006, and Ted Bingham of the Arizona State Office.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure; Archives and records; Public lands.

Dated: September 25, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary—Land and Minerals Management.

Accordingly, BLM proposes to revise Part 1820 of Group 1800, subchapter A, chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 1820—APPLICATION PROCEDURES

Subpart 1821—General Information

1821.10 Where are BLM offices located?
1821.11 During what hours may I file an application?
1821.12 Are these the only regulations that will apply to my application or other required document?

Subpart 1822—Filing a Document With BLM

1822.10 How should my name appear on applications and other required documents that I submit to BLM?
1822.11 What must I do to make an official filing with BLM?
1822.12 Where do I file my application or other required documents?
1822.13 May I file electronically?
1822.14 What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?
1822.15 If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?
1822.16 Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?
1822.17 When are documents considered filed simultaneously?
1822.18 How does BLM decide in which order to accept documents that are simultaneously filed?

Subpart 1823—Payments and Refunds

1823.10 How may I make my payments to BLM?
1823.11 What is the authority for BLM issuing a refund of payment?
1823.12 When and how may I obtain a refund?
1823.13 Is additional documentation needed when a third party requests a refund?

Subpart 1824—Publication and Posting Notices

1824.10 What is a publication?
1824.11 What does it mean to post a notice?
1824.12 Why must I post a notice?
1824.13 If I must post a notice on the land, what are the requirements?
1824.14 How does BLM choose a newspaper in which to publish a notice?
1824.15 How many times must BLM publish a notice?
1824.16 Who pays for publication?
1824.17 Does the claimant or applicant pay for an error by the printer of the paper in which the notice appears?

Subpart 1825—Relinquishments

1825.10 If I relinquish my interest (such as a claim or lease) in public land, am I relieved of all further responsibility associated with that interest?
1825.11 When are relinquishments effective?
1825.12 When does relinquished land become available again for other application or appropriation?

Authority: 5 U.S.C. 552, 43 U.S.C. 2, 1201, 1733, and 1740.

Subpart 1821—General Information

§ 1821.10 Where are BLM offices located?

(a) In addition to the national Headquarters Office in Washington, D.C. and five specialty centers, BLM operates 12 State Offices, each having several subsidiary offices called District Offices and Resource Area Offices. The addresses of the State Offices and their respective geographical areas of jurisdiction are as follows:

State Offices and Areas of Jurisdiction:

Alaska State Office, 222 West 7th Avenue, #13, Anchorage, AK 99513–7599—ALASKA

Arizona State Office, 3707 North 7th Street, Phoenix, AZ 85014–5080; Mail: P.O. Box 16563, Phoenix, AZ 85011–6563—ARIZONA

California State Office, 2135 Butano Drive, Sacramento, CA 95825—CALIFORNIA

Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215–7076—COLORADO

Eastern States Office, 7450 Boston Boulevard, Springfield, VA 22153—ARKANSAS, IOWA, LOUISIANA, MINNESOTA, MISSOURI, AND ALL STATES EAST OF THE MISSISSIPPI RIVER

Idaho State Office, 3380 Americana Terrace, Boise, ID 83706–2500—IDAHO

Montana State Office, Granite Tower, 222 North 32nd Street, Billings, MT 59101; Mail: P.O. Box 36800, Billings, MT 59107–6800—MONTANA, NORTH DAKOTA AND SOUTH DAKOTA

Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520–0006—NEVADA

New Mexico State Office, 1474 Rodeo Drive, Santa Fe, NM 87505; Mail: P.O. Box 27115, Santa Fe, NM 87502–0115—KANSAS, NEW MEXICO, OKLAHOMA AND TEXAS

Oregon State Office, 1515 S.W. 5th Avenue, P.O. Box 2965, Portland, OR 97208–2965—OREGON AND WASHINGTON

Utah State Office, CFS Financial Center, 324 South State Street, Salt Lake City, UT 84111–2303 Mail: P.O. Box 45155, Salt Lake City, UT 84145–0155—UTAH

Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82003; Mail: P.O. Box 1828, Cheyenne, WY 82003—WYOMING AND NEBRASKA

(b) A list of the names, addresses and geographical areas of jurisdiction of all District and Resource Area Offices of the Bureau of Land Management can be obtained at these addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

§ 1821.11 During what hours may I file an application?

You may file applications or other documents or inspect official records during BLM office hours. Each BLM office will prominently display a notice of the hours during which that particular office will be open. Except for offices which are open periodically, for example, every Wednesday or the 3rd Wednesday of the month, all offices will be open Monday through Friday, excluding national holidays, at least from 9 a.m. to 3 p.m., local time.

§ 1821.12 Are these the only regulations that will apply to my application or other required document?

No. The regulations in this part are supplemented by specific program regulations. If there is a conflict, the specific program regulations will govern.

Subpart 1822—Filing a Document With BLM

§ 1822.10 How should my name appear on applications and other required documents that I submit to BLM?

Your full name should appear on your application and other required documents.

§ 1822.11 What must I do to make an official filing with BLM?

You must file your application and any other required documents during regular office hours at the appropriate BLM office having jurisdiction over the lands or records involved. You must file any document with BLM through personal delivery or by mailing via the United States Postal Service or other delivery service, except for those applications that may be filed electronically under § 1822.13, or unless a more specific regulation or law specifies the mode of delivery. The date of mailing is not the date of filing.

§ 1822.12 Where do I file my application or other required documents?

You should file your application or other required documents at the BLM office having jurisdiction over the lands or records involved. The specific BLM office (such as a State Office or District Office) where you are to file your application is usually referenced in the BLM regulations which pertain to the filing you are making. If the regulations do not name the specific office, or if you have questions as to where you should file your application or other required documents, you should contact your local BLM office for information.

§ 1822.13 May I file electronically?

For certain types of applications BLM will accept your electronic filing if an original signature is not required. If BLM requires your signature, you must file your application or document by personal delivery or by mailing. If you have any questions regarding which types of applications can be electronically filed, you should check with the BLM office where you intend to file your application.

§ 1822.14 What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?

BLM considers the document timely filed if we receive it in the office on the next day it is officially open.

§ 1822.15 If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?

BLM can consider it timely filed if:

(a) The law permits BLM to do so;

(b) No intervening third party interests or rights have been created or established during the intervening period; and

(c) BLM decides filing after the specified period would not interfere with the orderly conduct of business.

§ 1822.16 Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?

You may file your application with any BLM State Office having jurisdiction over the subject lands. You should consult the regulations of the particular BLM resource program involved for more specific information.

§ 1822.17 When are documents considered filed simultaneously?

(a) BLM considers two or more documents simultaneously filed when:

(1) They are received at the appropriate BLM office at the same time; or

(2) They are filed in conjunction with an order that specifies that documents received by the appropriate office during a specified period of time will be considered as simultaneously filed.

(b) An application or document that arrives at the BLM office where it is to be filed when the office is closed for the entire day will be considered as filed on the day and hour the office next officially opens.

(c) Nothing in this section will deny any preference right granted by applicable law or regulation or validate a document which is invalid under applicable law or regulation.

§ 1822.18 How does BLM decide in which order to accept documents that are simultaneously filed?

BLM makes this decision by a drawing open to public view.

Subpart 1823—Payments and Refunds

§ 1823.10 How may I make my payments to BLM?

(a) Unless specific regulations provide otherwise, you may pay by:

(1) United States currency; or

(2) Checks, money orders, or bank drafts made payable to the Bureau of Land Management; or

(3) Visa or Master Card credit charge, except as specified by pertinent regulation(s).

(b) You are responsible for BLM's costs of collecting payment if insufficient funds back your form of payment and cause BLM to institute collection procedures.

1823.11 What is the authority for BLM issuing a refund of a payment?

BLM can issue you a refund under the authority of Section 304(c) of the Federal Land Policy and Management Act, 43 U.S.C. 1734.

§ 1823.12 When and how may I obtain a refund?

(a) In making a payment to BLM, if the funds or fees you submitted to BLM exceed the amount required or if the regulations in this part provide that fees submitted to BLM must be returned in certain situations, you may be entitled to a full or partial refund.

(b) If you believe you are due a refund, you may request it from the BLM office where you previously submitted your payment. You should state the reasons why you believe you are entitled to a refund and include a copy of the appropriate receipt, canceled check, or other relevant documents.

§ 1823.13 Is additional documentation needed when a third party requests a refund?

Yes. When refund requests are made by heirs, executors, administrators, assignees, or mortgagees, BLM may require additional documentation to establish entitlement to a refund. If you are an heir, executor, administrator, assignee or mortgagee, you should contact the BLM office where you will file your refund application for information regarding appropriate documentation.

Subpart 1824—Publication and Posting of Notices

§ 1824.10 What is publication?

Publication means publishing a notice announcing an occurrence or a proposed action in the **Federal Register**, a local newspaper of established character and general circulation in the vicinity of the land affected or other appropriate periodical. BLM's purpose in publishing or causing the publication of such information is to advise you and other interested parties that some action will occur and that the public is invited either to participate or to comment.

§ 1824.11 What does it mean to post a notice?

Posting a notice is similar to publishing a notice except that the notice is displayed at the appropriate BLM office, local courthouse or similar prominent local government building or on a prominent fixture such as a building, tree or post located on the particular public lands involved.

§ 1824.12 Why must I post a notice?

The posting of a notice informs those persons who may be interested in the lands or resources described, who have

valid information to provide, or who may wish to oppose the proposal.

§ 1824.13 If I must post a notice on the land, what are the requirements?

The posted notice must be visible throughout the time period for posting specified in the regulations governing the relevant program. BLM or its regulations may require additional posting, such as in a post office or city hall. For any additional posting requirements, you should see applicable Federal and State law, the regulations of the particular BLM resource program and any additional BLM requirements associated with your application.

§ 1824.14 How does BLM choose a newspaper in which to publish a notice?

BLM bases its choice of newspapers on their reputation and frequency and level of circulation in the vicinity of the public lands involved.

§ 1824.15 How many times must BLM publish a notice?

The number of times that BLM will publish or cause to be published a notice depends on the publication requirements for the particular action involved. You should see the applicable law and the regulations governing specific BLM resource programs for information on the requirements for publication for a particular action.

§ 1824.16 Who pays for publication?

The cost of publication is the responsibility of the claimant or applicant.

§ 1824.17 Does the claimant or applicant pay for an error by the printer of the paper in which the notice appears?

No, the claimant or applicant is not responsible for costs involved in correcting an error by the printer.

Subpart 1825—Relinquishments

§ 1825.10 If I relinquish my interest (such as a claim or lease) in public lands, am I relieved of all further responsibility associated with that interest?

No. You are still responsible for fulfilling regulatory, statutory, lease, permit and other contractual obligations such as performance of reclamation and payment of rentals accruing before the time of relinquishment. You should see the regulations relating to the specific BLM resource program involved for more detailed information.

§ 1825.11 When are relinquishments effective?

Generally, BLM considers a relinquishment to be effective when it is received, along with any required fee, in the BLM office having jurisdiction of the lands being relinquished. However, the specific program regulations govern effectiveness of relinquishments.

§ 1825.12 When does relinquished land become available again for other application or appropriation?

Relinquished land does not again become available until BLM notes the filed relinquishment of an interest on the land records maintained by the BLM office having jurisdiction over the lands involved. If you have any questions regarding the availability of a particular tract of land, you should contact the BLM office having jurisdiction over the lands or records.

[FR Doc. 97–26006 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–P

Notices

Federal Register
Vol. 62, No. 190
Wednesday, October 1, 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

Rural Housing Service

Rural Business—Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agency's intention to request an extension for a currently approved information collection in support of the program for Guaranteed Loans—General.

DATES: Comments on this notice must be received by December 1, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Steven Ford, Senior Loan Officer, Farm Credit Programs, Farm Service Agency, 1400 Independence Ave., SW, Stop 0522, Washington, DC 20250, (202) 720–3889.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1980, Subpart A, Guaranteed Loans—General.

OMB Number: 0575–0024.

Expiration Date of Approval: January 31, 1998.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Number 0575–0024, as identified above, is needed to enable FSA to effectively administer the guaranteed loan program under the CONACT.

The Agency requires some of the information it collects to be reported in a standard manner. Although lending institutions generally require and collect information similar to that requested by FSA, there is a wide diversity in reporting practices. The Agency requires some information to be reported on standard forms in order to facilitate an effective and efficient decision-making process.

Respondents generally consist of farm operators applying for loans and lenders. Compliance with local, state, and Federal laws is required; and evidence of compliance with these laws may be required. Evidence of compliance with zoning ordinances, environmental standards, equal opportunity standards, historic preservation requirements, etc., may be required when warranted.

The information collection required by this rule will be used by the Agency to approve or determine the need for loans and subordination in accordance with this rule. The Agency considers the information collected to be essential to prudent loan making decisions. Failure to make sound loans would jeopardize the Government's loan portfolio, result in large losses to both the borrower and the Government, and weaken the overall agricultural economy.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 1.16 hours per response.

Respondents: State or Federally chartered banks, Farm Credit System Institutions, and other lending institutions as well as farm operators and business owners. Also, individuals or households and businesses or other for profit organizations.

Estimated Number of Respondents: 3750 (3000 lenders; 750 loan applicants).

Estimated Number of Responses per Respondent: 26.85.

Estimated Total Annual Burden on Respondents: 117,066.

Copies of this information collection can be obtained from the Barbara Williams, Regulations and Paperwork Management Branch, at (202) 720-9734.

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 Barbara Williams, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Stop 0743, 1400 Independence Ave, SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 24, 1997.

Bruce R. Weber,

Administrator, Farm Service Agency.

Dated: September 25, 1997.

Jan Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 97–26030 Filed 9–30–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Little Rock (AR) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designation of Arkansas Grain Inspection Service (Arkansas) will end October 31, 1997, according to the Act. GIPSA has determined that Arkansas will not be redesignated. GIPSA is asking persons interested in providing official services in the Little Rock area to submit an application for designation.

DATE: Applications must be postmarked or sent by telecopier (FAX) on or before October 30, 1997.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604 (Room 1647-S), 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Applications may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Arkansas, main office located in Little Rock, Arkansas, to provide official inspection services under the Act on November 1, 1994.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designation of Arkansas ends on October 31, 1997, according to the Act.

GIPSA, in the April 14, 1997, **Federal Register** (62 FR 18084), asked persons interested in providing official services in the Little Rock area to submit an application for designation. Arkansas was the only applicant. Since Arkansas was the only applicant, GIPSA did not ask for comments.

GIPSA has evaluated all available information regarding the designation criteria prescribed in section 7(f)(1)(A) of the Act and according to the provisions of Section 7(f), determined that the designation Arkansas will not be renewed. GIPSA is again asking persons interested in providing official services in the Little Rock area, as described in the April 14, 1997, **Federal Register**, to submit an application for designation.

Interested persons are hereby given the opportunity to apply for designation to provide official services in the geographic area specified in the April 14, 1997, **Federal Register**. Effective November 1, 1997, until an official agency can be selected, requests for official services should be directed to GIPSA's Stuttgart, Arkansas, Field Office at 501–673–2508. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 19, 1997.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 97–25761 Filed 9–30–97; 8:45 am]

BILLING CODE 3410–EN–F

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designations for the Los Angeles (CA) and Ohio Valley (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Los Angeles Grain Inspection Service, Inc. (Los Angeles), and Ohio Valley Grain Inspection, Inc. (Ohio Valley), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: November 1, 1997.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604 (Room 1647-S), 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the April 14, 1997, **Federal Register** (62 FR 18084), GIPSA asked persons interested in providing official services in the geographic areas assigned to Los Angeles and Ohio Valley to submit an application for designation. Applications were due by May 30, 1997. Los Angeles and Ohio Valley, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them.

Since Los Angeles and Ohio Valley were the only applicants for the respective areas, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Los Angeles and Ohio Valley are able to provide official services in the geographic areas for which they applied. Effective November 1, 1997, and ending October 31, 2000, Los Angeles and Ohio Valley are designated to provide official services in the geographic areas specified in the April 14, 1997, **Federal Register**.

Interested persons may obtain official services by contacting Los Angeles at 213–721–9216 and Ohio Valley at 812–858–5444.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 17, 1997

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 97–25762 Filed 9–30–97; 8:45 am]

BILLING CODE 3410–EN–F

BUREAU OF THE CENSUS

Census 2000 Dress Rehearsal Large Household Follow-up

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 1, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Maureen Lynch, Bureau of the Census, DMD Room 2301 Building 2, Washington, DC 20233–0001, telephone (301) 457–4092.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau has made the development of user-friendly forms a key strategy to reduce respondent burden. The five-person questionnaire with a continuation roster to list up to seven additional individuals is shorter than a comparable seven-person detailed version. For this reason, the decision to adopt a five person detail/twelve person roster mail-out questionnaire is expected to lessen the public perception that responding to the census is an arduous task. The objective of the Census 2000 Dress Rehearsal Large Household Follow-up is to acquire detailed characteristic data for households with more than five members. The Census Bureau will accomplish this by performing follow-up activities for larger households which list additional household members on the census original questionnaire roster.

II. Method of Collection

The methodology selected for the Census 2000 Dress Rehearsal Large Household Follow-up is to mail a customized questionnaire package to those specific households which listed six or more individuals on the original questionnaire. The customized mailing package will consist of the following items.

1. An outgoing envelope addressed to either the respondent name reported on the original returned questionnaire or the Person 1 name.
2. A letter listing the names of all persons on the original questionnaire for whom detailed characteristics were provided and the names of all persons listed on the roster. The letter will request the respondent provide detailed characteristics for the additional individuals listed on the roster.
3. A continuation questionnaire designed for Person 6 through Person 12.
4. A Business Reply Mail return envelope for the respondent to return the continuation questionnaire.

Only one follow-up mailing will be conducted for each identified large household. No personal visit or telephone follow-up is planned.

III. Data

OMB Number: Not Available.

Form Numbers: DX–1(HF), DX–1(HF)(S), DX–2(HF), DX–2(HF)(S); Letters: DX–19A(L), DX–19B(L), DX–19C(L), DX–19D(L).

Type of Review: Regular Submission.

Affected Public: Households.

Estimated Number of Respondents: 23,500 households (approx.).

Estimated Time Per Response: Short Form Follow-up: 6 minutes Long Form Follow-up: 25 minutes.

Estimated Total Annual Burden Hours: Short Form Follow-up: 1,951 hours; Long Form Follow-up: 1,678 hours; Total: 3,629 hours.

Estimated Total Annual Cost: No monetary cost to respondent.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 193.

IV. Request for 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 1997.

Wilson D. Haigler, Jr.,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26011 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period April 1, 1997 through June 30, 1997. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on cheeses that were imported during the period April 1, 1997 through June 30, 1997.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702 (g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 22, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Austria	European Union Restitution Payments	$0.22	$0.22
Belgium	EU Restitution Payments	0.00	0.00
Canada	Export Assistance on Certain Types of Cheese	0.25	0.25
Denmark	EU Restitution Payments	0.18	0.18
Finland	EU Restitution Payments	0.33	0.33
France	EU Restitution Payments	0.20	0.20
Germany	EU Restitution Payments	0.22	0.22
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.11	0.11
Italy	EU Restitution Payments	0.20	0.20
Luxembourg	EU Restitution Payments	0.00	0.00
Netherlands	EU Restitution Payments	0.11	0.11
Norway	Indirect (Milk) Subsidy	0.39	0.39
	Consumer Subsidy	0.18	0.18
	Total	0.57	0.57
Portugal	EU Restitution Payments	0.12	0.12
Spain	EU Restitution Payments	0.15	0.15
Switzerland	Deficiency Payments	0.32	0.32
U.K.	EU Restitution Payments	0.06	0.06

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 97–25944 Filed 9–30–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–811]

Certain Stainless Steel Wire Rods From France: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results for the third review of certain stainless steel wire rods from France. This review covers the period January 1, 1996 through December 31, 1996.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Bob Bolling or Steve Jacques at 202–482–1386 or 482–3434; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration, September 17, 1997). The Department is extending the time limit for completion of the preliminary results until January 2, 1998 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of these reviews will continue to be 90 days after publication of the preliminary results.

Dated: September 23, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 97–25945 Filed 9–30–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–850]

Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–1766, 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, as amended (''the Act''), by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce regulations are to the regulations at 19 CFR Part 353 (April 1997).

Final Determination

We determine that collated roofing nails (''CR nails'') from the People's Republic of China (''PRC'') are being sold in the United States at less than fair

value (''LTFV''), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination (Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails from the People's Republic of China), 62 FR 25899 (May 12, 1997), the following events have occurred:

In May, 1996, we attempted to verify the responses to the antidumping questionnaire of respondents Shenzhen Top United Steel Co., Ltd. (''Top United''), Suzhou Junhua Metal Products Co., Ltd. (''Junhua''), and Qingdao Zongxun Nail Products Co., Ltd. (''Zongxun''). On May 12, 1997, respondent Shanghai Minmetals Pu Dong Corporation (''Pu Dong'') informed the Department that it could not permit verification of its questionnaire response. The Paslode Division of Illinois Tool Works Inc. (''Petitioner'') and respondents submitted case briefs on July 29, 1997, and rebuttal briefs on August 5, 1997.

Scope of Investigation

The product covered by this investigation is CR nails made of steel, having a length of 13⁄16 inch to 1 13⁄16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7317.00.55.06. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of this investigation (''POI'') comprises each exporter's two most recent fiscal quarters prior to the filing of the petition. In this case, the POI is April 1, 1996, through September 30, 1996.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (''NME'') in all past antidumping investigations (see, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). Neither respondents nor petitioner have challenged such treatment. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as an NME in this investigation.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base normal value (''NV'') on the NME producers' factors of production, valued, to the extent possible, in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed in the NV section of this notice, below.

Separate Rates

Top United and Zongxun have each requested a separate company-specific antidumping duty deposit rate.[1] With respect to Junhua, Pu Dong and Wuxi, please see the ''facts available'' section below. Top United is a joint venture between a PRC company ''owned by all the people,'' a company in Hong Kong, and a company in the British Virgin Islands. Zongxun is a joint venture between a PRC collective-owned enterprise, and a Taiwan company.

Zongxun's business license notes that this PRC company is a foreign trade joint venture which owns the production and export facilities used to manufacture and export the subject merchandise it sells to the United States.

In other cases involving the PRC, joint ventures between ''collective''-owned enterprises and foreign investors have not been precluded from consideration of a separate rate (see, e.g., Final Antidumping Duty Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 54472 (Oct. 23, 1995) (''Drawer Slides''). Furthermore, as stated in Silicon Carbide, ownership of a company by all the people does not require the application of a single, PRC-wide rate. Therefore, for purposes of our final determination, both Top United and Zongxun are eligible for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) and amplified in Silicon Carbide. Under the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. *De Jure* Control

The respondents have placed on the record a number of documents to demonstrate absence of *de jure* control, including laws, regulations, and provisions enacted by the State Council of the central government of the PRC. They have also submitted documents which establish that CR nails are not included on the list of products that may be subject to central government export constraints. In addition, respondents submitted the ''Law of the People's Republic of China on Chinese-Foreign Contractual Joint Ventures' (April 13, 1988). The articles of this law authorize joint venture companies to make their own operational and management decisions. Further, Zongxun submitted the ''Regulations Governing Rural Collective Owned Enterprises of the PRC'' (July 1, 1990). The articles of this law authorize collective-owned enterprises to make their own operational and management decisions.

In prior cases, the Department has analyzed the very laws which the respondents have submitted in this investigation and found that they establish an absence of *de jure* control. (See Drawer Slides.) We have no new information in this proceeding which would cause us to reconsider this determination.

However, as in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (See, e.g., Silicon Carbide.) Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether Top United and Zongxun are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. *De Facto* Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to

[1] The Department's starting point in NME proceedings is a rebuttable presumption that all companies are government controlled and therefore subject to a single, countrywide antidumping duty deposit rate.

negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see, e.g., Silicon Carbide).

During verification, our examination of correspondence and sales documentation revealed no evidence that either Top United's or Zongxun's export prices are set, or subject to approval, by any governmental authority. That Top United and Zongxun have the authority to negotiate and sign contracts and other agreements independent of any government authority was evident from our examination of correspondence and written agreements and contracts. Finally, we have determined that Top United and Zongxun have autonomy from the central government in making decisions regarding the appointment of management. We also noted that Top United and Zongxun retained proceeds from their export sales and made independent decisions regarding disposition of profits and financing of losses (based on our examination of financial records and purchase invoices).

Consequently, we determine that these exporters have met the criteria for the application of separate rates.

Facts Available

A. Non-Responding Exporters

Because some companies did not respond to our questionnaire, we are applying a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC (except the two fully participating exporters) based on our presumption that the export activities of the companies that failed to respond are controlled by the PRC government. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China* 61 FR 19026 (Apr. 30, 1996) (''*Bicycles*'').

This PRC-wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond in any form to the Department's questionnaire have failed to act to the best of their ability in this investigation. Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rates determination. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. As adverse facts available, we are assigning the higher of the petition margin or the margin calculated for any participating respondent in this investigation. Because the margins in the petition (as recalculated by the Department at initiation) were higher than any of the calculated margins for a respondent, we used the highest margin stated in the *Notice of Initiation*, 118.41%, as total adverse facts available for the PRC-wide rate.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In the petition, the petitioner based its allegation of export price on price quotations from two manufacturer/exporters of CR nails in the PRC. These price quotations were adjusted for movement expenses using customs data and IM–145 Import Statistics. *See Notice of Initiation*, 61 FR at 67307–08. As we stated in *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey*, 61 FR 30309 (June 14, 1996), we consider price quotations as information from independent sources. The export price calculations were based upon independent sources and Import Statistics, both sources which we consider to require no further corroboration by the Department. Therefore, we determined at initiation, and continue to find, that the calculations set forth in the petition have probative value.

The petitioner based its allegation of NV on the factors of production. *See Notice of Initiation*, 61 FR at 67308. To calculate the factors of production, the petitioner used manufacturing costs based on its own production experience, its 1995 audited financial statements, and publicly available industry data. *Id*. The factors of production amount for the most significant raw material input (*i.e.*, steel wire) in the petition is consistent with the factors of production amount reported by the respondents on the record of this investigation. As such, we determine that the NV calculations have probative value. (*See* memorandum to the file dated May 5, 1997.)

Based on our pre-initiation analysis and reexamination of the price information supporting the petition, we determine that the highest margin stated in the *Notice of Initiation* is corroborated within the meaning of section 776(c) of the Act.

B. Wuxi

As stated in our preliminary determination, Wuxi failed to file its questionnaire responses with the Department in the proper manner and to serve its responses on the other interested parties in this investigation. The Department afforded Wuxi numerous opportunities to remedy these deficiencies. In addition, Wuxi's submissions did not provide adequate information for determining that Wuxi is sufficiently independent from government control to be entitled to a separate rate. As such, we determine that Wuxi is not entitled to a separate rate. We, therefore, have included Wuxi in the ''PRC-wide'' rate.

C. Pu Dong

As noted above, Pu Dong refused verification of its questionnaire response. Because of Pu Dong's failure to allow the Department to carry out its verification procedures, the Department was unable to verify whether Pu Dong is sufficiently independent from government control to be entitled to a separate rate. Further, none of the other data in Pu Dong's questionnaire response can be used because Pu Dong refused verification. We, therefore, have included Pu Dong in the ''PRC-wide'' rate. Because we are including Pu Dong in the PRC-wide rate, we will not address any of the other issues concerning Pu Dong.

D. Junhua

We find that Junhua did not provide a complete reporting of all of its ''affiliated parties,'' as requested in the antidumping questionnaire (*see Questionnaire*, p. A–4). Specifically, the existence of several PRC subsidiaries of Junhua's Hong Kong parent only came to light at verification. The Department was not able to evaluate the extent of government control with respect to Junhua's affiliates, nor could the Department confirm that these affiliates were not involved in the production or sale of subject merchandise. Section 776(b) provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also* SAA at 870. Junhua's failure to provide complete and accurate information in a timely manner demonstrates that Junhua has failed to cooperate to the best of its ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available for Junhua, an adverse inference is warranted. As adverse facts available, we determine that Junhua is not entitled to a separate rate, and will be subject to the PRC-wide rate. Because we are including Junhua in the PRC-wide rate, we will not address any of the other issues concerning Junhua.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Top United and Zongxun to the United States were made at less than fair value, we compared the export price (''EP'') or constructed export price (''CEP'') to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to weighted-average NVs.

Export Price/Constructed Export Price

Top United

We used CEP in accordance with section 772(b) of the Act, because the sales to unaffiliated purchasers were made after importation. We calculated CEP based on the same methodology used in the preliminary determination, with the following exceptions: we corrected Top United's response in light of errors discovered during preparations for verification with respect to gross unit prices, payment dates, discounts, and movement expenses; we adjusted Top United's handling and brokerage charges, which were based on pre-POI data, to reflect POI levels; we adjusted the margin calculations, where necessary, to reflect weighted-average prices for U.S. sales of identical merchandise.

Zongxun

We used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated customers before importation and because CEP methodology was not indicated by the facts of record. We calculated EP based on the same methodology used in the preliminary determination, with the following exception: we adjusted Zongxun's handling and brokerage charges, which were based on pre-POI data, to reflect POI levels.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Sri Lanka, Egypt, and Indonesia are countries comparable to the PRC in terms of overall economic development (*see* Memorandum dated March 24, 1997). According to the available information on the record, we have determined that Indonesia is a significant producer of merchandise that is comparable to CR nails. Accordingly, we have calculated NV using Indonesia import prices—except, as noted below, in the ''Factors of Production'' section of this notice, in certain instances where an input was sourced from a market economy—for the PRC producer's factors of production. We have obtained and relied upon publicly available information (''PAI'') wherever possible.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced CR nails for the exporters which sold CR nails to the United States during the POI. As in the preliminary determination, we calculated NV based on factors of production reported by the respondents.

To calculate NV, the verified per-unit factor quantities were first multiplied by Indonesia values; the resulting products were then summed. We then added amounts for overhead, general expenses (including interest) (''SG&A''), profit, and packing expenses incident to placing the merchandise in condition packed and ready for shipment to the United States.

Top United

We calculated NV based on the same methodology used in the preliminary determination, with the following exceptions: we corrected Top United's response in light of errors discovered during preparations for verification with respect to unreported raw materials, transportation distances, and certain incorrectly reported raw material amounts; we also corrected for errors discovered by the Department during verification with respect to the reported values of sodium hydrosulfate, diesel fuel, and labor allocation; we subtracted the value of Top United's steel scrap from the calculated NVs for Top United's sales of CR nails; for transportation distances used for the calculation of freight expenses on raw materials, we added to CIF surrogate values from Indonesia a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory; and we used more contemporaneous data for the Indonesia surrogate values for welding wire and rubber bands.

Zongxun

We calculated NV based on the same methodology used in the preliminary determination, with the following exceptions: we corrected Zongxun's response in light of errors discovered during preparations for verification with respect to the values for steel scrap and cardboard carton; we subtracted the value of Zongxun's steel scrap from the calculated NVs for Zongxun's sales of CR nails; for transportation distances used for the calculation of freight expenses on raw materials, we added to CIF surrogate values from Indonesia a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory; and we used more contemporaneous data for the Indonesia surrogate values for welding wire and rubber bands.

Critical Circumstances

The petition contained a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i)

There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on CR nails in the United States or elsewhere to be sufficient. *See, e.g., Preliminary Determinations of Critical Circumstances: Brake Drums and Rotors from the People's Republic of China,* 61 FR 55269 (Oct. 25, 1996); *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Rotors from the People's Republic of China,* 62 FR 9160 (Feb. 28, 1997) (''*Brake Drums and Rotors*''). Currently, no countries have outstanding antidumping duty orders on CR nails from the PRC. The petitioner alleged a history of dumping based upon an antidumping order on steel wire nails from the People's Republic of China, the scope of which covered CR nails. *See Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order; Certain Steel Wire Nails from the People's Republic of China,* 52 FR 33463 (Sept. 3, 1987). However, because the issue has no effect on our determination of critical circumstances, we are not addressing it for this final determination.

In this investigation, there is no dumping margin for either Top United or Zongxun. Therefore, they will be excluded from any antidumping duty order, and thus it is unnecessary to determine whether critical circumstances exist with respect to these two companies.

Regarding firms covered by the ''PRC-wide'' rate, we have used the ''facts available'' as the basis for determining whether critical circumstances exist. In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers margins over 25% for EP sales and 15% for CEP sales to impute knowledge of dumping and of resultant material injury. *Brake Drums and Rotors,* 62 FR at 9164–65. The ''facts available'' margin for these exporters exceeds the threshold for imputing knowledge of dumping to the importers of the merchandise. In addition, because we do not have verified, company-specific data on shipments of CR nails following the filing of the petition, we must adversely assume, as the ''facts available,'' a massive increase in imports from these non-responding exporters. We, therefore, determine that critical circumstances exist for all non-responding exporters.

Verification

As provided in section 782(i) of the Act, we attempted to verify the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, and original source documents provided by respondents.

Interested Party Comments

Because the Department decided to base its final determination for Junhua and Pu Dong entirely on facts available, comments pertaining to other issues have not been addressed for Junhua and Pu Dong.

Comment 1: Offset to NV for Steel Scrap By-Product

Top United and Zongxun assert that the Department should subtract the value of their steel scrap from the calculated NV for CR nails. They state that during verification, the Department verified that the steel scrap was generated during the production of CR nails, and further verified the volume of the steel scrap that respondents sold to third parties during the period of this investigation. They refer to other proceedings involving PRC companies, during one of which the Department stated that ''it is Department practice to subtract the sales revenue of by-products such as steel scrap from the production costs of the subject merchandise.'' *Brake Drums and Rotors.* They also refer to *Sebacic Acid From the PRC,* 59 FR 28053, 28056 (May 31, 1994), in which the Department stated that ''this treatment of by-products is consistent with generally accepted accounting principles.''

Petitioner does not object to an adjustment to NV for steel scrap as long as (i) Top United and Zongxun's claims relate to steel scrap which is directly tied to the production of the subject merchandise, (ii) the scrap is sold directly by the factory, and (iii) the Department verified the claim.

DOC Position

We agree with Top United and Zongxun. We verified that the scrap produced during the manufacture of CR nails is sold by the factory. The proper adjustment is a reduction in the cost of manufacture, which is consistent with the Department's practice in other NME investigations (*see, e.g., Pure Magnesium and Alloy Magnesium from the Russian Federation,* 60 FR 16440, March 30, 1995). We have accordingly subtracted the value of Top United and Zongxun's steel scrap from the calculated NVs for their CR nails, using as surrogate information *Biro Pusat Statistik's* ''Foreign Trade Statistical Bulletin'' to value reported steel scrap amounts.

Comment 2: Calculation of Surrogate Freight Costs in Valuing Materials

Top United and Zongxun claim that the Department double-counted the surrogate freight costs for certain PRC-sourced materials in its preliminary calculations. They contend that when using CIF prices as surrogate values, the Department should presume that the factory would purchase specific materials from the closest source—be it the port or the domestic supplier's factory—and that the Department should value freight accordingly.

Top United and Zongxun cite *Sigma Corp.* v. *United States,* No. 95–1509, 96–1036, 95–1510, 96–1037, 1997 U.S. App. LEXIS 16506 (Fed. Cir. July 7, 1997), in which the United States Court of Appeals for the Federal Circuit (''CAFC'') held that the calculated freight costs for PRC-made materials may not exceed the calculated freight costs of shipping the material from respondents' importing seaports in the PRC to their factories. Top United and Zongxun believe that this decision clearly prohibits the Department from adding surrogate freight costs exceeding the freight costs from the manufacturer's importing seaport to its factory.

Petitioner contends that Top United and Zongxun have not indicated why, or to what extent, any inland freight expense should be adjusted in line with *Sigma.* Petitioner indicates that although the principle of *Sigma* is clear, Top United and Zongxun's claim in the instant case is not clear. The major factor input is steel, for which the Department used market economy prices. Therefore, petitioner believes that the Department's calculations do not include any expense for the inland freight within the PRC for the imported steel and, thus, do not warrant any adjustments.

DOC Position

We agree with Top United and Zongxun. The CAFC's decision in *Sigma* requires that we revise our calculation of source-to-factory surrogate freight for those material inputs that are based in CIF import values in the surrogate country. Accordingly, we have added to CIF surrogate values from Indonesia a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory.

Comment 3: Respondents' Corrections Presented at Verification

Top United and Zongxun contend that the Department's final dumping calculation should incorporate corrections of errors discovered in their questionnaire responses. They cite the Department's *Memoranda on Verification Agenda,* which state that respondents may submit corrections at the start of verification. Top United and Zongxun further state that these corrections to their questionnaire responses were timely submitted and verified, and that the Department should therefore include these corrections in the calculation of respondents' dumping margins in the final determination.

Petitioner contends that the Department should not use Top United and Zongxun's corrections, because most of the errors contained in their questionnaire responses were not minor. Petitioner argues that based on the number of errors reported by Top United and Zongxun at the start of verification, the companies did not act to the best of their ability in providing accurate information. Petitioner asserts that the Department should therefore apply adverse facts available in the areas where respondents were not cooperative.

DOC Position

We agree with Top United and Zongxun and have accepted the corrections for computing the final margin calculations of the companies. The revisions corrected data already on the record and did not introduce new information not previously reported. Accordingly, we determine that resorting to facts available is unwarranted in this particular case. The Department's use of facts available is subject to section 782(d) of the Act. Under section 782(d), the Department may disregard all or part of a respondent's questionnaire response when the response is not satisfactory or it is not submitted in a timely manner. The Department has determined that neither of these conditions apply. The Department was able to verify the responses, thus rendering them satisfactory, and the types of revisions submitted by respondents met the deadline for such changes. Under section 782(e), the Department shall not decline to consider information that is (1) timely, (2) verifiable, (3) sufficiently complete that it serves as a reliable basis for a determination, (4) demonstrated to be provided based on the best of the respondent's ability, and (5) can be used without undue difficulties. In general, Top United and Zongxun have met these conditions.

Accordingly, we find no basis to reject Top United's and Zongxun's responses, and thus, no basis to rely on the facts otherwise available for our final determination.

Comment 4: Averaging U.S. Sales of Identical Merchandise in Calculating Dumping Margins

Top United and Zongxun request that the Department ensure that U.S. sales of identical merchandise, *i.e.*, sales having the same Matching Control Number, are averaged in calculating respondents' dumping margins in the final determination. They assert that the average-to-average comparison is the Department's established practice in calculating dumping margins in investigations, citing section 777A(d)(1)(A)(i) of the Act.

Petitioner opposes this request, stating that Top United and Zongxun do not cite any example where they disagree with the Department's preliminary calculations. Petitioner believes that the Department should have the flexibility to use a different comparison basis, to the extent that the facts indicate a different method of comparison.

DOC Position

We agree with Top United and Zongxun. The margin calculations have been adjusted, where necessary, to reflect weighted-average prices for U.S. sales of identical merchandise.

Comment 5: The Use of India, Not Indonesia, as the Surrogate Country

Petitioner asserts that the Department should use India as the surrogate country for the final determination. Petitioner cites to section 773(c)(4) of the Act, which requires the surrogate country to be a market economy country that (1) is at a level of economic development comparable to that of the NME, and (2) is a significant producer of comparable merchandise. While petitioner agrees that both India and Indonesia are economically comparable to the PRC, petitioner argues that the combined production of the Indian producers, as established by an affidavit in the petition, exceeds the amount of U.S. imports from Indonesia. Petitioner argues that although the Department selected Indonesia because the U.S. import statistics reflect minimal imports of ''collated nails'' from Indonesia, but none from India, the statute and regulations do not support giving greater weight to import statistics over a petitioner's information. Petitioner claims that since there is no information on the record that either country manufactures CR nails, the Department should ''* * * give Petitioner's information preferred weight, since it is the foundation upon which the petition is based, and was used by the Department as adverse facts available for non-cooperating parties.''

Top United and Zongxun argue that the Department correctly used the Indonesia data to value their material inputs, factory overhead, SG&A, and profit, in accordance with evidence presented before the Department. They contend the petition does not include any supporting data, such as production or sales data, with respect to the India nail industry which shows that India is a significant producer of CR nails. They refer to the comments on the surrogate values, dated April 9, 1997, which include the U.S. import statistics for 1996, and demonstrate a substantial volume of collated nails exported from Indonesia, whereas India exported no collated nails to the United States during the same period. They assert that an absence of exports to the United States raises a question as to whether India ever produced CR nails, based on the fact the United States is the largest consumer of collated nails in the world. Moreover, Top United and Zongxun cite to an affidavit provided in their April 7, 1997, submission from Tachikawa & Co., stating that P.T. Intan Swarkartiaka, an Indonesian producer, produces CR nails and exports them to the United States. Finally, they argue that the Indonesia data, which are concurrent with the POI, are more contemporaneous than the India data, which do not cover the POI; and that the Indonesia data are nail industry specific, while India data are on a metal-industry-wide basis.

DOC Position

We agree with Top United and Zongxun. The PAI showed that Indonesia produced collated nails during the POI, whereas there is no PAI showing that India produced any collated nails. The Indonesia data are

more contemporaneous and specific to CR nails than the India data, which are on a metal-industry-wide basis (*see Memorandum to the File,* dated September 24, 1997).

Comment 6: SG&A, Factory Overhead, and Profit Used in Calculating Plating Costs

Petitioner asserts that in calculating NV for Zongxun, the Department improperly used only factor inputs for plating, and did not include any amount for SG&A, factory overhead, or profit for the subcontractor. Petitioner argues that any subcontractor would include those three items in its price. Petitioner cites *Certain Helical Spring Lock Washers From China,* 58 FR 48833 (September 20, 1993), in which the Department verified and used the subcontractor's factors of production in calculating NV, which included materials costs, plus total direct labor, overhead expenses, general expenses, and profit. Petitioner contends that the Department should add those three elements for plating in the final determination, based on either plating expenses from other investigations, or data for the Indonesia nail industry.

DOC Position

We disagree with petitioner. In our preliminary determination, the overhead, SG&A, and profit rates were applied to the aggregate of the plating and nail factors of production. The amounts for SG&A, factory overhead, and profit for plating are therefore already included in the calculations. Thus, no recalculations for plating costs are necessary.

Comment 7: Import Prices Used to Calculate Steel Values

Petitioner alleges that the Department's calculation of steel input values based on prices from market economy countries artificially lowers the factory's costs because it utilizes the lower price for the input. Petitioner argues that the Department's ''* * * established policy of evaluating inputs in NME cases based on market prices paid by the manufacturer for inputs purchased from a market-economy source * * *'', as stated in *Tapered Roller Bearings and Parts thereof, Finished and Unfinished, From China,* 62 FR 6189 (February 11, 1997), questions commercial reality. Petitioner asserts that the Department should not use one import price to value 100% of the steel inputs where a factory in the PRC imports less than 100% of its production requirement for the POI. Instead, the Department should adopt a standard which involves assigning a value to the input actually used. Petitioner challenges the Department's rationale in the use of market price inputs, and argues that the Department's policy is wrong as a matter of law.

Top United and Zongxun refute petitioner's claim, stating that petitioner's arguments are contrary to the Department's established practice, court decisions, the proposed and final regulations, and the Act. They cite *Lasko Metal Products* v. *United States,* 43 F. 3d 1442, 1443 (Fed. Cir. 1994), stating that the CAFC upheld the Department's established practice of using actual imported prices to value material inputs in NME cases. They cite section 351.408(c)(1) from the Department's regulations which states that ''where a portion of the factor is purchased from a market economy source * * * the Secretary normally will value the factor using the price paid to the market economy supplier.'' They also cite to 19 U.S.C. 1677b(c)(1), asserting that the import price is the best available information in a market economy to value the NME producer's factors of production. They also cite to *Chrome Plated Lug Nuts from the PRC,* 56 FR 46153 (September 10, 1991), in which the Department stated that import prices are superior to the surrogate country's price because ''accuracy, fairness, and predictability are enhanced.'' They believe that the Department legitimately valued their entire wire rod input using imported prices, and should continue to do so in the final determination without adjusting the reported import prices.

DOC Position

We agree with Top United and Zongxun. When steel was purchased from a market economy, we used the prices paid to market economy suppliers to value this input, even though the producer did not purchase 100 percent of the steel from a market economy. We believe that it is normally appropriate to use those prices in lieu of values of a surrogate, market-economy producer, because the actual prices are market-driven and reflect the producer's actual experience. In most cases, there is nothing to be gained in terms of accuracy, fairness, or predictability in using surrogate values when market-determined values exist for the input used. Indeed, where we determine that a NME producer's input prices are market determined, accuracy, fairness, and predictability are enhanced by using those prices (see Chrome Plated Lug Nuts from the PRC, 56 FR 46153 (September 10, 1991)).

Comment 8: Values for Other Factor Inputs

Labor

Petitioner asserts that the Department's one figure to value both skilled and unskilled labor is unreasonably low, in comparison with the labor rates in India and those actually paid in the PRC. Petitioner also claims that this value lacks adjustments for benefits such as medical care and housing, which are generally provided in the PRC at no cost. Petitioner proposes that the Department find separate values for skilled and unskilled workers for its final determination.

Top United and Zongxun reject petitioner's argument, stating that the Indonesia labor rates that the Department used in the preliminary determination are comparable with the India labor rates available to the Department. They assert that petitioner did not provide any information showing separate values for skilled and unskilled labor, and that such data is not available to the Department. Finally, they argue that PRC labor rates are not usable in any respect because they are NME values, which are ''not accurate, reliable measures'' of normal value. *See Oscillating Fans and Ceiling Fans From PRC,* 56 FR 25664, 25667 (June 5, 1991).

DOC Position

We agree with Top United and Zongxun. As in several previous PRC investigations, *e.g. Polyvinyl Alcohol from the PRC,* 60 FR 52647 (October 10, 1995), we used data from the Yearbook of Labor Statistics to value labor. This source did not identify the skill level of this labor rate. As determined in other cases, such as *Honey from the PRC* (preliminary determination), 60 FR 14725, 14729 (March 20, 1995) and *Manganese Sulfate from the PRC* (final determination), 60 FR 52155, 52159 (October 5, 1995), there is no basis to assume the skill level of this particular surrogate labor value. Thus, for purposes of the final determination, we applied a single labor value to all reported labor factors.

Water

Petitioner suggests that the Department treat water as a factor input, not as overhead. Petitioner states that water is used in the plating process as a factor input since it is used in the chemical baths, and thus becomes part of the plating materials.

Top United and Zongxun argue that the Department will double-count water if it values the water separately because the costs for water were included in overhead for Zongxun and as diesel oil

for Top United, which maintains its own wells. They believe that this double-counting was correctly avoided by assuming water to be included in the surrogate value factory overhead. Based on how the water was used in the production process, respondents assert that the water is not incorporated into the finished product, and that the Department should accordingly follow its preliminary determination and not value water consumed by respondents as a separate factor in the final determination.

DOC Position

We agree with Top United and Zongxun that water should be considered to be included in factory overhead. Because it is a normal practice to assume that water is included in factory overhead, we find it reasonable to presume that water is included in the Indonesia overhead value we used. Therefore, if we were to assign a separate value to water, we would be double-counting the cost (*see Saccharin From the People's Republic of China,* 59 FR 58818 (November 15, 1994).

Brokerage and Handling

Petitioner claims that there is no indication in the record that the Department inflated the handling and brokerage charges to reflect POI pricing levels. Petitioner notes that the Department has made such an adjustment in the past and should make this adjustment in the final determination.

Top United and Zongxun assert that the Department did inflate the brokerage and handling charges to reflect POI pricing levels, and that petitioner disregarded the Department's efforts to accurately calculate the surrogate value.

DOC Position

We agree with petitioner, and have adjusted handling and brokerage charges to reflect the POI pricing levels.

Inland Transportation for Imported Steel

Petitioner claims that the record does not indicate that the Department included the cost of transporting the imported steel wire rod to the factory. Petitioner suggests that the Department include these costs in its final determination.

Top United and Zongxun counter that the Department *did* add the entire freight costs for transporting imported wire rod from their importing seaports to their production sites.

DOC Position

We agree with Top United and Zongxun. As stated in the Calculation Memorandum (May 5, 1997, p. 1), we ''* * * adjusted the reported unit values based on the purchased price to reflect the terms of sale for the purchase of the material input (*e.g.,* CIF, FOB) from a market-economy supplier.'' Therefore, the imported steel prices have already been adjusted to reflect inland transportation costs, and require no further calculations.

Transportation Expenses Between Factory and Plating Company

Petitioner alleges that the cost of transportation between the plating company and the factory is not indicated in the record. Petitioner states that in previous cases, the Department has looked to whether the factory or the plating company used their own trucks or an independent hauler.

Top United and Zongxun argue that the Department correctly determined not to value transportation costs between their nail production sites and their plating subcontractors in the preliminary determination. They claim that doing so would double-count the transportation costs, as these costs are included in surrogate value factory overhead. They refer to the surrogate value for factory overhead, which includes expenses such as fuel, electricity, gas machinery and equipment, and other industrial services, all of which are associated with the operation of trucks. Since Zongxun demonstrated that they transported roofing nails to and from their plating factories using their own trucks, the Department properly determined that these truck expenses are included in the surrogate factory overhead value. Citing *Helical Spring Lock Washers from the PRC,* they refer to the Department's determination to include the costs for trucking in the surrogate value for factory overhead. Finally, they note that this issue does not apply to Top United, as Top United plated its CR nails in its own factory.

DOC Position

We agree with Top United and Zongxun. As in the preliminary determination, we determined that the costs associated with this type of transportation are included in the surrogate value for factory overhead. This is similar to the Department's determination in *Helical Spring Lock Washers.* Therefore, we did not calculate a separate transportation cost for trucking the CR nails to and from the plating subcontractor.

Imports From NME Countries in Indonesia Import Data

Petitioner contends that the Department should exclude data from NME countries in the Indonesia import data for welding wire. *Citing Helical Spring Lock Washers,* petitioner states that the Department has consistently excluded such data from surrogate values and should correct this aspect of the preliminary determination.

Top United and Zongxun reject this request, claiming that petitioner failed to provide information that would enable the Department to exclude imports from NME countries from the Indonesia import data. They assert that the Department should continue to use the same Indonesia surrogate value data in the final determination, as this data constitutes ''the best available information'' (19 U.S.C. 1677b(c)(1)) to value a NME producer's material inputs.

DOC Position

We agree with petitioner that it is the Department's normal methodology to disregard data from NME countries in calculating surrogate factor values. In this case, we have removed the total quantity and value from NME countries from the import data (*see* Calculation Memorandum, dated September 23, 1997).

Comment 9: Treatment of Below-Specification Products

Petitioner asserts that the Department should adjust NV for plating thickness. Petitioner claims that Top United and Zongxun's reported plating thicknesses do not meet U.S. federal or regional, building code standards. Petitioner states that since the plating thickness was not verified, the Department should assume that Top United and Zongxun were aware of these codes and would produce merchandise that complied with the codes. Petitioner alleges that there is a significant cost differential between the plating thicknesses reported by Top United and Zongxun and those required by U.S. codes, and suggests that the Department use the information in the petition as the best available information with which to recalculate NV.

Top United and Zongxun argue that the Department correctly valued all plating chemicals that they used in production of CR nails during the POI. They claim that the Department verified that respondents correctly reported the total consumption of plating chemicals, as well as the plating thickness of their CR nails, which contradicts petitioner's allegation. They further contend that it is irrelevant to this investigation

whether or not their CR nails satisfy the building code requirements alleged by petitioner, as the purpose of this investigation is to accurately value their production costs of CR nails, not to examine the quality of their CR nails. They assert that the Department should ignore the petitioner's allegation.

DOC Position

We agree with Top United and Zongxun. At each verification, we examined whether quantities and types of materials associated with the subject merchandise were reported accurately and completely. We noted no discrepancies regarding the material quantities, with the exception of minor errors which have now been corrected (*see* verification reports for Zongxun and Top United dated June 26, 1997, and July 23, 1997, respectively). Petitioner's claim that Top United and Zongxun were aware of U.S. building codes and would produce merchandise that complied with the codes is not germaine to this issue as there is no question of inaccurate product comparisons and we have verified that all material quantities were included in the response.

Comment 10: Steel Prices

Petitioner asserts that the Department should value Top United's steel using a surrogate value, because the Department has not confirmed that the imported steel is actually used to produce the subject merchandise. Petitioner claims that at verification Top United's own officials admitted that steel other than imported steel may have been used to produce subject merchandise. Petitioner also states that the record shows that the PRC producer may not have paid for the steel inputs.

Top United refutes petitioner's claim, stating that it indeed used imported wire rods to produce CR nails, and that the imported wire rod price was actually paid, both of which were verified by the Department. Top United declares that its officials never indicated that the company did not use imported wire rod, and that petitioner misconstrued the statement in the verification report.

DOC Position

We agree with Top United. Verification supported Top United's claim that it used imported steel wire rod in the production of CR nails. Accordingly, we have continued to base the value of wire rod on average costs for the imported grade of wire rod used.

Comment 11: The MNC Rule

Petitioner alleges that all the conditions for application of the MNC provision are satisfied by Top United. Petitioner refers to section 773(d) of the Act, which contains the MNC provision, and cites *Melamine Institutional Dinnerware Products from the People's Republic of China,* 61 FR 43337, 43340 (August 22, 1996), in which the Department stated that this provision applies to cases in which the statutory criteria are met, regardless of whether it involves a market or non-market economy.

Top United contends that the Department should reject this claim because there is no information on the record indicating that Top United's NV is lower than the Taiwan prices or constructed value of its Taiwan affiliate, Unicatch. Top United further argues that petitioner is barred from introducing new information into this investigation in its case brief, citing § 351.301(b)(1) (62 FR 27405), which states that a submission of factual information is due no later than ''* * * seven days before the date on which the verification of any person is scheduled to commence * * *'' Finally, Top United argues that petitioner offered no recommendation on how to apply the MNC provision to this investigation, and without any factual evidence on the record, the Department should reject the allegation.

DOC Position

We agree with Top United. On May 19, 1997, the Department published new regulations (62 FR 27296, May 19, 1997). Although this proceeding is not governed by those regulations, they are instructive where they describe current Department practice and policy. Section 351.404 of the new regulations, 62 FR at 27412, describes the Department's current policy regarding the selection of the market to be used as the basis for NV for purposes of calculating a dumping margin. As stated in the preamble to the Final Regulations 62 FR 27357 (May 19, 1997):

> There are a variety of analyses called for by section 773 that the Department typically does not engage in unless it receives a timely and adequately substantiated allegation from a party * * * the Department does not automatically request information relevant to a multinational corporation analysis under section 773(d) of the Act in the absence of an adequate allegation.

In this case, petitioner alleged for the first time in its case brief that the Department should apply the MNC rule to Top United. Most significantly, the record of this investigation does not contain information regarding the third condition of determining a company to be part of a multinational corporation, *i.e.,* the normal value of the foreign like product produced in one or more facilities outside the exporting country is higher than the normal value of the foreign like product produced in the facilities located in the exporting country. Presenting the allegation at this point in the investigation did not allow the Department sufficient time to collect and analyze the information necessary to make a determination regarding the applicability of the MNC rule. Therefore, we reject petitioner's MNC rule allegation as untimely and unsupported by the record evidence.

Zongxun

Comment 12: Adverse Facts Available for Unreported Sales

Petitioner contends that the Department should use adverse facts available in determining the dumping margin for Zongxun due to possible unreported sales discovered during verification. Specifically, petitioner contends that the presence in Zongxun's records of certain foreign currency receipts and of CR nail sales to other PRC companies may be evidence of unreported sales. Petitioner claims that when sales cannot be accounted for, particularly where a foreign currency receipt is involved, the Department should presume the sale was an unreported sale for exportation to the United States, and the Department should use adverse facts available and use the highest margin possible. Citing 19 CFR § 351.308(a), petitioner emphasizes that the Department may make a determination on the basis of the facts available when an interested party or any other person ''* * * withholds or fails to provide information requested in a timely manner and in the form required or significantly impedes a proceeding, or the Secretary is unable to verify submitted information * * *'' Petitioner asserts that Zongxun's refusal to cooperate with verifiers to clarify the foreign currency receipts and associated transactions warrants the use of facts available in determining the appropriate margins.

Zongxun refutes petitioner's allegation. Zongxun cites the Department's verification report, which found ''no indication of export sales of subject merchandise having been improperly included in, or excluded from, Zongxun's listing of POI sales.'' With respect to its sales to PRC companies, Zongxun asserts that, even in the event that the Department determined these transactions were export sales, they could not be

considered in this investigation because they were paid in Renminbi, a NME currency. Zongxun argues that the verification report never stated that any of its domestic sales were paid in a foreign currency. Zongxun claims that the foreign currency noted in the verification report refers to a loan that is properly recorded as ''payable'' in its accounting records. Zongxun argues that a sale would be recorded as a ''receivable.'' Zongxun attests to their full cooperation during verification, and advises the Department to reject petitioner's allegation.

DOC Position

We agree with Zongxun. As stated in the verification report, nothing that we examined suggested that the foreign currency receipts were unreported sales. Therefore, we determine that these receipts do not warrant any adverse inferences for the final determination and the verified information has been used for the final determination.

Comment 13: Affiliation of Zongxun and its PRC Parent

Petitioner contends that Zongxun and its PRC parent are sufficiently related so that the Department should collapse them and treat them as a single entity for purposes of assigning a dumping margin in this investigation. Petitioner cites 19 CFR 351.401(f), and then refers to certain factors that the Department may consider when identifying the potential for manipulation of price or production, including: level of common ownership; whether managerial employees or board members of one of the affiliated producers sit on the board of directors of the other affiliated producer; and whether operations are intertwined, such as through the sharing of facilities or employees, or significant transactions between the affiliated parties. Petitioner also cites to the *Preliminary Determination of Sulfanilic Acid from the PRC* 62 FR 25917 (May 12, 1997) in which the Department found that two companies were ''affiliated'' parties, where substantial retooling would not be necessary to restructure manufacturing priorities and potential price and production manipulations between the two producers. Petitioner alleges that the verification report shows a commonality of interests and ownership, and that the failure of Zongxun and its parent to submit a consolidated response mandates the Department's use of facts available.

Zongxun rebuts this allegation, insisting that no conditions were met to collapse it and its parent, because it has been verified that its parent did not produce or export CR nails during the POI and thus is not a producer and cannot be collapsed with Zongxun. Zongxun states that the Department may collapse affiliated producers, but that petitioner's allegation is not supported by the record, and should therefore be rejected.

DOC Position

We agree with Zongxun, in part. During verification, the Department reviewed Zongxun's parent's 1996 financial statements. These financial statements did not indicate that any income had been derived from export sales of CR nails. If Zongxun's parent were to sell the subject merchandise under its own name, it would be subject to the PRC-wide rate.

Comment 14: Critical Circumstances

Petitioner alleges that the petition provided a reasonable basis to suspect that critical circumstances exist with respect to imports of subject merchandise. Petitioner cites section 733(e)(1)(A)(i) of the Act, which refers to a ''* * * history of dumping * * *'' In particular, petitioner maintains that the revoked antidumping order on steel wire nails from China, *Certain Steel Wire Nails From China,* 52 FR 33463 (September 3, 1987), provides a sufficient basis to find a history of dumping.

DOC Position

As noted above (*see* ''Critical Circumstances'' section of this notice), it is not necessary to reach a conclusion regarding a history of dumping in this case. Insofar as Top United and Zongxun do not have margins, critical circumstances do not exist with respect to these exporters. Critical circumstances do exist with respect to all other exporters based on other factors.

Continuation of Suspension of Liquidation

For Top United and Zongxun, we calculated a zero margin. Consistent with *Bicycles,* merchandise that is sold by these producers but manufactured by other producers will be subject to the order, if issued. Entries of such merchandise will be subject to the ''PRC-wide'' margin.

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise—except those exported and manufactured by Top United or Zongxun—that are entered, or withdrawn from warehouse, for consumption on or after February 12, 1997, which is the date three months prior to the date of publication of our preliminary determination in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Top United/Top United	0
Qingdao Zongxun/Qingdao Zongxun	0
PRC-wide Rate	118.41

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 735(f) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation. This determination is published pursuant to section 735(d) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26046 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–827]

Notice of Final Determination of Sales at Not Less Than Fair Value: Collated Roofing Nails From Korea

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly at (202) 482–4194 or Brian Smith (202) 482–1766, Group II, Office Five, Antidumping Countervailing Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

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 Rounds Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations are to the regulations, as codified at 19 CFR Part 353 (1997).

Final Determination

We determine that collated roofing nails (''CR nails'') from Korea are not being sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins are shown in the ''Termination of Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination and Postponement of Final Determination: Collated Roofing Nails from Korea,* 62 FR 25895 (May 12, 1997)), the following events have occurred:

In June 1996, we verified questionnaire responses for Kabool Metals (''Kabool'') and Senco Korea Company, Ltd., Senco Products Incorporated, and Je Il Steel Company, Ltd. (collectively ''SENCO''). Paslode Division of Illinois Tool Works Inc. (''Petitioner''), respondents, and Stanley Bostich (''Stanley''), an interested party in this investigation, submitted case briefs on August 7, 1997, and rebuttal briefs on August 12, 1997. The Department held a public hearing on August 13, 1997.

Scope of Investigation

The product covered by this investigation is CR nails made of steel, having a length of 13⁄16 inch to 1 13⁄16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55.06. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Kabool and SENCO to the United States were made at LTFV, we compared the Export Price (''EP'') or Constructed Export Price (''CEP'') to the Normal Value (''NV''), as described in the EP, CEP, and NV sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to weighted-average NVs.

Kabool reported that it had no viable home market or third country sales during the POI. Therefore, we made no price-to-price comparisons for Kabool. See the NV section of this notice, below, for further discussion.

Level of Trade and CEP Offset

In the preliminary determination, the Department determined that no difference in level of trade (''LOT'') existed between home market and U.S. sales for either Kabool or SENCO. None of the parties have contested that determination. Accordingly, the Department has not investigated further into this issue. Therefore, we determine that all of SENCO's sales are made at a single LOT and no LOT adjustment or CEP offset is warranted.

As explained below, we based the NV for Kabool entirely on constructed value (''CV''). The CV LOT is that of the sales from which we derive SG&A and profit. We derived selling, general, and administrative expenses (''SG&A'') and profit from Kabool's sales of all types of nails in the home market. However, the record contains insufficient information to analyze the selling activities associated with those sales. Therefore, as facts available, we are drawing the inference that there is no distinction between the CV and U.S. LOTs. This inference is consistent with the fact that neither petitioner nor Kabool alleged a difference in LOT. Therefore we determine that a level of trade adjustment is not warranted.

Export Price and Constructed Export Price

Kabool

We used EP in accordance with section 772(a) of the Act because the subject merchandise was sold to unaffiliated customers before importation and the CEP methodology was not indicated by the facts of record. We calculated EP based on the same methodology used in the preliminary determination, with the following exceptions: adjustments to brokerage expenses; duty drawback; and other corrections were made based on verification findings. (For details, *see* September 24, 1997, final determination calculation memorandum for Kabool, hereafter ''Kabool calculation memo.'')

SENCO

We used EP in accordance with section 772(a) of the Act where the subject merchandise was sold to unaffiliated customers prior to importation because the CEP methodology was not indicated by the facts of record. We used CEP in accordance with section 772(b) of the Act where the subject merchandise was sold to unaffiliated customers after importation. We calculated CEP and EP based on the same methodology used in the preliminary determination, with the following exceptions: adjustments to packing expenses; rebates; early payment discounts; advertising expenses; and inland freight were made based on verification findings. For CEP we also adjusted reported indirect selling expenses and inventory carrying costs to exclude Korean incurred components and applied them to transfer prices rather than starting prices. Furthermore, we are no longer using facts available for foreign inland freight expenses.

In addition, verification revealed that SENCO's CEP sales listing included non-subject merchandise that SENCO had purchased from Taiwan and Mexico. Although SENCO did not record the country of origin for specific sales, the Department was able to determine for each model reported the percentage of total CR nail purchases accounted for by subject CR nails and to adjust SENCO's sales listing as appropriate. For example: if for model ''A'' Senco Products Incorporated (''SPI'') purchased 57 percent of its CR nails from Korea, the Department

multiplied the reported quantity by 57 percent for all sales of model ''A'' within SENCO's CEP sales listing. (For details, see September 24, 1997, final determination calculation memorandum for SENCO, hereafter ''SENCO calculation memo.'')

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

SENCO

SENCO reported that it had no home market sales during the POI. Therefore, in accordance with section 773(a)(1)(B)(ii), we based NV for Senco Korea on sales to its largest third country market, Canada. We calculated NV based on the same methodology used in the preliminary determination, with the following exceptions: adjustments were made to packing expenses; and domestic brokerage and handling based on verification findings. In addition, SENCO corrected omissions in the third country sales listing used for the preliminary determination. For purposes of calculating the final margin, we are no longer applying facts available for the certain U.S. sales that had no third country matches. (For details, *see* SENCO calculation memo).

Kabool

Kabool reported that it had no viable home or third country market during the POI. Therefore, in accordance with section 773(a)(4) of the Act, we based NV for Kabool on CV. In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the costs of materials, labor, overhead, SG&A, profit and U.S. packing costs. We adjusted U.S. packing costs based on our findings at verification.

Section 773(e)(2)(A) states that SG&A and profit are to be based on the actual amounts incurred in connection with sales of a foreign like product. In the event such data is not available, section 773(e)(2)(B) of the Act sets forth three alternatives for computing profit and SG&A without establishing a hierarchy or preference among the alternative methods. The alternative methods are: (1) calculate SG&A and profit incurred by the producer based on the sales of merchandise of the same general type as the exports in question; (2) average SG&A and profit of other producers of the foreign like product for sales in the home market; or (3) any other reasonable method, capped by the amount normally realized on sales in the foreign country of the general category of products. In addition, the Statement of Administrative Action (''SAA'') states that, if the Department does not have the data to determine amounts for profit under alternatives one and two, or a profit cap under alternative three, it still may apply alternative three (without the cap) on the basis of the ''facts available.'' SAA at 841.

In this case, we based Kabool's SG&A and profit on the actual amounts incurred and realized in connection with the production and of the same general category of merchandise as described in alternative one, above (*see* Comment 1, below, for further discussion).

Price to CV Comparisons

Where we compared CV to EP for Kabool, we made circumstance of sale adjustments pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR section 353.56(a)(2). We made circumstance of sale adjustments, where appropriate, for differences in bank charges and credit expenses. We adjusted bank charges based on findings at verification. (For details, *see* Kabool calculation memorandum).

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *see Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because neither the Korean Won nor the Canadian Dollar underwent a sustained movement.

Critical Circumstances

The petition contained a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In this case, our final determination is negative. Accordingly, a critical circumstances determination is irrelevant because there is no possibility of retroactive suspension of liquidation.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: SG&A and Profit Calculations

Petitioner opposes the Department's use of Kabool's company-wide SG&A and profit, arguing that the company-wide data includes lower export prices, which decreases the profit rate and, consequently, artificially lowers dumping margin. Instead, petitioner contends that Kabool's SG&A and profit should be based only on sales of merchandise that belong to the same general category of ''collated nails'' and not ''all nails'' (*i.e.,* collated and non-collated). According to petitioner, basing SG&A and profit on both collated and non-collated nails is inappropriate because collated nails require significantly different capital investment and are sold to different markets.

Stanley agrees with petitioner, arguing that the use of Kabool's company-wide SG&A and profit artificially lowers the dumping margin. Stanley also notes that, because of the significant investment and overhead costs attributable to CR nails, the same general category of merchandise cannot be broader than collated nails for purposes of calculating profit. Further, Stanley contends that Kabool has the ability to separate the profit for collated nails from the company-wide profit rate, but simply chose not to do so. Therefore, Stanley argues that the Department should apply facts available in calculating the dumping margin for Kabool.

Kabool asserts that the Department should use the profit rate based on Kabool's sales of collated and non-collated nails, which was provided in its April 16, 1997, supplemental Section D response, as corrected and verified by the Department at verification. Kabool argues that both collated and non-collated nails are processed in the same facility using the same equipment and the same production processes. Moreover, Kabool notes that the Department previously held that the ''class or kind'' of merchandise in a case involving steel wire nails included all steel wire nails—without distinguishing between collated and non-collated nails. Finally, Kabool argues that petitioner's claim that the Department should use a profit rate specific to collated nails was only raised in petitioner's case brief and, thus, too late in this proceeding to request such information. Kabool also notes that although the Department's questionnaire never requested information regarding the profit on home market sales of collated and non-collated nails, Kabool submitted information on its profit for nail products in the home market. Therefore, Kabool contends that the Department should reject petitioner's and Stanley's arguments and determine that the same general category of merchandise upon which to base SG&A and profit is collated and non-collated nails.

DOC Position

We agree with Kabool. Kabool does not have a viable home market or third country market for a foreign like product. Section 773(e)(2)(B) of the Act states that if actual SG&A and profit data on home market sales of the subject merchandise are not available, the Department may use the SG&A and profit rates incurred by the producer on the sales of the same general category of merchandise as the exports in question (*see* Kabool's NV section for a discussion of the three alternative methodologies). In this instance, we verified the aggregated SG&A and profit data on Kabool's sales in the home market of both collated and non-collated nails that it submitted. We determined that collated and non-collated nails are of the same general category of merchandise. (*Cf. Certain Steel Wire Nails From Korea: Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order,* 50 FR 40045 (Oct. 1, 1985) (all steel wire nails found to constitute a single class or kind of merchandise). Accordingly, consistent with section 773(e)(2)(B), the Department has used the verified SG&A and profit rate reported by Kabool on its sales of all nails in the home market.

Comment 2: Facts Available

Petitioner contends that the Department should use adverse facts available for SENCO's and Kabool's dumping margins. Petitioner argues that the numerous verification corrections, whether disclosed by the respondents or found by Department officials, indicate that both Kabool and SENCO have failed to act to the best of their abilities. Petitioner specifies four examples of problems with SENCO's responses: (1) errors in the reporting of purchases of CR nails from Je Il Steel Company Ltd. (''JISCO''); (2) inability to explain discrepancies in reported trucking freight charges; (3) discrepancies noted by the Department when reconciling quantity and value figures to SPI's financial statements; and (4) failure to include POI sales to Canada in the third country database. Further, petitioner argues that SENCO did not provide a complete explanation of its relationship with its distributor in Canada.

SENCO states that petitioner correctly summarizes the instances in which SENCO's submissions, prior to the preliminary determination, warranted the use of facts available by the Department. However, SENCO contends that it has corrected all the deficiencies in its June 2, 1997, response to the Department's second supplemental antidumping questionnaire. Because the corrected deficiencies have been verified by the Department, SENCO claims that the Department should use the information provided by SENCO to make the final determination in this investigation.

Kabool contends that the petitioner has not indicated which corrections and errors actually merit the use of adverse facts available. Kabool claims that the corrections it has submitted do not warrant wholesale rejection of its responses. Kabool states it was cooperative in providing information throughout the investigation. Kabool further states that petitioner has not identified a single instance of a pattern or systematic misstatement of fact in Kabool's submissions. Accordingly, Kabool contends that there is no basis for the Department to reject Kabool's submissions or to rely on adverse facts available. Rather, Kabool claims that the Department's final determination in this investigation should be based on the information it has submitted.

DOC Position

We agree with both respondents. The facts on the record of this investigation demonstrate that the respondents answered the Department's questionnaire to the best of their ability. The corrections and errors found in the responses to the Department's questionnaire and at verification do not warrant the use of facts available. The Department's practice is to permit respondents to provide minor corrections to submitted information at the commencement of verification. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Taiwan,* 62 FR 1726, 1729 (January 13, 1997). Kabool and SENCO provided the Department with their corrections in a timely manner at the beginning of their respective verifications (cost verification report for Kabool dated July 28, 1997; sales verification reports for Kabool, Senco Korea, and SPI dated July 7, 1997, and July 30, 1997, July 29, 1997, respectively). In sum, the corrections submitted by Kabool and SENCO were typical of the minor corrections routinely accepted by the Department at the commencement of verification.

Accordingly, we determine that resorting to facts available is unwarranted in this particular case. We, therefore, used all verified information for both respondents in the final margin calculations.

Comment 3: Plating Thickness

Petitioner argues that the plating thicknesses of CR nails reported by respondents do *not* meet U.S. Federal or regional building codes. Moreover, petitioner claims that the actual plating thicknesses were not verified by the Department. Therefore, petitioner contends that the Department should assume that respondents were aware of the U.S. building codes and produced CR nails that complied with the codes. Petitioner urges the Department to use the information contained in the petition to calculate NV based on CR nails that meet the U.S. building codes.

Kabool argues that petitioner's statements regarding plating thickness are unsubstantiated and do not provide any basis for rejecting or even questioning Kabool's submissions. Kabool states that, because its NV was based on CV, there is no question of incorrect product comparison. Further, Kabool contends that it reported actual costs incurred in producing (and plating) the CR nails exported to the United States, thereby accounting for all of its materials and fabrication costs incurred in the process of plating CR nails. Kabool also states that the costs reported by Kabool were verified by the Department. Accordingly, there is no basis for rejecting Kabool's submissions.

SENCO argues that there is no indication in the petitioner's case brief as to where or when the issue of sub-standard plating thickness of CR nails was previously raised on the record. SENCO states that there is nothing on the record to suggest that its CR nails do not meet applicable standards. Accordingly, SENCO contends that there is no basis for rejecting SENCO's submissions.

DOC Position

We agree with Kabool that we have captured all costs incurred in producing CR nails. During the cost verification of Kabool, we examined whether all material costs (including plating costs) associated with the subject merchandise were included in the CV databases. We noted no discrepancies regarding the material costs with the exception of minor errors, which have now been corrected (*see* cost verification report for Kabool dated July 28, 1997). Thus, we have verified all of Kabool's material costs. With respect to SENCO, we noted no discrepancies regarding its reported product characteristics. Any alleged misrepresentation concerning compliance with U.S. building codes is not within the purview of the antidumping statute because such misrepresentation would have no impact on our calculations.

Comment 4: Allocation Methods

Petitioner contends that respondents' allocation methods were distortive because they were based on incorrect and unsupported expenses in the following areas:

(1) Shipping Expenses. International freight expenses were improperly based on gross weight instead of volume. Because CR nails weigh less per cubic foot than bulk nails, respondents' shipping expenses were thus systematically under-reported.

(2) Production Expenses, Factory Overhead, and Indirect Selling Expenses. The allocation method for production-related expenses, factory overhead, and indirect selling expenses should be based on weight that includes scrap. However, the post-scrap production expenses, such as packing, should be allocated based on weight of the CR nails without scrap.

(3) Duty drawback. The duty drawback expense allocation method should be based on the net weight of CR nails.

(4) Actual Weighing. The Department should rely on actual physical weighing of the CR nails, not the reported gross weight for all allocation methods based on weight.

In rebuttal, Kabool argues that petitioner's assertions, which are enunciated for the first time in petitioner's case brief, are untimely. Moreover, Kabool emphasizes that the allocation methods used are consistent with the Department's past practice and the proposed modification would produce insignificant changes. Therefore, any modification of Kabool's current allocations is without merit. Specifically, Kabool addresses the following allocations:

First, Kabool argues that petitioner's assumption that Kabool's shipments regularly include both bulk nails and CR nails is inaccurate. Kabool states that it reported actual ocean freight costs for its U.S. sales on a shipment-by-shipment basis. Moreover, Kabool contends that allocation of ocean freight costs based on weight, rather than volume, is consistent with the Department's normal practice. Moreover, an alternative allocation based on volume would not have been practical since the documents do not state the volume of each shipment. Thus, there is no basis to revise the freight allocations.

Second, Kabool states that petitioner's proposed allocations for production-related expenses, factory overhead, and indirect selling expenses are factually incorrect and contrary to the law. Kabool claims that most of these items were not allocated based on weight. For instance, Kabool's indirect selling expenses were allocated based on sales value. Kabool asserts that the only overhead allocation based on weight was the fabrication costs for polishing and coating. According to Kabool, any new allocation would result in insignificant changes.

Third, Kabool argues that it did allocate duty drawback based on the net weight of the CR nails.

Finally, Kabool states that it reported its shipping expenses, production-related expenses, factory overhead, indirect selling expenses, and duty drawback in accordance with Korea's generally accepted accounting principles (''GAAP'') and its own cost accounting system. Kabool claims that the statute requires the Department to follow the methodologies used in the company's normal accounting system. Moreover, Kabool argues that to allocate expenses based on a weight that includes scrap is nonsensical as this would result in allocating a portion of the product costs to scrap and not to the finished product. Accordingly, there is no reason to allocate these expenses in the manner petitioner has proposed.

SENCO claims that petitioner failed to adequately identify in its case brief what type of shipping expenses should be subject to a different allocation methodology. SENCO also notes that its methodologies for calculating freight expenses were verified by the Department and generally accepted as appropriate. In addition, SENCO states that it reported that it received no duty drawback on the exportation of CR nails.

DOC Position

The Department normally accepts the company's recording of costs, provided that it reasonably reflects the cost of producing subject merchandise and it is in accordance with the home country's GAAP. *See* section 773(f)(1)(A); SAA at 834–35; *Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses from Japan,* 61 FR 38139 (July 23, 1996). We have determined that the allocations of the expenses, challenged by petitioner, are reasonable for the reasons stated below.

(1) Shipping Expenses. We found no discrepancies with respect to the allocation methodology used by respondents. (*See* Sales Verification Reports for Kabool at 7 and Senco Korea

at 10 dated July 7, 1997, and July 30, 1997, respectively.) Respondents' cost accounting systems, which are consistent with Korean GAAP, only record the weight of their shipments to customers, not the volume. Thus, the allocation method used was the most specific method feasible. In addition, it does not cause distortions or inaccuracies in our calculations. Therefore, the Department has not changed the freight methodology for the final determination.

(2) Production Related Expenses, Factory Overhead, and Indirect Selling Expenses. Allocating expenses over the weight of the finished goods necessarily accounts for all costs related to scrap. If the Department were to allocate certain expenses over a weight which included scrap, the denominator of the calculation would be greater than the weight of the finished product and would result in understating the per-unit expense.

Further, most of Kabool's items were not allocated based on weight. Indirect selling expenses were allocated based on sales value. The only overhead allocation based on weight was the fabrication costs for polishing and coating. Therefore, any new allocation would have been insignificant. Thus, we reject petitioner's argument and will continue to allocate expenses over the total amount of finished product.

(3) Duty Drawback. As stated in the sales verification reports dated July 9, 1997, and July 30, 1997, the Department verified that Kabool allocated duty drawback on the net weight of the CR nails and that Senco Korea received no duty drawback on the exportation of CR nails.

(4) Physical Weights. At verification, the Department examined the weights of the products in order to confirm certain allocation factors. We found no discrepancies. We will use each company's verified weights in our calculations.

Respondents reported all of the aforementioned expenses in accordance with Korea's GAAP and their own cost accounting systems (*see* Section 773(f)(1) of the Act). The methodologies for calculating these expenses were verified by the Department and accepted as appropriate. Accordingly, the Department did not change the allocation methodologies for these expenses. Further, as noted above, because few factors were allocated on the basis of weight any changes in the allocations would not have a significant impact.

Comment 5: Constructed Value Calculation—Kabool

Petitioner argues that Kabool's cost methodology for CV was not appropriate because the cost of materials obtained from non-affiliated suppliers should be determined through a price comparison against independent Korean market values to ensure that prices are reasonable.

DOC Position

We disagree with petitioner. The Department verified Kabool's cost of materials. Kabool's material purchases constituted arm's-length transactions and reported costs were tested against Kabool's cost accounting systems. Because the prices that Kabool paid for its materials reflect market values, it is neither necessary nor appropriate for the Department to benchmark Kabool's material costs against other ''independent'' market values.

Comment 6: Collapsing Senco Korea and its Affiliate

Petitioner claims that Senco Korea and its affiliate should be collapsed for purposes of the final determination. Petitioner states that in identifying the potential for manipulation of price or production the Department may consider the following factors: (1) Level of common ownership; (2) shared management; (3) intertwined operations, shared facilities and/or employees, and significant transactions between affiliated parties. Petitioner cites *Sulfanilic Acid From China: Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 25917 (May 12, 1997), in which the Department found that two companies were affiliated when substantial retooling of either company would not be necessary to restructure their collective manufacturing priorities, and that there was a potential for price manipulation between the two producers. Petitioner claims that the same principle should be applied to Senco Korea and its affiliates.

SENCO argues that petitioner fails to identify Senco Korea's alleged affiliate, but states that SENCO assumes that petitioner is referring to JISCO. SENCO states that it has readily acknowledged on the record that JISCO is affiliated with Senco Korea. However, SENCO contends that because the Department verified that JISCO had no independent sales of CR nails, Senco Korea has reported all of its sales of CR nails.

DOC Position

The Department has treated Senco Korea, JISCO, and SPI as affiliated parties throughout the entire investigation. The companies submitted a consolidated questionnaire response and verification revealed no material errors or omissions that could not be corrected. *See* section 771(33)(E) of the Act and SENCO's February 28, 1997, submission of section ''A'' response to the Department's antidumping questionnaire. Accordingly, the Department has treated these companies as one entity. Because we are dealing with a single producer, the type of collapsing analysis suggested by petitioner is not relevant.

Comment 7: SENCO Indirect Selling Expenses

Petitioner makes two points with respect to SENCO's reported indirect selling expenses. First, petitioner argues that certain U.S.-incurred indirect selling expenses, such as salaries and benefits for the heads of customer service and distribution services, which SENCO proposed to exclude from reported indirect selling expenses, should be deducted from CEP. However, petitioner states that ''the Department should make an offsetting adjustment to SG&A.''

Second, petitioner contends that SENCO inappropriately revised its reporting of Korean-incurred indirect selling expenses and inventory carrying costs by allocating these items over transfer price instead of gross price.

SENCO claims that it properly reported and allocated its indirect selling expenses. Prior to verification, SENCO revised its indirect selling expenses to excluding certain expenses related to selling activities in the United States. SENCO argues that this correction was appropriate because these expenses are incurred in Korea. SENCO also asserts that SG&A expenses should not have been included in the indirect selling expenses incurred in Korea and that the corrected amounts were reviewed at verification.

SENCO contends that basing indirect selling expenses on the transfer price, rather than the resale price originally reported, constituted an appropriate correction that was explained to the Department at verification.

DOC Position

With respect to petitioner's first argument, we agree. We have not accepted SENCO's proposal to exclude from the indirect selling expenses deducted from CEP certain selling expenses incurred at SPI because those expenses relate to economic activity in the United States. Because Senco Korea's margin calculation is based on a price-to-price comparison, there is no

need to correct SG&A as that figure is not used in the calculation.

With respect to the allocation of Korea-incurred selling and inventory carrying expenses, the Department does not need to address this question because these expenses have not been determined to be associated with economic activity in the United States and thus are not being deducted from CEP or otherwise taken into account.

Comment 8: Correct Reporting of Affiliated Parties

Petitioner contends that sales made between Senco Korea and its customer in Canada do not appear to be at arm's length. Accordingly, petitioner urges the Department to use facts available in its final determination in this investigation.

Stanley claims that SENCO failed to provide complete information regarding its affiliations (or ''relationships with its customers''). Stanley states that Senco Korea's distributor for CR nails in Canada is affiliated with the corporate entity that controls SPI. Because of the lack of complete information with respect to SENCO's affiliates, Stanley contends that the Department is not able to determine whether Senco Korea's reported third country sales are arm's-length transactions. Accordingly, Stanley contends, the Department is required to use facts available for making SENCO's final determination in this investigation.

SENCO argues that it has no affiliates in Canada and that it properly excluded from its sales listing CR nails sales made by its unaffiliated distributor. According to SENCO, its customer in Canada is an unaffiliated distributor and the independent relationship of many of SPI's various distributors was verified by the Department.

DOC Position

We agree with SENCO. At verification, we noted that SPI has a large number of formal business relationships with many distributors and resellers throughout the world and the majority of these relationships do not meet the Department's requirements for affiliation (*see* SPI verification report at 3, July 29, 1997). Specifically, there was no indication noted by the Department that SPI was affiliated with its customer in Canada. Accordingly, there is no basis to conclude that the third country sales listing is flawed, and use of facts available for the Department's determination is not warranted. Moreover, we note that petitioner and Stanley first raised this concern in their case briefs—far too late in this proceeding for a detailed analysis of potential affiliation between a supplier and its customer.

Comment 9: Critical Circumstances

Petitioner alleges that the petition provided a reasonable basis to suspect that critical circumstances exist with respect to imports of subject merchandise. In particular, petitioner maintains that the revoked antidumping order on steel wire nails from Korea, *Certain Steel Wire Nails From Korea,* 50 FR 40045 (Oct. 1, 1985), provides a sufficient basis to find a history of dumping (a requirement of section 733(e)(1)(i) of the Act). Accordingly, petitioner believes that there is a reasonable basis to suspect that critical circumstances exist with respect to imports of subject merchandise.

Kabool contends the Department should affirm its preliminary determination that critical circumstances do not exist in this case for Kabool. Kabool asserts that petitioner neglected to mention three facts: (1) The steel wire nails final determination cited by petitioner was published in 1980, which is more than 15 years ago; (2) the same steel wire nails antidumping order was revoked in October 1985; (3) Kabool was not investigated in that proceeding, and it was never found to be dumping steel wire nails or any other product. For the above reasons, Kabool claims that petitioner's argument should be rejected.

SENCO states that nothing has changed since the preliminary determination to alter the Department's conclusion that the first prong of section 733(e)(1) pertaining to history of dumping, or knowledge on the part of importers, has not been met. Furthermore, SENCO submits that the second prong of that provision cannot be satisfied because the change in the quantity of shipments of CR nails by Senco Korea to the United States from the post-petition period over the pre-petition period does not indicate that imports were massive. Because neither prong of section 733(e)(1) has been satisfied, SENCO argues that there is no basis to find that critical circumstances exist.

DOC Position

Because our final determination is negative, it is not necessary to address whether critical circumstances exist as there is no possibility of retroactive suspension of liquidation.

Comment 10: Unverified CEP Expenses

SENCO claims that the Department should accept its reported data for the following expenses: U.S. inland freight, U.S. customs duties, credit expenses, advertising expenses, and inventory carrying costs incurred in the United States. Although the Department was unable to verify these expenses, SENCO notes that the verification process was generally complete. SENCO contends it demonstrated a willingness to cooperate with the Department by responding to the antidumping questionnaires in a timely manner. Accordingly, the application of adverse facts available would be inappropriate.

Petitioner contends that the Department's inability to verify the CEP expenses was not minor. Petitioner argues that the treatment of these expenses directly affects the Department's calculation methodology for the final determination. Petitioner claims that the Department is required to verify all information relied upon in its final determination. Accordingly, for these unverified expenses, petitioner urges the Department to use facts available.

DOC Position

Due to limitations of time and resources, the Department is rarely able to verify every single piece of data submitted in a response. *See Monsanto Co.* v. *United States* 698 F. Supp. 275, 281 (1988) (''Verification is a spot check and is not intended to be an exhaustive examination of the respondent's business.'') Verification is an opportunity for the Department to test the accounting and business systems of the respondent to a level of detail that gives the Department a reasonable indication as to the integrity of the response. *See Micron Technology, Inc.* v. *United States,* 117 F.3d 1386, 1396 (1997) (ITA performs selective verification of reported data until it is satisfied that the data supplied by the foreign respondent is accurate). For the information that was verified, the Department found no significant problems. While we would have preferred to have an opportunity to verify these expenses, based on the results of verification, we find SENCO's data to be reliable overall. Moreover, we find that the level of SENCO's cooperation with our requests for information would not warrant an adverse inference. Nor have we found any reason based on other information on the record to conclude that the information in question is erroneous. Thus, even though not specifically verified, SENCO's reported expense information is the most appropriate facts available to the Department for the calculation of SENCO's margin. Accordingly, the Department has used

SPI's CEP expenses for purposes of the final determination.

Comment 11: Treatment of Relocation Costs for CV

Kabool states that it made a substantial investment in relocating its production facilities. Kabool states that production levels were limited by technical factors and contends that production during and immediately after relocation constitutes a start-up operation under the statute. Kabool contends that the Department should reduce CV to account for this relocation, either by granting a start-up adjustment or by determining that these costs are extraordinary.

Kabool contends that the plant relocation was clearly unusual in nature and infrequent in occurrence, thus satisfying the criteria for an expense to be considered extraordinary.

Petitioner contends that Kabool's plant relocation does not require special treatment by the Department. Petitioner further states that Kabool did not supply the necessary data to effect the requested adjustment. Furthermore, Kabool did not establish (as the statute requires) that the startup period extended ''beyond the POI.''

DOC Position

We agree with petitioner that it is not appropriate to make an adjustment, under the startup provision of section 773(f)(1)(C)(ii) of the Act, to account for the costs incurred by Kabool during the relocation of its production facility. To qualify for an adjustment for startup operations, the producer must show that (1) it is using new production facilities or producing a new product that requires substantial additional investment, and (2) the production levels are limited by technical factors associated with the initial phase of commercial production. *See* 773(f)(1)(C)(ii). The SAA explains that ''new production facilities'' means substantially complete retooling of an existing plant that involves a replacement or rebuilding of nearly all production machinery. *See* SAA at 836. A product is ''new,'' according to the SAA, if it requires ''substantial additional investment,'' or if the producer incurs substantial additional cost because of revamping or redesigning its existing product. Id.

In this case, Kabool reported in its April 16, 1997, supplemental section D response that all of the production machinery used in Kabool's new plant was transferred from its old plant. Kabool thus did not replace or rebuild nearly all of its machinery, but merely relocated its production facility. Kabool's technology for producing CR nails has not changed and there is nothing on the record to indicate that a new product is being produced in the new facility. Because Kabool merely relocated its production facility without replacing or rebuilding nearly all of its machinery, and the record evidence does not show that the relocation involved a substantial investment in connection with the revamping or redesigning of CR nails, the first condition for the start up adjustment is not satisfied.

Because Kabool does not meet the requirements outlined in the first prong of the start-up provision, the Department is not required to address whether or not Kabool's production levels were limited by technical factors associated with the initial phase of commercial production during the relocation of its facilities. In sum, the Department has determined to reject Kabool's claim for startup adjustment because it did not demonstrate that its production facility was new, or that it would involve a production of a new product under section 773(f)(1)(C)(ii) of the Act.

As in the preliminary determination, Department did not make an adjustment for Kabool's relocation costs based on the Department's practice of adjusting CV for extraordinary costs. The Department maintains that additional expenses stemming from Kabool's relocation do not constitute, in the words of the SAA at page 832, ''an unforeseen disruption in production,'' which is beyond the management's control.'' *(See also Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses, from Japan,* 61 FR 38139, 38153, July 23, 1996). Accordingly, because the relocation was not an unforseen event, the Department will include all the expenses associated with the relocation of Kabool's nail production facilities for purposes of calculating CV.

Comment 12: Indirect Selling Expenses—Kabool

Kabool claims that the revised home-market indirect selling expense calculation set forth in the sales verification report incorrectly allocates all of Kabool's home-market indirect selling expenses (which related to sales of all of its products) over the sales of CR nails sales instead of company wide sales. Accordingly, the Department should make the correction of the calculation error.

Petitioner states that the Department should include indirect selling expenses for the same general category of products (*i.e.* collated nails) as the Department should select for SG&A and profit. Petitioner argues that by including indirect selling expenses allocated for sales in the same general category, the Department will be making the most precise calculation of CV.

DOC Position

We agree with Kabool. The Department made a calculation error in the recalculation of the home-market indirect selling expense (*see* the Department's July 28, 1997, cost verification report, page 13). Accordingly, the Department has corrected the calculation as illustrated on page 15 of Kabool's August 6, 1997, case brief. For reasons outlined in our response to comment 1 we are calculating indirect selling expenses based on sales of the same general category of nails as provided by Kabool.

Termination of Suspension of Liquidation

In accordance with section 735(c)(2) of the Act, we are directing the Customs Service to terminate suspension of liquidation and release any bond or other security and refund any cash deposit.

The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Margin percentage
Senco	0
Kabool	0

Because our determination is negative, the investigation will be terminated upon publication of this notice and no order will be issued.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determination.

This determination is published pursuant to section 735(d) of the Act.

Dated: September 24, 1997.

Robert LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26047 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–826]

Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From Taiwan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly at (202) 482-4194, or Brian Smith at (202) 482–1766, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 regulations are to 19 CFR Part 353, as the codified on April 1, 1997. Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296 (May 19, 1997) (''Final Regulations''), do not govern this investigation, citations to those regulations are provided, where appropriate, as a statement of current departmental practice.

Final Determination

We determine that collated roofing nails (''CR nails'') from Taiwan are being sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act as amended (''the Act''). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination in this investigation *(see Notice of Preliminary Determination and Postponement of Final Determination: Collated Roofing Nails from Taiwan,* 62 FR 25904 (May 12, 1997)), the following events have occurred:

In June 1996, we attempted to verify the questionnaire responses of the following respondents: Unicatch Industrial Co. Ltd. (''Unicatch''), Lei Chu Enterprises Co., Ltd (''Lei Chu''), S&J Wire Products Company, Ltd. (''S&J''), and Romp Coil Nail Industries (''Romp'').

The Paslode Division of Illinois Tool Works Inc. (''Petitioner''), Unicatch, Lei Chu, and Romp submitted case briefs on July 30, 1997, and rebuttal briefs on August 5, 1997. The Department held a public hearing on August 7, 1997.

Scope of Investigation

The product covered by this investigation is CR nails made of steel, having a length of 13⁄16 inch to 1 13⁄16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55.06. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of this investigation (''POI'') for all respondents is October 1, 1995, through September 30, 1996.

Facts Available

A. K. Ticho

We did not receive a response to our questionnaire from K. Ticho, an exporter of the subject merchandise during the POI. Section 776(a)(2) of the Act requires the Department to base its determination on the facts available when interested parties withhold information specifically requested by the Department. Because K. Ticho failed to submit information that the Department specifically requested, we must base our determination for that company on the facts available. Section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department has determined that by failing to respond, K. Ticho has not acted to the best of its ability to comply with our request for information and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted.

Romp

Romp reported sales and cost data based on unaudited financial statements. At verification, we were unable to reconcile Romp's financial statements to its tax return or any other independent source (*see* Romp Coil Cost Verification Report, July 18, 1997). In situations where a respondent does not have audited financial statements, the Department may use the company's tax return as an independent source to substantiate the company's questionnaire responses (*see Final Results of Antidumping Administrative Review: Fresh Cut Flowers from Mexico;* 60 FR 49569–49572 (September 26, 1995)). In this instance, because we were unable to reconcile Romp's financial statements to its tax return, we determined that the financial statements were unreliable and unusable as we were unable to confirm the quantity and value reported as well as confirm that all sales made by Romp during the POI were reported to the Department. Section 776(a)(2)(D) of the Act requires the Department to base its determination on the facts available when information, but that information submitted by a party cannot be verified as provided in section 782(i). Accordingly, we must base our determination for Romp on the facts available.

Section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate to the best of its ability. We have determined that by failing to provide us the financial statements used to prepare Romp's tax return for purposes of testing the reliability and accuracy of reported costs, expenses, and the value of sales during the POI, Romp has not acted to the best of its ability in this investigation. Further, the information in the financial statements that Romp provided to the Department's verifiers cannot serve as a reliable basis for our final determination. While the Department attempts to work within the limitations presented by the respondent's normal accounting systems, as a threshold matter, the Department must ensure that the total amount of reported sales and costs during a particular investigation are fully captured in the information submitted to the Department. This is especially so in cases involving cost of production and constructed value, in which the Department must ensure that the total amount of the reported costs account for all actual costs incurred by the respondent in producing the subject merchandise during the period under examination. Despite prior notice by the Department of the intended verification procedures, Romp never notified the Department that it was unable to provide a reliable independent source to substantiate the data contained in its unaudited financial statements. Therefore, in light of the importance of this data to the Department's determination, we have determined that in selecting from among the facts

available, an adverse inference is warranted.

Selection of Adverse Facts Available Margin

As adverse facts available, we considered the highest margin contained in the petition (as recalculated by the Department at initiation) as the most appropriate information on the record to form the basis for dumping margins for K.Ticho and Romp. Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess at 870 (1994) (''SAA''), states that ''corroborate'' means to determine that the information used has probative value.

To corroborate the data contained in the petition, we examined the basis for the estimated margins. The petitioner based its allegation of export price on price quotes from two manufacturer/exporters of CR nails in Taiwan and import statistics. These price quotations were adjusted for movement expenses using customs data and IM–145 Import Statistics. *See Notice of Initiation of Collated Roofing Nails from Korea, Taiwan and the People's Republic of China,* 61 FR at 67307–08. As explained in *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey,* 61 FR 30309 (June 14, 1996), we consider information from independent public sources, such as import statistics, as having probative value. Furthermore, the two price quotes in the petition are consistent with export prices reported by the respondents on the record of this investigation. Therefore, we determine that the export price calculations set forth in the petition have probative value.

The petitioner based Normal Value (''NV'') on Constructed Value (''CV''). *See Notice of Initiation.* To calculate CV, the petitioner used manufacturing costs based on its own production experience, its 1995 audited financial statements, and publicly available industry data. *Id.* The CV calculations in the petition are consistent with the CVs reported by the respondents on the record of this investigation. As such, we determine that the NV calculations have probative value. (*see* Memorandum, dated May 5, 1997.)

Based on our reexamination of the price information supporting the petition, we determine that the highest margin in the petition, as recalculated by the Department corroborated within the meaning of section 776(c) of the Act.

Fair Value Comparisons

Unicatch, Lei Chu, S&J

To determine whether sales of the subject merchandise by Unicatch, Lei Chu, and S&J to the United States were made at less than fair value, we compared the Export Price (''EP'') or Constructed Export Price (''CEP'') to the NV, as described in the ''Export Price'' and ''Constructed Export Price,'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to weighted-average NVs.

In making our comparisons, in accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the ''Scope of Investigation'' section of this notice, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Unicatch, Lei Chu, and S&J reported that they had no viable home market or third country sales during the POI. We therefore made no price-to-price comparisons. *See* the ''Normal Value'' section of this notice, below, for further discussion.

Level of Trade and CEP Offset

In the preliminary determination, where that we used each respondent's financial statements to derive SG&A and profit for the CV calculations, the Department determined that there was insufficient evidence on the record to justify a level of trade adjustment or CEP offset because we were unable to isolate the particular selling expenses associated with each respondent's NV. We found no evidence at verification to warrant a change from that preliminary determination. Accordingly, we have not made either a LOT adjustment or CEP offset for any of the respondents in this final determination.

Export Price and Constructed Export Price

We calculated EP and CEP, as appropriate, in accordance with section 772(a), (c) and (d) of the Act, where the CR nails were sold directly to the first unaffiliated purchaser in the United States prior to importation and where CEP was not otherwise warranted based on the facts of record. The calculation for each respondent was based on the same methodology used in the preliminary determination, with the following exceptions:

Unicatch—We made changes to the following fields based on Unicatch's pre-verification corrections and verification findings: Payment Date; Invoice Number; Quantity (Cartons); Gross Unit Price; Discounts; U.S. Inland Freight from port to warehouse and warehouse to customer; warranties; international freight, brokerage and handling (Taiwan); port charges; marine insurance; U.S. duties; Duty Drawback; Indirect Selling Expenses; Inventory Carrying Costs; Packing. In addition we deleted certain sales of non-subject merchandise and added sales found at verification. See Valuation Memorandum dated September 24, 1997.

Lei Chu—We made changes to the following fields based on Lei Chu's pre-verification corrections and verification findings: Payment Date; Sales Terms; Port Charges; Bank Charges; Marine Insurance; Invoice Number; Gross Unit Price; Sale Date; Taiwan Inland Freight from plant to port; International freight, Brokerage and Handling (Taiwan). See Valuation Memorandum dated September 24, 1997.

S&J—We made changes to the following fields based on S&J's pre-verification corrections and verification findings: Inland freight; Brokerage and Handling, International Freight. In addition, we included sales reported by S&J's affiliate New Lan Luang (*see* Comment 17). See Valuation Memorandum dated September 24, 1997.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Unicatch, Lei Chu, and S&J reported that they had no home market sales during the POI. Therefore, we have determined that none of the respondents have a viable home market. Because Unicatch, Lei Chu, and S&J also reported that they had no viable third country sales during the POI, we based NV on CV in accordance with section 773(a)(4) of the Act.

Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, Selling, General

and Administrative expenses (''SG&A''), profit and U.S. packing costs as reported in the U.S. sales listings. In this case, none of the respondents had home market selling expenses or home market profit upon which to base CV in accordance with section 772(e)(2)(A).

Section 773(e)(2)(B) of the Act sets forth three alternatives for computing profit and SG&A without establishing a hierarchy or preference among the alternative methods. We did not have the necessary cost data for method one (calculating SG&A and profit incurred by the producer on the home market sales of merchandise of the same general category as the exports in question), or method two (averaging SG&A and profit of other investigated producers of the foreign like product). The third alternative method (section 773(e)(2)(B)(iii) of the Act) provides that profit and SG&A may be computed by any other reasonable method, capped by the amount of profit normally realized on sales in the home market of the same general category of products. The SAA states that, if the Department does not have the data to determine amounts for profit under alternative method one and two or a profit cap under alternative method three, it may apply alternative three (without determining the cap) on the basis of ''the facts available.'' SAA at 841. Therefore, as the facts available under section 773(e)(2)(B)(iii) of the Act, for Unicatch and S&J, we are using each respondent's overall profit and SG&A rate associated with its total sales as recorded in its most recent financial statement. Because the figures recorded in the financial statements are company-specific and contemporaneous with the POI, we determine this data to be a reasonable surrogate for SG&A and profit of the foreign like product. With respect to Lei Chu, because its financial statement includes sales of merchandise not related to the merchandise under investigation, e.g., not within the same general category of CR nails products, we determined that using Lei Chu's financial statement is not an appropriate basis for deriving SG&A and profit. Therefore, we are using the weighted average of the profit rate and SG&A of other respondents in this investigation for Lei Chu (*see* Lei Chu Calculation Memorandum, September 24, 1997). For a further discussion of this methodology, see Comment 2 below.

Price to CV Comparisons

Because we based SG&A on respondents' financial statements, where we compared CV to EP, we did not make any circumstance of sale adjustments for direct expenses and commissions as we were unable to isolate these amounts from total SG&A.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, *see Change in Policy Regarding Currency Conversions,* 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan Dollar (NTD) did not undergo a sustained movement.

Critical Circumstances

The petition contained a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination, we determined that there was no reasonable basis to believe or suspect that critical circumstances existed with respect to imports of CR nails from Taiwan by Unicatch, Lei Chu, S&J, and Romp. This preliminary determination was based on a finding that there was no evidence of a history of dumping and no basis to impute knowledge of dumping and resultant material injury. As no interested party has challenged this determination and because the calculated final dumping margins for Unicatch, Lei Chu, and S&J do not exceed the benchmark amounts for establishing imputed knowledge (*e.g.* 15% for CEP sales and 25% for EP sales), we do not find that critical circumstances exist for any of these companies. Regarding all other exporters, because we do not find that critical circumstances exist for any of the investigated companies with calculated dumping margins, we also determine that critical circumstances do not exist for companies covered by the ''All Others'' rate. Based upon adverse facts available, however, we do find that critical circumstances exist with respect to exports by K. Ticho and Romp. (*see* Comment 20).

Verification

As provided in section 782(i) of the Act, we verified or attempted to verify the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Indirect Selling Expenses

Unicatch argues that the Department erroneously deducted its indirect selling expenses incurred in Taiwan from CEP. Unicatch states that it calculated its Taiwan indirect selling expenses as a percentage of total Unicatch sales because it was unable to specify whether any of the indirect selling expenses were directly related to its U.S. sales. Unicatch asserts pursuant to section 772(d) of the Tariff Act of 1930, as amended, that the Department has an established practice in which it does not deduct indirect selling expenses incurred by a foreign producer in the exporting country in calculating CEP. See *Notice of Final Determination: Pet Film from Korea,* 62 FR 38064, 38066 (July 16, 1997). Unicatch further contends that the Department has codified this established practice in the final regulations citing, 62 FR 27296, May 19, 1997 at section 351.402(b) which states that the Department ''will not make adjustments for any expense

that is related solely to the sale to an affiliated importer in the United States.'' As a result, Unicatch contends the Department should not deduct any such indirect selling expenses incurred in Taiwan from CEP in the final determination.

Petitioner contends the Department was correct to deduct Unicatch's indirect selling expenses in constructing CEP as all deductions met statutory requirements. First, petitioner argues the Department verified that Unicatch's sales department provides general sales support services for U.S. sales including contacts with affiliates and customers. Second, petitioner argues that indirect selling expenses are expenses which do not result from a direct relationship with the subject merchandise. Thus, petitioner argues that Unicatch's claim that these expenses are not directly related to the sale of the subject merchandise is irrelevant. Finally, petitioner claims that the Department verified that the international sales division dealt with sales to various export markets, and although there is no sales division devoted to U.S. sales, given that a majority of Unicatch's sales are to the U.S., these expenses should be deducted from CEP.

DOC Position

We agree with the respondent and have not deducted Unicatch's indirect selling expenses incurred in Taiwan from CEP because the record evidence does not support a finding that these selling expenses are related specifically to economic activities in the United States. Consistent with the SAA and § 351.402(b) of the Final Regulations (62 FR 27411), we make deductions under section 772(d) of the Act only for selling expenses that relate to economic activity in the United States, which we deem to be expenses associated with the sale to the unaffiliated U.S. purchaser and not the sale to the affiliated U.S. importer. *See, e.g., PET Film from Korea,* 62 FR 38064, 38066 (July 16, 1997); *Grey Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 17148, 17168 (April 6, 1997).

Unicatch's indirect selling expenses incurred in Taiwan are comprised of salary, travel, and entertainment expenses incurred by its international and domestic sales divisions. *See* Sales Verification Report for Unicatch, July 17, 1997 (''Unicatch Sales Verification Report'') at 11. We verified that Unicatch does not have a sales staff dedicated entirely to U.S. sales, but rather its salespeople deal with sales to various export markets. *Id.* Further, we verified that none of the reported indirect expenses can be tied specifically to sales to unaffiliated customers in the U.S. but rather are incurred by Unicatch to complete the sale to the affiliated purchaser. *Id.* Although Unicatch's third country sales are not viable (*i.e.,* greater than 5% of U.S. sales) for purposes of calculating NV, we verified that Unicatch did have POI sales in other export markets, which further demonstrates that its reported indirect selling expenses are not associated solely with U.S. sales to unaffiliated customers. Therefore, we disagree with petitioner's argument that because the overwhelming majority of Unicatch's export sales are to the U.S., we should deduct these expenses from CEP. *See Notice of Final Determination of Sales at Less Than Fair Value: Pasta from Italy,* 61 FR 30326, 30352 (June 14, 1996) (deducting inventory carrying costs incurred in Italy for enriched pasta because enriched pasta was sold in the United States during the POI).

Comment 2: Calculation of SG&A and Profit for All Respondents

Petitioner disagrees with the Department's decision in the preliminary determination to use each respondent's overall SG&A and profit rates contained in their financial statements because this data includes amounts obtained from sales of non-subject merchandise. Petitioner asserts that the only data pertaining to SG&A and profit specific to the product under investigation is the information provided by Lei Chu. Petitioner argues that one of the three alternative methods to determine SG&A and profit for CV is to weight-average the actual amounts realized on sales of the foreign like product by other producers of the subject merchandise. Because Lei Chu was the only company to provide the data specific to the subject merchandise, petitioner contends that Lei Chu's data *is* the weighted-average SG&A and profit rates for all Taiwan producers and should be used in all respondent's CV calculations.

Unicatch and Lei Chu counter that the profit rate petitioner asserts should be used in calculating CV was not verified by the Department. More importantly, the profit rate is Lei Chu's subcontractor's profit for processing wire into CR nails and does not reflect all costs of producing and selling CR nails. Both respondents contend that the Department should use the amounts derived from Unicatch and Lei Chu's financial statements because this data incorporates all appropriate costs and was verified by the Department. Moreover, respondents contend that where actual data is not available, 773(e)(2)(B)(i) of the Act authorizes the Department to use amounts generated from the ''general category of products'' as the subject merchandise. They cite *Shop Towels from Bangladesh* 61 FR 65025 (December 10, 1996) and *Forged Steel Crankshafts from the United Kingdom* 62 FR 16768 (April 18, 1997) as two cases in which the general category of merchandise was determined to be all products from textile mills and all types of crankshafts, respectively. In this case, Unicatch and Lei Chu assert the general category of merchandise encompasses nails and other fasteners and that both companies had sales of nails and other fasteners in the home market. Therefore, the companies contend, the Department should use the SG&A and profit from each company's financial statement because the financial statements encompass products within the same general category of merchandise.

Lei Chu argues that the Department erroneously used profit realized by its subcontractor to calculate the CV of CR nails in the preliminary determination of this investigation. Lei Chu contends the Department should use SG&A and profit verified by the Department from Lei Chu's financial statement to calculate CV for the sales of the subject merchandise because Lei Chu qualifies as the producer of CR nails. Lei Chu agrees that there were certain production processes of the subject merchandise performed by an affiliated subcontractor. However, Lei Chu states that the Department has found in past cases that the party contracting for processing services was the producer of the subject merchandise. In such instances, the Department applied SG&A and profit realized by the contracting party to calculate the CV of the subject merchandise and did not use the SG&A and profit of the subcontractor, citing *Notice of Final Determination: Chrome Plated Lug Nuts from Taiwan,* 56 FR 36130, 36131 (July 31, 1991).

According to Lei Chu, the Department verified that Lei Chu organized the production of CR nails and performed certain production processes during the POI. In addition, Lei Chu states the Department verified that it purchased steel wire rods, maintained them as inventory, retained title over the materials to produce the CR nails and retained ownership over the CR nails throughout the production process. Further, Lei Chu states that the Department verified that it never sold or purchased wire to or from the subcontractor, and there were no sales transactions between the two. Lei Chu claims the Department verified that it

only paid a processing fee to the subcontractor. Finally, Lei Chu argues that the fee and the profit from the subcontractors' financial statement reflects only the costs of processing wire into CR nails. Lei Chu believes its financial statement incorporates the full costs of CR nails. As a result, Lei Chu argues that the Department should use its 1996 financial statements to calculate profit and SG&A.

Petitioner argues that Lei Chu and its subcontractor should be collapsed and the Department was correct in using the profit of Lei Chu's subcontractor to calculate CV. Petitioner contends that the subcontractor is the producer of the subject merchandise because it performs more than minor additions needed to complete the production of CR nails. Further, petitioner contends the case cited by Lei Chu, *Chrome Plated Lug Nuts,* is not applicable because the two parties involved in that case were not affiliated, and the respondent to that investigation had more production responsibilities than Lei Chu. Therefore, petitioner contends the Department properly calculated CV using the profit of Lei Chu's subcontractor.

DOC Position

Neither Lei Chu, Unicatch, nor S&J had a viable home market upon which to calculate NV; therefore, none of the respondents had home market selling expenses and profit for sales of the foreign like product upon which to base CV. As a result, in the preliminary determination, pursuant to section 773(e)(2)(B)(iii) of the Act and consistent with the SAA, we used each respondent's overall profit and SG&A associated with total sales as recorded in its most recent financial statements as facts available to derive SG&A and profit.

For Unicatch and S&J, for this final determination, we have continued to use the SG&A and profit contained in their most recent financial statements. For both companies, we verified that these amounts reflected expenses and profit associated with overall sales of other types of nails and similar steel products, such as fasteners, which we deem to be within the same general category of products as CR nails. We are satisfied that using the financial statements is a reasonable methodology for calculating each company's SG&A and profit because this data is company-specific, contemporaneous with the POI, and is the most appropriate information on the record. For the reasons discussed below, we disagree with petitioner's argument that we use the amounts contained in Lei Chu's financial statements for all respondents in lieu of using this verified company-specific data.

For Lei Chu's SG&A in the preliminary determination, we used its financial statements and its affiliated subcontractor's financial statements (*see* Calculation Memorandum dated September 24, 1997). For Lei Chu's profit, we used its subcontractor's financial statements. However, our findings at verification demonstrated that the amount recorded on the subcontractor's financial statements is not reflective of profit for the sale of the foreign like product or related merchandise but rather is a ''tolling fee'' for its services (*see* Lei Chu Cost Verification Report at pg 3). Further, the SG&A and profit recorded in Lei Chu's financial statements are for amounts generated on sales of merchandise completed unrelated to the subject merchandise, *e.g.,* not within the same general category of CR nails products. We also note that Lei Chu's recorded net profit is zero. Although the URAA and subsequent revisions to U.S. law eliminated the use of minimum profit, we do not believe that it eliminated the presumption of a positive profit element in the calculation of CV. Unlike sections 773(e)(2)(A) and 773(e)(2)(B) (i) or (ii), section 773(e)(2)(B)(iii) specifically excludes the use of the term ''actual profit,'' and instead directs us to use any other reasonable method that does not exceed the amount normally realized by the industry in the same general category of products. The SAA states that there is no hierarchy between the alternatives in section 773(e)(2)(B), indicating that in some instances, it may be more appropriate for the Department to ignore ''actual profit'' available under the two other alternatives and opt instead for some other reasonable method to obtain a profit amount. Therefore, if a company has no home market profit or has incurred losses in the home market, the Department is not instructed to ignore the profit element, include a zero profit, or even consider the inclusion of a loss; rather, the Department is directed to find an alternative home market profit. A clear reading of the statute indicates that a positive amount for profit must be included in CV. *See Silicomanganese from Brazil: Final Results of Antidumping Duty Administrative Review,* 62 FR 37869, 37877 (July 15, 1997).

Therefore, we reject Lei Chu's argument and have not used its company-wide SG&A and profit rates in our CV calculations. Instead, as facts available, we used the weighted average of the SG&A and profit from the financial statements of the other respondents in this investigation (see Valuation Memorandum dated September 24, 1997). Because this data represents POI-wide expenses and profit associated with sales of merchandise in the same general category as CR nails products, we find this data to be the most appropriate information on the record to derive Lei Chu's SG&A and profit.

Comment 3: Unicatch's Steel Scrap

Unicatch argues that the Department should subtract its revenue on steel scrap sales from the cost of manufacture (COM) of CR nails as this information was presented to the Department in a timely manner at the commencement of verification. Further, Unicatch states that the Department was able to verify all information presented at the commencement of verification including revenue from steel scrap and its values per kilogram per CR nails. Thus, Unicatch suggests that consistent with the Department's past cases, the value of steel scrap should be subtracted from normal value, citing *Brake Drums and Rotors from the PRC.*

Petitioner contends that the disclosure by Unicatch of the revenue from steel scrap was not minor or timely. However, petitioner suggests that if the Department makes the adjustment, and given that the revenue is so small, it should make an adjustment in determining allocated expenses and profit.

DOC Position

We agree with Unicatch that it is the Department's practice to deduct from total COM revenue earned on the sale of scrap resulting from the production of the subject merchandise. *See Elemental Sulphur from Canada; Final Results of Antidumping Administrative Review,* 61 FR 8239, 8245 (March 4, 1996). Because we determined that Unicatch submitted this data in a timely manner (*see* Comment 4) and we were able to verify these amounts, we have deducted steel scrap revenue from Unicatch's total COM.

Comment 4: Unicatch's and Lei Chu's Corrections and Facts Available

Unicatch and Lei Chu argue that the Department should incorporate the corrections submitted at the commencement of their verifications in the final margin calculations because the corrections were submitted in a timely manner and verified by the Department. Both respondents contend that the Department should not use facts available for two reasons: (1) Making adverse assumptions and applying facts available are not synonymous and (2)

neither respondent has done anything in this investigation that would justify using adverse inferences. Both respondents argue that there were few instances in the corrections that the Department was unable to verify, and, further, both companies penalized themselves with errors as often as they benefitted. Both respondents state that there is no evidence on the record to suggest that either failed to cooperate by not acting to the best of its ability to comply with Department's requests for information. Lei Chu and Unicatch state that the Department should weigh the record evidence to determine what type of change, if any, would be probative of the issue under consideration. However, both recommend that if the Department chooses to use facts available, adverse inferences not be applied.

Petitioner contends that the Department should not incorporate respondents' corrections because the corrections are not minor and the number of errors reported by the respondents' raise serious doubts about whether the companies acted to the best of their ability to provide accurate information. In addition, petitioner notes that the Department discovered numerous other errors at verification. Therefore, petitioner suggests that the Department resort to ''facts available'' employing ''adverse inferences'' to portions of the respondents' calculations.

DOC Position

We agree with Unicatch and Lei Chu and have accepted the corrections for computing the final margin of the companies. The Department's practice is to permit respondents to provide minor corrections to submitted information at the commencement of verification. *See Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Taiwan,* 62 FR 1726, 1729 (Jan. 13, 1997). Unicatch and Lei Chu provided the Department with their corrections at the beginning of their respective verifications. Lei Chu's corrections included sales and production quantity, material costs, and fixed overhead. Unicatch's corrections included production quantity, plating costs, scrap, packing, selling expenses and steel wire costs. These revisions corrected data already on the record and did not introduce new issues not previously reported on the record. In sum, the corrections submitted by Unicatch and Lei Chu were typical of the minor corrections routinely accepted by the Department at the commencement of verification.

Accordingly, we determine that resorting to facts available is unwarranted in this particular case. The Department's use of facts available is subject to section 782(d) of the Act. Under section 782(d), the Department may disregard all or part of a respondent's questionnaire responses when the response is not satisfactory or it is not submitted in a timely manner. The Department has determined that neither of these conditions apply. The Department was able to verify the responses, thus rendering them satisfactory, and the types of revisions submitted by Unicatch and Lei Chu met the deadline for such corrections. Under section 782(e), the Department shall not decline to consider information that is (1) timely, (2) verifiable, (3) sufficiently complete in that it serves as a reliable basis for a determination, (4) demonstrated to be provided based on the best of the respondent's ability, and (5) can be used without undue difficulties. Lei Chu and Unicatch have met these conditions. Therefore, we find no basis to reject Lei Chu's and Unicatch's responses, and thus, no basis to rely on the facts otherwise available for our final determination.

Comment 5: Plating Thickness

Petitioner argues that the plating thicknesses reported by respondents do not meet U.S. Federal or regional building codes. Moreover, petitioner claims that the actual plating thicknesses were not verified by Department. Therefore, petitioner contends that the Department should assume that respondents were aware of the building codes and produced CR nails that did not comply with the codes. The Department should use the information contained in the petition to calculate NV based on CR nails that meet the U.S. building codes.

Unicatch and Lei Chu contend that the Department verified that all costs attributable to plating were included in the CV database. Therefore, both respondents argue that whether or not the subject merchandise complies with U.S. building codes is irrelevant because the purpose of this investigation is to accurately value respondents' production costs of CR nails, not to examine the quality of their CR nails.

DOC Position

We agree with Unicatch and Lei Chu that we have captured all costs incurred in producing CR nails. During the cost verifications of all respondents, we examined whether all material costs (including plating costs) associated with the subject merchandise were reported completely and accurately in the CV databases. We noted no discrepancies regarding the material costs with the exception of minor errors, which have now been corrected (*see* Cost Verification Reports for Lei Chu, Unicatch, and Romp dated July 18, 1997, and Cost Verification Report for S&J dated July 23, 1997). Thus, for each respondent with a calculated dumping margin we have verified all material costs. Any alleged misrepresentation concerning compliance with U.S. building codes is not within the purview of the antidumping statute because such misrepresentation would have no impact on our calculations.

Comment 6: Allocation Methodologies

Petitioner contends that respondents' allocation methodologies with respect to the following expenses were incorrect.

(i) Shipping Related Expenses

Petitioner claims that any shipping related expenses should be based on volume because the expenses are generally incurred based on volume, rather than on gross packed weight. Petitioner argues that allocating shipping expenses based on weight results in under-reported transportation costs.

Unicatch and Lei Chu counter that basing shipping related expenses on weight is acceptable when volume-based information is unavailable. In this case, weight is the only allocation factor on the record. Both respondents cite to *Industrial Belts and Components Thereof from Japan,* 58 FR 30018, 30022 (May 25, 1993) in support of this position.

DOC Position

We agree with respondents that a weight-based allocation methodology for reporting shipping expenses is acceptable. Although the Department prefers sale-specific movement expenses, the Department's practice is to accept allocation methodologies for movement expenses at the most specific level permitted by the respondent's books and records kept in the ordinary course of business. *See Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Taiwan,* 62 FR 1726, 1730 (Jan. 13, 1997). Moreover, where multiple items were included in a shipment, we instructed each respondent to report expenses using an allocation methodology on the basis incurred, *e.g.,* weight. Both Unicatch and Lei Chu reported that a weight-based allocation methodology was necessary because their shipments included non-subject merchandise. *See* Unicatch and Lei Chu's Section C

response dated March 18, 1997. For S&J, the bill of lading records both weight and volume figures without distinguishing between the two. Therefore, we determine that allocating freight on weight is acceptable for our final margin calculation (*see* S&J Sales Verification Exhibit 16).

(ii) Production Related Expenses, Factory Overhead, and Indirect Selling Expenses

Petitioner argues that the allocation methodology of production, factory overhead, and indirect selling expenses should be revised to reflect the inclusion or exclusion of scrap, depending on the processing stage in which the expense was incurred. Petitioner suggests, for example, that post-scrap production stages, such as packing, should be based on the weight of the product without the scrap.

Unicatch and Lei Chu counter that allocating over finished goods, which includes scrap, only increases the per-unit costs. Furthermore, both respondents argue that petitioner's methodology will distort costs downward by not accounting for scrap.

DOC Position

We agree with respondents that allocating expenses over the weight of the finished good necessarily accounts for all costs related to scrap. If the Department were to allocate certain expenses over a weight which included scrap, the denominator of the calculation would be greater than the weight of the finished product and would result in understating the per-unit expense. Thus, we reject petitioner's argument and will continue to allocate expenses over the total amount of finished product.

(iii) Duty Drawback

Petitioner argues that the duty drawback allocation should be based on the net weight of the CR nails.

Unicatch and Lei Chu counter that they did allocate duty drawback by the net weight of the CR nails.

DOC Position

We agree with respondents that duty drawback was properly allocated based on the net weight of the CR nails. As stated in the Unicatch Sales Verification Report at. 8–9, the total duty drawback associated with shipments to TCI or Unitech (Unicatch's affiliated U.S. importers) were divided by the total net weight of the shipment to arrive at a per-unit amount for duty-drawback. This same methodology was followed for Lei Chu (*see* Lei Chu Sales Verification Report dated June 23, 1997).

(iv) Physical Weights

Petitioner contends that the Department should physically weigh the subject merchandise and base all allocations on physical weights rather than gross weights reported by the respondents.

Unicatch and Lei Chu counter that petitioner's request is untimely and unreasonable. Both respondents argue that the weight-based methodologies used are reasonable and consistent with past practice and urge the Department to reject petitioner's contention.

DOC Position

At verification the Department examined the reported product weights for Lei Chu and Unicatch and noted no discrepancies. Therefore, we have used each company's verified weights in our calculations.

Comment 7: Value Added Taxes (VAT)

Petitioner argues that the Department should not assume that all sales and expenses reported net of VAT were correct. Accordingly, petitioner believes unless the Department verified all figures, the Department must not assume that all figures are net of VAT.

Lei Chu and Unicatch contend that the sales reported were net of VAT because under Taiwan law VAT is rebated on all export sales. Because all respondents reported their sales as being export sales, both respondents argue that the Department should reject petitioner's claim.

DOC Position

In the preliminary determination, Unicatch or Lei Chu reported brokerage and handling and international freight net of VAT. At verification, we found that both respondents incur five percent VAT on these expenses (see Unicatch Sales Verification Report at 7; Lei Chu Sales Verification Report at 8). Since Lei Chu and Unicatch were unable to provide supporting documentation to show that this VAT had been rebated according to Taiwan law, we have applied a five percent VAT to brokerage and handling and international freight for all sales by these two companies (*see* Valuation Memorandum dated September 24,1997). However, we found no indication at verification that VAT was incurred on export sales for either Unicatch or Lei Chu.

Comment 8: Multinational Corporation Rule (MNC)

Petitioner argues that the MNC provision of the Act should be applied to Unicatch and Top United (a manufacturer of CR nails in the People's Republic of China). Petitioner cites to section 773(d) of the Act, alleging that the conditions outlined are fulfilled by Unicatch and Top United. Further, petitioner cites to *Melamine Institutional Dinnerware Products from the People's Republic of China* 61 FR 43337 (August 22, 1996), in which the Department determined that the MNC provision applies to cases involving non-market economies.

Unicatch counters that the allegation is untimely and unsupported by evidence on the record of this investigation. Finally, Unicatch argues that the petitioner has failed to demonstrate that two of the three conditions necessary to apply the MNC rule are present, *i.e.*, (1) the petitioner has failed to demonstrate that the PRC market is not viable; and (2) petitioner has failed to demonstrate that the normal value for Taiwan nails is higher than the normal value for PRC nails.

DOC Position

We agree with Unicatch that petitioner's MNC allegation is untimely. As stated in the preamble to the final regulations: ''[t]here are a variety of analyses called for by section 773 that the Department typically does not engage in unless it receives a timely and adequately substantiated allegation from a party * * * the Department does not automatically request information relevant to a multinational corporation analysis under section 773(d) of the Act in the absence of an adequate allegation.'' Final Regulations, 62 FR at 27357, citing *Certain Small Business Telephones and Subassemblies Thereof from Taiwan, 54 FR 31987 (August 3, 1989).*

In this case, petitioner alleged for the first time in its case brief that the Department should apply the MNC rule to Unicatch and Top United. Determining NV under the MNC provision is a complex analysis that necessitates collection of information and calculation of sales and cost data from companies who may or may not be subject to investigation. Presenting the allegation after the preliminary determination does not allow the Department sufficient time to collect and analyze the information necessary to make a MNC determination at an appropriate point in the proceeding. For this reason, the Department has specifically rejected the notion that absent a timely and adequate allegation, we are obligated to examine information that is quantitatively and/or qualitatively different from the information normally gathered as part of

its standard antidumping analysis because to do so would significantly impair the Department's ability to comply with its statutory deadlines. *See* Final Regulations, 62 FR at 27357. Therefore, we reject petitioner's MNC allegation as untimely.

Comment 9: Reconciliation of Unicatch Sales to Financial Statements

Petitioner argues that the Department was unable to tie: (1) the reported sales volume totals for all of Unicatch's sales directly to the financial statements, and (2) Unicatch's general ledger to its 1995 income statement. As a result, petitioner asserts that Unicatch's reported sales should not be deemed reliable as some sales may have been excluded. Accordingly, petitioner suggests that the Department apply facts available with adverse inferences because of the potential of unreported sales.

Unicatch contends that because its CEP and EP sales included the resale of CR nails by its affiliates, the Department was unable to complete a total sales reconciliation using its financial statement only. Unicatch states that reconciliation required tying relevant sales to its affiliates' financial statements. Unicatch contends that the Department verified the quantity and value of the resales at its affiliates' headquarters using each affiliate's financial statement and was able to clarify the differences from Unicatch's financial statement without any discrepancies. Therefore, Unicatch contends that facts available with adverse inferences is not warranted.

DOC Position

We disagree with petitioner's argument that use of adverse facts available is warranted in this case. Contrary to petitioner's claim, we verified Unicatch's total sales volume and value. As stated in its sales verification report, ''we were unable to tie the reported sales and volume and value totals for all of Unicatch sales, or for its EP sales directly to the financial statements because the sales value reported in the financial statement included the sales values for those sales to Unicatch affiliated parties.'' Unicatch Sales Verification Report at pg 3. However, when we verified Unicatch's affiliates, we were able to tie the quantity and value reported to their financial statements, clarifying any differences in Unicatch's financial statement and reported sales volume (*see* Unicatch CEP Sales Verification Report (July 23, 1997)). Therefore, we have determined there is no evidence on the record to suggest Unicatch had any unreported POI sales and resort to facts available is not warranted.

Comment 10: Reliability of Unicatch's Reported Costs

Petitioner argues that the cost methodologies used by Unicatch were inappropriate because costs were not properly determined where steel was processed through affiliated parties. Petitioner argues that Unicatch's cost of materials should be measured against a ''market value'' enabling the Department to determine that prices of the steel are reasonable. In addition, petitioner states the Department should assure that all costs associated with the affiliated parties' costs were reported.

Unicatch contends that at the commencement of verification, it provided the Department with sufficient information, including a sales price from an unaffiliated supplier of wire rod, that enabled the Department to test whether the steel price from an affiliated supplier was reasonable. Unicatch states that it showed an example of an unaffiliated supplier's price lower than transfer prices charged by Unicatch's affiliates, even though the cost of production for those affiliates was higher. Therefore, Unicatch contends that the cost of production for steel is appropriate for its cost calculation methodologies. Further, Unicatch contends that the Department verified all reported costs associated with the affiliates' production of steel wire (*i.e.*, material, labor, overhead, SG&A and interest) and did not find any discrepancies.

DOC Position

We disagree with petitioner and have determined that there is no evidence of the record to suggest Unicatch's cost calculation methodologies were incorrect. We verified the two methodologies used by Unicatch to determine material costs for steel wire and welding wire. The first methodology was based on the transfer price from its affiliates and the second methodology was based on the cost of production for wire purchased from its affiliates (*see* Unicatch Cost Verification Report at 3–4). Although Unicatch had some purchases of steel wire from an unaffiliated supplier, we verified that this unaffiliated purchase price was lower than the reported transfer prices charged by its affiliated suppliers. (*Id.* at Ver. Exh. 1). Therefore, since the costs of production from Unicatch's affiliates were higher than the transfer prices, in accordance with section 773(f)(3), we have used the affiliates' COP data to calculate the actual material cost of the wire inputs.

Comment 11: Corrections to Unicatch's Questionnaire Responses

Petitioner argues that the corrections submitted by Unicatch at the time of verification are unacceptable because the Department was not granted time to review the information and consider the appropriate methods for verifying it. Petitioner believes that the Department should re-examine the following changes submitted at verification: (1) interest expenses; (2) SG&A; (3) packing costs; (4) existence of U.S. affiliates; (5) ocean freight; (6) warranty expense; (7) selling expense; (8) inland freight; (9) duty drawback; and (10) marine insurance.

Specifically, petitioner states that Unicatch may have underreported its interest expense because it may have been offset by loans or other money transfers. Further, petitioner claims that Unicatch's packing cost should have been reported separately according to the Department's questionnaire, and the records about Unicatch's affiliates were not accurate and thus, cannot be relied upon by the Department. Therefore, petitioner suggests that the Department reject Unicatch's submissions entirely based on adverse inferences and apply the largest expense found to all of Unicatch's sales transactions, as adverse facts available.

Unicatch contends that the corrections reported at the commencement of its verification were not numerous and should not affect the integrity of its response. Further, Unicatch states that the Department was able to verify all corrections submitted. Unicatch contends that the revisions submitted were typographical errors and other minor data entry errors to the sales databases. Unicatch contends that the Department should use the interest expenses recorded in its verified financial statement to calculate CV and, since Unicatch did not separate packing cost, the packing labor percentage would have been inflated upward without having a major effect on the margin calculation. Finally, Unicatch admits that some errors reported would warrant the use of facts available but there is no instance in which adverse inferences are warranted.

DOC Position

We agree with Unicatch and have accepted the corrections submitted at the beginning of verification and the explanation for the discrepancies. We verified all corrections submitted and noted only minor discrepancies. In addition, we reviewed the allocation methodologies used by Unicatch to compute its reported expenses (*i.e.*,

interest expense, warranty expense, duty drawback) and noted no discrepancies (*see* Unicatch Sales Verification Report at 6–9; Unicatch Cost Verification Report at 2).

Section 782(e) of the Act states that the Department shall not decline to consider information that does not meet all of its requirements 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. Unicatch's information meets all of these requirements. Accordingly, we have no basis to conclude that the earlier responses distorted the Department's analysis and warrant the use of adverse facts available.

Comment 12: Whether Lei Chu and its Affiliate Should Be ''Collapsed''

Petitioner argues that Lei Chu and its affiliate are sufficiently intertwined and should be collapsed and treated as one. Petitioner states that Lei Chu has submitted information on the record that it is affiliated with the Taichung Production Division (''TPD'') and one of its suppliers and controls the sales and production activities of its suppliers. Petitioner believes that if the Department does not collapse the two companies Lei Chu could shift all of its production and exports of the subject merchandise to TPD or TPD's supplier. Further, petitioner argues that since the two companies should have been collapsed, Lei Chu should have submitted a consolidated response to the Department's questionnaire, and their failure to do so mandates the use of facts available.

Lei Chu argues that if the Department determines that it should be collapsed with its affiliate, the Department must use Lei Chu's profit to calculate the profit of other Taiwan respondents because it reflects the consolidated performance of Lei Chu.

DOC Position

We determine that the facts in this case do not warrant resort to our collapsing practice because neither TPD nor Lei Chu's affiliated CR nails supplier are separate producers. First, TPD is merely a production division of Lei Chu, not a separate entity. Lei Chu Sect. A Supp. QR, April 14, 1997, at 1. Although Lei Chu has ceased production of CR nails at its TPD division, the evidence on the record demonstrates that Lei Chu continues to produce CR nails through a subcontractor. Pursuant to the contractual arrangement, Lei Chu purchases wire rod and drawing materials and provides these materials to its subcontractor who then produces the CR nails (*see* Lei Chu Cost Verification Report, at 3). Lei Chu pays this affiliate a processing fee and maintains title over the raw materials and completed CR nails throughout the production process. *Id.* By its own admission, Lei Chu controls the sales and production activities of this entity. Further all CR nails production by the subcontractor is the property of Lei Chu and is sold by Lei Chu. Thus, consistent with the Department's current practice with respect to tolling operations (*see* e.g., section 351.401(h) of the Final Regulations, 62 FR at 27411), the subcontractor is not considered the producer. Lei Chu is the producer of CR nails. In essence, the subcontract relationship represents a single, vertically integrated production operation rather than two separate producers in a position to potentially evade a potential antidumping duty order by shifting production from one facility to another.

Comment 13: Lei Chu Sales Below Fair Value

Petitioner argues that since Lei Chu's 1996 financial statement does not show a profit during the POI, Lei Chu sold the subject merchandise at less than fair value.

Lei Chu contends that there is nothing in the statute or the Department's past determinations that supports petitioner's view and as a result, the Department should reject, petitioner's argument.

DOC Position

We disagree with petitioner because there is nothing stated in the statute or in past determinations to suggest that a company not showing a profit is necessarily selling the subject merchandise at less than fair value.

Comment 14: Lei Chu's Packing List Weights Are Not Reliable

Petitioner argues that the Department should not rely on the packing list weights to determine the weights of the subject merchandise for Lei Chu, because they are not accurate. Therefore, petitioner suggests the Department weigh the subject merchandise and use the results to compute CV.

Lei Chu contends the packing weights reported by Lei Chu are reliable and were verified by the Department, citing, Lei Chu Cost Verification report at 8. Therefore, Lei Chu suggests that the Department reject petitioner's argument and continue to use the verified packing list weights to compute CV.

DOC Position

We disagree with petitioner and have determined there is no evidence on the record to suggest the weights reported on the packing list are unreliable. In addition, we reviewed Lei Chu's packing methodologies and did not note any discrepancies (*see* Lei Chu Cost Verification Report at 8–9). Therefore, we will use Lei Chu's reported weights to compute CV.

Comment 15: S&J Untimely Submissions

Petitioner argues that during the investigation, S&J failed to provide copies of all of its submissions to all interested parties. Further, petitioner claims S&J submitted documents incorrectly according to the Administrative Protective Order (APO) regulations. Therefore, petitioner suggests that the Department reject S&J submissions in total and employ adverse inferences and use facts available.

DOC Position

We disagree with petitioner. We have determined that there is no indication or evidence on the record to suggest that S&J did not serve all documents to interested parties in a timely manner or according to APO regulations.

Comment 16: S&J Omissions and Errors to the Questionnaire Responses

Petitioner argues that S&J made numerous omissions and errors in its questionnaire responses according to the Department's verification report. These errors included unreported sales and unaccountable bank charges. Therefore, petitioner suggests that in view of the large number of errors and omissions, the Department should reject S&J's submission in its entirety or apply facts available with adverse inferences to the unreported sales.

DOC Position

We disagree with petitioners. We verified that S&J did not include bank charges in its Section C response because it was unable to separate bank changes from the other miscellaneous charges included in the general ledger category (''Export Expense'') (*see* S&J Sales Verification Report at 10). We

applied a bank charge percentage to all of S&J sales (*see* Valuation Memorandum dated September 24, 1997). Therefore, although certain discrepancies and omissions in S&J's reported sales and cost data were discovered during verification, the discrepancies and omissions do not warrant the use of adverse facts available. It is acceptable to address and correct such errors individually, as was done in this case, where appropriate. Such errors were addressed and corrected individually. (*See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results of Antidumping Duty Administrative Review* 61 FR 18558 (April 26, 1996).)

Comment 17: Collapsing of S&J and New Lan Luang

Petitioner argues that the Department should collapse S&J and New Lan Lung because the parties effectively operate as one. Further, petitioner contends that if the Department does not collapse the two companies it would provide a loophole for future investigations.

DOC Position

In order for the Department to collapse two producers, i.e., treat them as a single entity, (1) the producers must be affiliated under section 771(33) of the Act, (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 manipulation of price or production. *See Grey Portland Cement and Clinker From Mexico: Final Results of Antidumping Administrative Review,* 62 FR 17148, 17155 (April 9, 1997); section 351.401(f) of the Final Regulations, 62 FR at 27410. When based on a review of the totality of the circumstances, the Department determines that two affiliated producers are sufficiently related so as to warrant treatment as a single enterprise, collapsing these entities prevents evasion of the antidumping duty order. *See Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42833, 42853 (Aug. 19, 1996). Applying the criteria of our collapsing inquiry as set forth above, we find (1) S&J and New Lan Luang are affiliated under § 771(33) of the Act, (2) a shift in production would not require substantial retooling, and (3) there is a significant potential for price or production manipulation due to, among other factors, evidence of intertwined business operations and common management of the production and sales decisions of both companies. Based on this an analysis of the record evidence, we have determined that it is appropriate to treat S&J and New Lan Luang as a single entity for purposes of calculating a dumping margin in this investigation.

First, we find that because S&J owns greater than 5% of New Lan Luang, these companies are affiliated under § 771(33)(E) of the Act. Second, the record evidence demonstrates that although not a current producer of CR nails (New Lan Luang ceased production of CR nails in 1994), New Lan Luang is capable of producing CR nails. *See* S&J Sect. A Supp. QR, April 8, 1997, at 12; S&J Verification Report, at 2. Based on these facts, it is reasonable to infer that a substantial retooling of New Lan Luang's production facilities would not be necessary if S&J were to shift production to New Lan Luang.

We also determine that the third criterion of our collapsing inquiry is met. In determining whether there is a significant potential for manipulation of price or production, the Department considers factors such as (1) the level of common ownership, (2) interlocking board of directors and common management, and (3) intertwined business operations as evidenced by shared sales information, involvement in production and pricing decisions, or significant transactions between the two enterprises. *See Certain Welded Carbon Steel Pipes and Tubes From India; Final Results of New Shippers Antidumping Duty Administrative Review,* 62 FR 47632, 47638 (Sept. 10, 1997) (''*Pipes and Tubes from India*''); § 351.401 (f) of the Final Regulations, 62 FR at 27410. All of these criteria need not be met in a particular case, but rather serve as a reliable basis on which the Department may judge whether the affiliated producers are sufficiently related to create the potential of price or production manipulation. *Pipes and Tubes from India,* 62 FR at 47638.

S&J's General Manager is also in charge of New Lan Luang. *See* S&J Sect. A Supp. QR, at 2; S&J Verification Report, at 2. S&J explained that its General Manager is responsible for sales and production decisions and determines the prices of S&J's CR nails. *See* S&J Sect. A QR, Feb. 26, 1997, at 5. At verification we discovered that the Chairman of New Lan Luang is also the founder, former general manager, and current advisor to S&J. *See* S&J Verification Report, at 2. This individual is also the father of the S&J's current General Manager. *Id.* Additionally, S&J officials explained that the two entities share employees and S&J has on occasion transferred sales order to New Lan Luang for completion. *Id.* The totality of the circumstances presented by these facts indicate that the two companies operate under common control of the same individual/family with respect to sales and production decisions. Although both S&J's General Manager and New Lan Luang's Chairman are only minority shareholders in both companies, we conclude that their positions of legal and operational control in their respective companies create a significant potential for price or production manipulation. We therefore have treated S&J and New Lan Luang as a single entity for purposes of calculating a dumping margin in this investigation.

To construct a consolidated sales response for S&J/New Lan Luang, we have included New Lan Luang's POI sales in our final margin calculations. S&J reported New Lan Luang's total quantity and value data for its U.S. sales during the POI; however, because we did not specifically request S&J to report additional information on New Lan Luang's POI sales, we do not have a complete sales database upon which to calculate a dumping margin. Therefore, it is necessary to resort to facts available in accordance with section 776(a)(1) of the Act for this missing information. As facts available, we have used a simple average of the amounts reported for the fields not included in the sales database (i.e. exchange rate, foreign inland freight, brokerage) (*see* Calculation Memorandum dated September 24, 1997).

Additionally, at verification, we discovered additional POI sales by New Lan Luang that S&J failed to report. (*see* S&J Sales Verification Report at 2). For those sales, we have applied adverse facts available because we deem S&J's failure to provide us with complete information that we specifically requested as a failure to cooperate to the best of its ability within the meaning of section 776(b) of the Act. Accordingly, for these unreported sales, we used the highest margin calculated for any individual product (*see* Calculation Memorandum dated September 24, 1997).

Comment 18: S&J Unaudited Financial Statements

Petitioner argues that the absence of audited financial statements means that S&J's financial information is not reliable. Petitioner argues that the reliance on the accounting system used for the preparation of the audited financial system is a vital part of the Department's determination that the company's sales and constructed value

data are credible. Therefore, the Department should rely on adverse facts available for S&J.

DOC Position

At verification we were able to reconcile S&J unaudited financial statements to its 1996 tax return (*see* S&J Cost Verification Report (July 23, 1997)). Therefore, because we were able to tie S&J's financial statements to an independent outside source, we have determined that there is no evidence on the record to indicate the information on the financial statements is unreliable. *See Mexican Flowers,* 60 FR at 49569.

Comment 19: Non-Mandatory Respondents

Petitioner suggests that the Department calculate a margin for non-mandatory respondents using the results of each of the four mandatory respondents, except those with zero dumping margins.

DOC Position

Non-mandatory respondents will be subject to the ''all others'' deposit rate, which we have calculated based on the weighted average of margins calculated for mandatory respondents—excluding zero and *de minimis* margins. (*see* March 13, 1997, Decision Memo)

Comment 20: Critical Circumstances

Petitioner argues that the Department should find that critical circumstances exist with respect to K. Ticho. Petitioner contends that a timely allegation of critical circumstances was made in the petition and that K. Ticho failed to respond to the Department's questionnaire. Therefore, as facts available, the Department should determine that critical circumstances exist with respect to K. Ticho.

DOC Position

We agree with petitioner. Because K. Ticho failed to respond to the Department's questionnaire, we have used the facts available as the basis for determining whether critical circumstances exist. The facts available margin (40.28%) exceeds the threshold for imputing knowledge of dumping to the importers of the merchandise. In addition, we have adversely inferred, as the facts available, a massive increase in imports from K. Ticho. We, therefore, determine that critical circumstances exist for K. Ticho, and will issue appropriate instructions to the Customs service.

We also determine that critical circumstances exist for Romp. As with K. Ticho, the final dumping margin for Romp exceeds 15%, the minimum benchmark established sales to impute importer knowledge of dumping and resultant injury. Also, because we have determined that the reported quantity and value of POI sales are unreliable, we are also adversely inferring, as facts available, a massive increase in imports from Romp.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of CR nails from Taiwan, that are entered, or withdrawn from warehouse, for consumption on or after May 12, 1997 (the date of publication of the preliminary determination in the **Federal Register**), except as noted below. With respect to entries of CR nails from Taiwan, manufactured and exported by K. Ticho or Romp in accordance with section 735(c) of the Act, we are directing Customs Service to continue suspension of liquidation on all entries that are entered, or withdrawn from warehouse, for consumption on or after February 10, 1997, which is 90 days prior to the date of publication of the preliminary determination. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below.

In accordance with section 735(a)(4) of the Act, because we have calculated zero or *de minimis* rates for Unicatch, and Lei Chu, we will instruct Customs to terminate suspension of liquidation of entries of CR nails manufactured by these companies and to liquidate such entries without regard to antidumping duties. We note that pursuant to 19 CFR 353.21, these companies will be excluded from any antidumping order resulting from an affirmative finding of material injury by the International Trade Commission. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage	Critical circumstances
Unicatch	0.00	No.
Lei Chu	0.07 (De Minimis)	No.
S&J	5.36	No.
Romp	40.28	Yes.
K. Ticho	40.28	Yes.
All Others	5.36	No.

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero or de minimis weighted-average dumping margins, or margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26045 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–828]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Static Random Access Memory Semiconductors From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Blankenbaker or Rebecca Woodings, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0989 or (202) 482–0651.

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 19 CFR part 353 (1997).

Preliminary Determination

We preliminarily determine that static random access memory semiconductors (''SRAMs'') from the Republic of Korea (''Korea'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigation: Static Random access Memory Semiconductors From the Republic of Korea*, 62 FR 13596 (March 21, 1997)), the following events have occurred:

In an April 1, 1997 letter to the Department, LG Semicon Co. Ltd. (''LGS'') requested exclusion from participation as a mandatory respondent in this investigation. In the request, LGS argued that it was an extremely small exporter of SRAMs and it accounted for only a small fraction of U.S. SRAM imports from Korea during the period of investigation.

On April 4, 1997, Samsung Electronics Co. Ltd. (''Samsung'') requested that the Department limit its analysis in this proceeding to sales of identical merchandise. On April 16, 1997, the Department determined that it would not limit its analysis to only sales of identical merchandise. The department concluded that the reporting of a very small number of sales of similar merchandise would not impose an undue burden on either Samsung or the Department. (*See* Memorandum form Thomas Futtner to Louis Apple dated April 16, 1997.)

On April 11, 1997, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary determination. (*See* ITC Investigations No. 731–TA–761–762). The ITC found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of SRAMs from Korea.

On April 16, 1997, we presented the Section A–E questionnaire to Hyundai Electronics Industries Co. Ltd. (''Hyundai''), LGS, and Samsung.

On April 25, 1997, Samsung respected that the Department not require the reporting of the following: (1) Sales of SRAMs that were further processed by Samsung's U.S. subsidiary prior to sale in the United States; (2) export price (''EP'') sales to the United States; and (3) sales of 64K SRAMs. on April 28, 1997, Hyundai also requested to be excused from section E of the questionnaire, which required the reporting of further processed (''FP'') sales. On May 8, 1997, the Department excluded the reporting of FP sales (Section E of the questionnaire) for Samsung and Hyundai, and requested that Samsung report EP sales and sales of 64K SRAMs in the United States. The Department concluded that the value of the FP sales at issue did not justify the extensive expenditure of Department resources that analyzing the sales would have required, whereas the analysis of EP and 64K sales would be both less complex and less burdensome. *See* Memorandum from Thomas Futtner to Louis Apple dated May 8, 1997.

On May 14, 1997, Hyundai, LGS, and Samsung submitted their Section A questionnaire responses. On June 16, 1997, Hyundai and Samsung submitted their Section B–D questionnaire responses.

In a June 16, 1997, letter submitted to the Department, LGS notified the Department that it was withdrawing from further participation in the investigation. In the letter, LGS stated its SRAM sales had declined substantially. LGS explained that, as a result, it had decided to cease U.S. SRAM sales and withdraw from the investigation ''rather than incur the enormous burden in time and expense of further participation in the Department's investigation.''

On July 7, 1997, at the request of the petitioner, we postponed the preliminary determination to September 23, 1997. *See Notice of Postponement of Preliminary Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Korea and Taiwan*, 62 FR 36260 (July 7, 1997). On July 31, 1997, the petitioner provided requested a clarification of the scope language in the notice of initiation.

Postponement of Final Determination

On September 10, 1997, Hyundai requested, pursuant to section 735(a)(2)(B) of the Act, that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 125 days after the date of publication of the affirmative preliminary determination in the **Federal Register.** In accordance with section 735(a)(2)(A) of the Act and 19 CFR 353.20(b), inasmuch as: (1) Our preliminary determination is affirmative; (2) Hyundai accounts for a significant proportion of exports of the subject merchandise under investigation; and (3) we are not aware of the existence of any compelling reasons for denying the request, we are granting Hyundai's request and postponing the final determination. Suspension of liquidation will be extended accordingly.

Facts Available

As discussed above, LGS withdrew from the investigation and declined to answer the Department's Section B–E questionnaire. Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information in a timely manner or in the form or manner requested; (3) significantly impedes an antidumping investigation; or (4) provides such information but the information cannot be verified, the Department is required to use facts otherwise available (subject to subsections 782(c)(1) and (e)) to make its determination. Because LGS failed to respond to the Department's questionnaire, and because subsections (c)(1) and (e) do not apply with respect to LGS, we must use facts otherwise available to calculate its dumping margin.

Section 776(b) provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also* the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. 870 (1994) (''SAA''). LGS's decision not to reply to the Department's questionnaire demonstrates that LGS has failed to cooperate to the best of its ability in this investigation. Therefore, the Department has determined that, in selecting among the facts otherwise available for LGS, an adverse inference is warranted.

Section 776(b) states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. When analyzing the petition, the Department

reviewed all of the data the petitioner relied upon in calculating the estimated dumping margin, and adjusted those calculations where necessary. *See* Initiation Checklist, dated March 17, 1997. The estimated dumping margin was based on a comparison of constructed value to a price quotation in the U.S. market offered by Samsung. The estimated dumping margin, as recalculated by the Department, was 55.36 percent.

For purposes of corroboration, the Department re-examined the price information provided in the petition in light of information developed during the investigation and found that it has probative value. *See* Memorandum from the Team to Tom Futtner dated September 23, 1997, for a detailed explanation of corroboration of the information in the petition.

Therefore, as adverse facts available, we are assigning to LGS to margin stated in the notice of initiation, 55.36 percent. This margin is higher than the margin calculated for either respondents in this investigation.

Scope of Investigation

The products covered by this investigation are synchronous, asynchronous, and specialty SRAMs from Korea, whether assembled or unassembled. Assembled SRAMs include all package types. Unassembled SRAMs include processed wafers or die, uncut die, and cut die. Processed wafers produced in Korea, but packaged, or assembled into memory modules, in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Korea are not included in the scope.

The scope of this investigation includes modules containing SRAMs. Such modules include single in-line processing modules (''SIPs''), single in-line memory modules (''SIMMs''), dual in-line memory modules (''DIMMs''), memory cards, or other collections of SRAMs, whether unmounted or mounted on a circuit board.

The SRAMs within the scope of this investigation are classifiable under the subheadings 8542.13.8037 through 8542.13.8049, 8473.30.10 through 8473.30.90, and 8542.13.8005 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is January 1, 1996 through December 31, 1996.

Fair Value Comparisons

To determine whether sales of SRAMs from Korea to the United States were made at less than fair value, we compared the United Price (''USP'') to the Normal Value (''NV''), as described in the ''United States Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average USPs for comparison to weighted-average NVs.

In making our comparisons, in accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the ''Scope of Investigation'' section of this notice, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product, based on the characteristics listed in Appendix III of the Department's antidumping questionnaire.

Level of Trade and Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practical, we determined NV based on sales in the comparison market at the same level of trade as the EP or CEP sales. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, it is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review;* 62 FR 23760, 23761 (May 1, 1997).

We reviewed the questionnaire responses of both respondents to establish whether there were sales at different levels of trade based on marketing stages, selling functions performed, and services offered to each customer or customer class. For both respondents, we identified one level of trade in the home market with direct sales by the foreign producers to unaffiliated domestic customers. These direct sales were made by both respondents to original equipment manufacturers (''OEMs'') and to distributors. All sales, whether made to OEM customers or to distributors, were made at the same marketing stage and involved the same selling functions. For the U.S. market, all U.S. sales for Hyundai and some sales by Samsung were reported as CEP sales. We examined the marketing stage and selling functions performed by the Korean companies for U.S. CEP sales, after the adjustment required by section 772(d) of the Act, and preliminarily determine that they are at a different level of trade from the Korean companies' home market sales because the CEP represents a different marketing stage with fewer selling functions. For instance, the CEP does not include any general promotion, marketing activities, or price negotiations.

Because we compared CEP sales to home market sales at a different level of trade, we examined whether a level of trade adjustment may be appropriate. In this case, both respondents only sold at one level of trade in the home market; therefore, there is no basis upon which either respondent can demonstrate a consistent pattern of price differences between levels of trade. Further, we do not have information which would allow us to examine pricing patterns based on the respondents' sales of other products and there is no other record information on which such an analysis could be based. Because the data available do not provide an appropriate basis for making a level of trade adjustment and the level of trade in the home market is a more advanced stage of distribution than the level of trade of the CEP sales, a CEP offset is appropriate. Therefore, we have accepted both respondents' claims for a CEP offset, pursuant to section 773(a)(7)(B) of the Act.

Time Period for Cost and Price Comparisons

Section 777A(d) of the Act states that in an investigation, the Department will compare the weighted average of the NVs to the weighted average of the EPs/CEPs. Generally, the Department will compare sales and conduct the sales below cost testing using annual averages. However, where prices have moved significantly over the course of the POI, it has been the Department's practice to use shorter time periods. *See, e.g., Final Determination of Sales at Less Than Fair Value: Erasable Programmable Read Only Memories (EPROMs) from Japan;* 51 FR 39680, 39682 (October 30, 1986); *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea;* 58 FR 15467, 15476 (March 23, 1993).

We invited comments from interested parties regarding this issue. An analysis of these comments revealed that all parties agreed that the SRAMs market experienced a significant and consistent price decline during the POI. Accordingly, in recognition of the significant and consistent price declines in the SRAMs market during the POI, the Department has compared prices and conducted the sales below cost test using quarterly data. In accordance with section 773(b)(2)(D) of the Act, we conducted the recovery of cost test using annual cost data.

United States Price

Hyundai

We calculated CEP for Hyundai, in accordance with sections 772(b), (c), and (d) of the Act. We found that CEP is warranted because all U.S. sales activities associated with U.S. sales took place in the United States through a wholly-owned subsidiary of Hyundai. We calculated CEP based on the price to the first unaffiliated customer in the United States. We made deductions from the gross unit price for the following expenses: foreign inland freight, brokerage, and handling; international freight and insurance; and U.S. brokerage, handling and inland freight.

Pursuant to section 772(d) (1) and (2) of the Act, we also made deductions for commissions; credit, inventory carrying costs, and other indirect and direct selling expenses; and bank and extended test charges. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Samsung

We calculated CEP for Samsung, in accordance with sections 772 (b), (c), and (d) of the Act. We found that CEP is warranted for some U.S. sales because these sales took place in the United States through a wholly-owned subsidiary of Samsung. We calculated CEP based on the price to the first unaffiliated customer in the United States. We made deductions from the gross unit price for the following expenses: foreign inland freight, brokerage, handling, and banking charges; international freight and insurance; and U.S. inland freight, brokerage, handling, insurance, and banking charges.

Pursuant to section 772(d) (1) and (2) of the Act, we also made deductions for commissioners, credit, advertising, cooperative, and royalty expenses; inventory carrying costs and other direct and indirect selling expenses. We also deducted U.S. repacking costs. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

For the EP sales by Samsung, we made deductions from the gross unit price for the following expenses: foreign inland freight, brokerage, handling, and banking charges; international freight and insurance; and U.S. inland freight, brokerage, handling, and banking charges.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's aggregate volume of home market sales of the foreign like product to the aggregate volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Accordingly, we determined that its home market was viable for each respondent.

Based on a cost allegation presented in the petition, the Department found reasonable grounds to believe or suspect that sales by both respondents in their home market were made at prices below their respective costs of production (''COPs''). As a result, the Department initiated an investigation to determine whether either respondent made home market sales during the POI at prices below its COP, within the meaning of section 773(b) of the Act.

We calculated COP as the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act. We used the respondents' reported COP, adjusted as discussed below, to compute quarterly weighted-average COP of the POI. We compared the weighted-average COPs to home market sales of the foreign like product as required under section 773(b) of the Act in order to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared COP to the home market prices, less any applicable movement charges, discounts, and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade. Where 20 percent or more of a respondent's sales of given product during the POI were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2) (B) and (C). To determine whether prices were such as to provide for recovery of costs within a reasonable period of time, we tested whether the prices which were below the per unit cost of production at the time of the sale were above the weighted average per unit cost of production for the POI, in accordance with section 773(b)(2)(D). Where we found that a substantial quantity of sales during the POI were below cost and not at prices that provided for recovery of costs within a reasonable period of time, we disregarded the below cost sales.

Where NV was calculated using prices to unaffiliated customers, we made appropriate adjustments to those prices. First, we deducted home market inland freight and home market packing costs. Where there were differences in the merchandise to be compared, we made adjustments in accordance with section 773(a)(6)(C)(ii) of the Act to account for those differences. Where appropriate, we made circumstances-of-sale adjustments in accordance with section 773(a)(6)(C)(iii) of the Act. For purposes of CEP sales comparisons, we deducted home market indirect expenses up to allowable levels. For purposes of CEP and EP sales comparisons, we added U.S. packing costs in accordance with section 773(a)(6)(A) of the Act.

Where there was no above cost home market sale for comparison, NV was based on CV. In accordance with section

773(e)(1) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Although we generally relied, in our COP and CV calculation, on the data submitted by respondents, we made adjustments in the allocation of both research and development (''R&D'') and interest expense. Adjustments common to both companies are detailed immediately, below, followed by company-specific comments.

For both companies, we allocated all semiconductor R&D over all semiconductor cost of goods sold. *See* Decision Memorandum dated September 23, 1997. We concluded that R&D related to semiconductors benefits all semiconductor products, and that allocation of R&D on a product-specific basis was not appropriate. In support of our methodology, we have placed on the record information regarding cross-fertilization of semiconductor R&D.

In our Section D cost questionnaire, we requested that respondents allocate interest expense over the total cost of goods sold. However, we subsequently determined that this allocation methodology does not appropriately recognize the expenses related to capital investment necessary for semiconductors as compared to other lines of business. Therefore, we allocated net interest expense on the basis of proportional fixed assets for both companies. The Court of International Trade has upheld the Department's methodology of allocating interest expenses on the basis of semiconductor fixed assets. *See Micron Technology, Inc.* v. *United States,* 893 F. Supp. 21, 30 (June 12, 1995).

Finally, we adjusted both respondents' depreciation expenses to reflect their historical depreciation methodologies. We based our adjustments on the fact that, in 1996, both Samsung and Hyundai chose not to record certain accelerated depreciation expenses that, according to their financial statements, they had relied upon in the previous year. In switching to alternative methods for recognizing depreciation expense, the companies did not retroactively restate the bases of their assets, but instead used the net book value of the assets as of the date of the change. Thus, the companies failed to report depreciation expense in a systematic and rational manner over the useful lives of their assets. As a result, disproportionately greater costs were attributed to products manufactured before the change than subsequent to it. *See Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea;* 58 FR 15467.15479 (March 23, 1993).

In adjusting the depreciation expenses by Samsung and Hyundai, we relied on the same accelerated depreciation methods used by the companies in 1995. The current record does not contain information with respect to what the appropriate depreciation expenses would be after taking into account the restated bases of the companies' assets. Our use of Samsung's and Hyundai's historical depreciation methods in adjusting reported depreciation expense for COP and CV is consistent with the statutory preference for use of cost allocation methods that have been historically relied upon by respondents. *See* section 773(f)(i)(A) of the Act and SAA at 834.

Hyundai

For those comparison products for which there were sales above the COP, we based NV on delivered prices to home market customers. We made deductions for inland freight, imputed credit expenses and banking charges, and home market direct and indirect selling expenses. As indirect selling expenses, we including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. In addition, where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with 773(a)(6)(C)(ii) of the Act and 19 CFR 353.57.

For price-to-CV comparisons, we made deductions, where appropriate, for credit expenses and banking charges. We also deducted home market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Samsung

For those comparisons for which there were sales above the COP, we based NV on delivered prices to home market customers. We made deductions for inland freight, imputed credit, advertising, and royalty expenses, and home market direct and indirect selling expenses. As indirect selling expenses, we including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses and commissions incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2). In the case of letter-of-credit sales, we added in the amount of any duty-drawback.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. *See Policy Bulletin 96–1: Currency Conversions,* 61 FR 9434 (March 8, 1996).

Section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. For an explanation of this methodology, *see id.* Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Korean Won did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of entries of subject merchandise from Korea, as defined in the ''Scope of Investigation'' section of this notice, with the exception of subject merchandise that is the product of Samsung. Suspension

will apply to products that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. For these entries, the Customs Service will require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Samsung	[1] 1.59
Hyundai	3.38
LG Semicon [2]	[2] 55.36
All others	3.38

[1] De minimis.
[2] Facts Available Rate.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threatening material injury to, a U.S. industry.

Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than December 29, 1997; and rebuttal briefs, no latter than January 5, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. The summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 7, 1998; time and room to be determined; at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by February 5, 1998.

This determination is published pursuant to sections 773(f) and 777(i) of the Act.

Dated: September 23, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–25942 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–827]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Static Random Access Memory Semiconductors From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or David Genovese, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1776 or (202) 482–0498, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 353 (April 1, 1996).

Preliminary Determination

We preliminarily determine that static random access memory semiconductors (SRAMs) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation *(Notice of Initiation of Antidumping Duty Investigations: SRAMs from the Republic of Korea and Taiwan* (62 FR 13596, March 21, 1997)), the following events have occurred:

During March and April 1997, the Department obtained information from the American Institute in Taiwan identifying potential producers and/or exporters of the subject merchandise to the United States. Based on this information, in April 1997, the Department issued antidumping questionnaires to 22 companies.[1]

Also in April 1997, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (*see* ITC Investigation No. 731–TA–761–762).

In May 1997, the Department received responses to Section A of the questionnaire from 18 of the 22 companies. Three of the remaining companies, Advanced Microelectronics, BIT, and Texas-Instruments, did not submit responses to Section A. Therefore, we have assigned a margin to these companies based on facts available. (See the ''Facts Available'' section below, for further discussion.) Regarding the fourth company, Lien Hsing, we were notified by one of the respondents in this investigation that it had received the questionnaire addressed to Lien Hsing, but that it was unaware of the existence of this company. Because Lien Hsing never received the Department's questionnaire and we found no way in which to locate and serve it with the questionnaire, no adverse inference is warranted with respect to it.

Based on the information received from the 18 responding companies, in May 1997, the Department determined that it did not have the administrative resources to investigate all known producers and/or exporters of SRAMs

[1] These companies are as follows: (1) Advanced Microelectronics Products Inc. (Advanced Microelectronics); (2) Alliance Semiconductor Corp. (Alliance); (3) Asia Specific Technology Limited; (4) Best Integrated Technology, Inc. (BIT); (5) Chia Hsin Livestock Corp.; (6) E–CMOS Technology Corporation; (7) Etron Technology, Inc.; (8) G–Link Technology Corp.; (9) Holtek Microelectronics Inc.; (10) Hualon Microelectronics Corporation; (11) Integrated Silicon Solution (Taiwan) Inc. (ISSI); (12) Kes Rood Technology Taiwan Ltd.; (13) Lien Hsing Integrated Circuits (Lien Hsing); (14) Macronix International Co., Ltd.; (15) Mosel-Vitelic, Inc.; (16) Taiwan Memory Technology, Inc.; (17) Taiwan Semiconductor Manufacturing Corporation (TSMC); (18) Texas Instruments-Acer Inc. (Texas Instruments); (19) United Microelectronics Corporation (UMC); (20) Utron Technology, Inc.; (21) Vanguard International Semiconductor Corporation; and (22) Winbond Electronics Corporation (Winbond).

during the period of investigation (POI). Accordingly, we decided to limit the number of mandatory respondents in this investigation to the five companies that we believed had the largest sales volumes of SRAMs to the United States during the POI, pursuant to section 777A(c) of the Act. These companies are Alliance, ISSI, TSMC, UMC, and Winbond (hereinafter ''respondents''). For a more detailed discussion regarding this issue, see the memorandum to Louis Apple from the Team, dated May 21, 1997.

Respondents submitted questionnaire responses in June 1997. We issued supplemental questionnaires to these companies in July 1997, and received responses to these questionnaires in August 1997. Based on a review of these responses, we have excluded TSMC from our analysis in this investigation. For a discussion of this issue, see the memorandum to Louis Apple from the Team, dated September 23, 1997.

Pursuant to section 735(a)(2)(A) of the Act, on August 14, 1997, one of the respondents, Winbond, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postponed its final determination until no later than 135 days after the publication of this notice in the **Federal Register**. For further discussion, see the ''Postponement of Final Determination and Extension of Provisional Measures'' section of this notice.

In September 1997, Alliance submitted revised sales and cost databases at the Department's request.

Facts Available

Three interested parties in this investigation, Advanced Microelectronics, BIT, and Texas Instruments, failed to respond to the Department's requests for information. Specifically, these companies did not provide a response to the Department's questionnaire issued in April 1997.

Section 776(a)(2) of the Act provides that if an interested party: (1) Withholds information that has been requested by the Department, (2) fails to provide such information in a timely manner or in the form or manner requested, (3) significantly impedes a determination under the antidumping statute, or (4) provides such information but the information cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e) of the Act, use facts otherwise available in reaching the applicable determination. Because Advanced Microelectronics, BIT, and Texas Instruments failed to respond to the Department's questionnaire and because subsections (c)(1) and (e) do not apply with respect to these companies, we must use facts otherwise available to calculate their dumping margins.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (SAA). The failure of Advanced Microelectronics, BIT, and Texas Instruments to reply to the Department's questionnaires or to provide a satisfactory explanation of their conduct demonstrates that they have failed to act to the best of their ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available to these companies, an adverse inference is warranted. As facts otherwise available, we are assigning to Advanced Microelectronics, BIT, and Texas Instruments the highest margin stated in the notice of initiation, 113.85 percent.

Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. When analyzing the petition, the Department reviewed all of the data the petitioner relied upon in calculating the estimated dumping margins, and adjusted those calculations where necessary. *See* Initiation Checklist, dated March 17, 1997. These estimated dumping margins were based on a comparison of constructed value (CV) to U.S. price, the latter of which was based on price quotations offered by two Taiwanese companies. The estimated dumping margins, as recalculated by the Department, ranged from 93.54 to 113.85 percent. For purposes of corroboration, the Department re-examined the price information provided in the petition in light of information developed during the investigation and found that it has probative value. *See* the memorandum from the Team to Louis Apple dated September 23, 1997, for a detailed explanation of corroboration of the information in the petition.

Therefore, as adverse facts available, we are assigning to Advanced Microelectronics, BIT, and Texas Instruments the highest margin stated in the notice of initiation, 113.85 percent. This margin is higher than the margin calculated for any respondent in this investigation.

Postponement of Final Determination and Extension of Provisional Measures

Two of the respondents, Winbond and Alliance, requested on September 11 and 18, 1997, respectively, that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until no later than 135 days after the publication of this notice in the **Federal Register**, pursuant to section 735(a)(2)(A) of the Act. In accordance with 19 CFR section 353.20(b), because (1) our preliminary determination is affirmative, (2) Winbond and Alliance account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly (*see Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn From Austria*, 62 FR 14399, 14400 (March 26, 1997); *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 30326 (June 14, 1996)).

Scope of Investigation

The products covered by this investigation are synchronous, asynchronous, and specialty SRAMs from Taiwan, whether assembled or unassembled. Assembled SRAMs include all package types. Unassembled SRAMs include processed wafers or die, uncut die and cut die. Processed wafers produced in Taiwan, but packaged, or assembled into memory modules, in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Taiwan are not included in the scope.

The scope of this investigation includes modules containing SRAMs. Such modules include single in-line processing modules (SIPs), single in-line memory modules (SIMMs), dual in-line memory modules (DIMMs), memory cards, or other collections of SRAMs, whether unmounted or mounted on a circuit board.

The SRAMs within the scope of this investigation are classifiable under the subheadings 8542.13.8037 through 8542.13.8049, 8473.30.10 through 8473.30.90, and 8542.13.8005 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our

written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is January 1, 1996, through December 31, 1996.

Time Period for Cost and Price Comparisons

Section 777A(d) of the Act states that in an investigation, the Department will compare the weighted average of the normal values to the weighted average of the export prices/constructed export prices. Generally, the Department will compare sales and conduct the sales below cost test using annual averages. However, where prices have moved significantly over the course of the POI, it has been the Department's practice to use shorter time periods. *See, e.g., Final Determination of Sales at Less Than Fair Value: Erasable Programmable Read Only Memories (EPROMs) from Japan*, 51 FR 39680, 39682 (October 30, 1986), *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea*, 58 FR 15467, 15476 (March 23, 1993).

We invited comments from interested parties regarding this issue. An analysis of these comments revealed that all parties agreed that the SRAMs market experienced a significant and consistent price decline during the POI. Accordingly, in recognition of the significant and consistent price declines in the SRAMs market during the POI, the Department has compared prices and conducted the sales below cost test using quarterly data.[2]

Treatment of Foundry Sales and Elimination of TSMC as a Respondent

During the course of this investigation, we found that two of the five companies we had selected to be respondents, UMC and TSMC, acted as foundries for SRAMs design houses. As foundries, they manufactured processed SRAMs wafers according to designs provided by the design houses. Two of these design houses, Alliance and ISSI, were also selected to be respondents. The design houses arranged for the probing, testing, and assembly of the processed wafers into individual SRAMs that were subsequently sold to unaffiliated downstream purchasers.

At the time we selected respondents, we had not determined conclusively how the transaction between a design house and its foundry should be treated. *See* the memorandum from the Team to Louis Apple, dated May 15, 1997. We noted that, when the Department had had an opportunity to perform a thorough analysis of the respondents' responses to our questionnaire, the Department may conclude that the appropriate sales transaction to analyze is not the sale from the foundry to the design house, but the subsequent downstream sale of the encapsulated SRAMs to the United States.

When considering this issue for purposes of this determination, we determined that it was necessary to decide which entity, the foundry or the design house, was the manufacturer of the subject merchandise, and which entity controlled the ultimate sale of it. For guidance in making this determination, we relied on the Department's policy expressed in our proposed regulations which, while they are not our final regulations, state our policy on this issue. The proposed regulations state that: ''[w]here a party owning the components of subject merchandise has a subcontractor manufacture or assemble that merchandise for a fee, the Department will consider the owner to be the manufacturer, because that party has ultimate control over how the merchandise is produced and the manner in which it is ultimately sold. The Department will not consider the subcontractor to be the manufacturer or producer regardless of the proportion of production attributable to the subcontracted operation or the location of the subcontractor or owner of the good.'' *See Notice of Proposed Rulemaking and Request for Public Comment: Antidumping Duties; Countervailing Duties*, 61 FR 7308, 7330 (February 26, 1996).

We also reviewed section 351.401(h) of the Department's regulations which, while not applicable to this investigation, codifies past practice and current policy. Section 351.401(h) states that the Department ''will not consider a toller or subcontractor to be a manufacturer or producer where the toller or subcontractor does not acquire ownership, and does not control the relevant sale of, the subject merchandise or foreign like product.''

In reviewing and analyzing the information submitted by respondents concerning the relationship between the design houses and their foundries, we have found the following: the design house performs all of the product research and development for the SRAMs that are to be produced. The design house produces, or arranges and pays for the production of, the design mask. At all stages of production, it retains ownership of the proprietary design and design mask. The design house then subcontracts the production of processed wafers with a foundry and provides the foundry with the design mask. Design houses tell the foundry what and how much to make. The foundry agrees to dedicate a certain amount of its production capacity to the production of the processed wafers for the design house. The foundry has no right to sell those wafers to any party other than the design house unless the design house fails to pay for the wafers. Once the design house takes possession of the processed wafers, it arranges for the subsequent steps in the production process (*i.e.*, probing, testing, and assembly), then sells the encapsulated SRAMs to downstream customers.

The design of the processed wafer is not only an important part of the finished product, it is a substantial element of production and imparts the essential features of the product. The design defines the ultimate characteristics and performance of the subject merchandise and delineates the purposes for which it can be used. The foundries manufactured processed SRAMs wafers using the proprietary designs of the design houses during the POI. As such, they did not control the production of the processed wafers in question, but rather merely translated the design of other companies into actual products.

For purposes of this investigation, we have determined that the entity that controls and owns the SRAMs design, *i.e.*, the design house, controls the production, and ultimate sale, of the subject merchandise. Consequently, we have determined to disregard the foundry sales of UMC and TSMC for purposes of this investigation. Moreover, because all of TSMC's sales during the POI were foundry sales, we have determined that it should no longer be considered a respondent in this investigation. For a more detailed analysis of this decision, *see* the memorandum from the Team to Louis Apple, dated September 23, 1997, concerning the Treatment of Foundry Sales and the Elimination of TSMC as a Respondent.

Fair Value Comparisons

To determine whether sales of SRAMs from Taiwan to the United States were made at less than fair value, we compared the United States Price (USP) to the Normal Value (NV), as described in the ''United States Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we

[2] In accordance with section 773(b)(2)(D) of the Act, we conducted the recovery of cost test using annual cost data.

calculated weighted-average USPs for comparison to weighted-average NVs.

In order to determine whether or not we should base price-averaging groups on customer types, we conducted an analysis of the prices submitted by respondents. This analysis does not indicate that there was a consistent and uniform difference in prices between customer types. Accordingly, we have not based price comparisons on customer types.

In making our comparisons, in accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the ''Scope of Investigation'' section of this notice, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product, based on the characteristics listed in Sections B and C of the Department's antidumping questionnaire.

Regarding Alliance, because we found no home market sales at prices above the COP, we made no price-to-price comparisons. *See* the ''Normal Value'' section of this notice, below, for further discussion.

Regarding ISSI, because this company did not report cost or difference in merchandise information for certain products sold in the United States, there is insufficient information on the record to calculate a margin for these products. Accordingly, we based the margin for the sales in question on facts available. As facts available, we used the highest non-aberrational margin calculated for any other product.

Level of Trade and Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade as the export price (EP) or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, it is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review*, 62 FR 23760, 23761 (May 1, 1997).

Only one of the respondents in this investigation, UMC, claimed that its home market sales were made at different levels of trade. Specifically, UMC claimed that its sales of branded SRAMs products to original equipment manufacturers (OEMs) and distributors were made at two distinct levels of trade because it provided greater customer support to, and performed more significant marketing functions for, its OEM customers. In particular, UMC stated that it met with OEM customers to assist them in qualifying UMC's products for particular applications and to discuss how UMC's products may meet the customer's current and future needs. Regarding marketing functions, UMC stated that its salesmen make regular on-site visits to OEM customers and attend trade shows primarily targeted at OEMs. However, UMC does not attend similar shows targeted at distributors.

We examined the selling activities at each reported marketing stage and found that there was no substantive difference in the selling functions performed by UMC at either of its claimed marketing stages. Consequently, we determine that only one level of trade exists with respect to sales made by UMC to all customers. For a detailed explanation of this analysis, see the memorandum from the Team to Louis Apple, dated September 23, 1997.

Because we have found that only one level of trade existed in the home market for all respondents during the POI, we conducted an analysis to determine whether a CEP offset was warranted for each respondent. In order to determine whether NV was established at a level of trade which constituted a more advanced state of distribution than the level of trade of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP (*i.e.*, excluding economic activities occurring in the United States). We found that all respondents performed most of the selling functions and services related to U.S. sales at their sales offices in the United States, and therefore, these selling functions are associated with those expenses which we deduct from the CEP starting price, as specified in section 772(d) of the Act. Regarding home market sales, respondents performed largely the same selling functions for sales to unaffiliated customers as were performed in the United States. Therefore, their sales in Taiwan were at a more advanced stage of marketing and distribution (*i.e.*, more remote from the factory) than the constructed U.S. level of trade, which represents an ex-factory price after the deduction of expenses associated with U.S. selling activities. However, because the respondents sell at only one home market level of trade, the difference in the level of trade cannot be quantified. Because the difference in the level of trade cannot be quantified, but the home market is at a more advanced level of trade, we have granted a CEP offset to all respondents.

United States Price

For UMC and Winbond, we based USP on EP, in accordance with section 772(a) of the Act, when the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation because CEP methodology was not otherwise indicated.

In addition, for all companies, where sales to the first unaffiliated purchaser took place after importation into the United States, we based USP on CEP, in accordance with section 772(b) of the Act.

We made company-specific adjustments as follows:

A. Alliance

We calculated CEP based on packed, FOB U.S. warehouse prices, to unaffiliated purchasers in the United States. We corrected gross unit price for clerical errors identified in Alliance's narrative response. We made deductions from the gross unit price, where appropriate, for discounts. We also made deductions for international freight (including air freight and U.S. Customs merchandise processing fees), where appropriate, pursuant to section 772(c)(2)(A) of the Act.

In accordance with section 772(d) (1) and (2) of the Act, we made additional

deductions for commissions, warranty and credit expenses, indirect selling expenses, inventory carrying costs, U.S. repacking expenses and U.S. further manufacturing costs. Regarding credit expenses, Alliance reported that it had not received payment for certain sales as of the date of its latest questionnaire response. As such, we based the date of payment for those sales on the date of the preliminary determination and recalculated credit expenses accordingly.

Pursuant to section 772(d)(3) of the Act, gross unit price was further reduced by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, the CEP profit rate was calculated using the expenses incurred by Alliance on its sales of the subject merchandise in the United States and foreign like product in the home market and the profit associated with those sales.

With regard to modules which were further-manufactured in the United States, we have based USP on the net price of the modules rather than the net price of the individual SRAMs included in the modules.

B. ISSI

We calculated CEP based on packed, FOB U.S. warehouse prices, to unaffiliated purchasers in the United States. We made deductions from the gross unit price, where appropriate, for discounts. We also made deductions for foreign inland freight, pre-sale warehousing expenses, foreign and U.S. inland insurance, foreign brokerage and handling, and international freight (including air freight, U.S. customs merchandise processing fees, and U.S. inland freight to ISSI's U.S. office), where appropriate, pursuant to section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we made additional deductions for commissions, credit expenses, indirect selling expenses, inventory carrying costs, and U.S. repacking expenses. We recalculated credit expenses using the interest rate paid by ISSI (Taiwan) on its borrowings denominated in U.S. dollars. In addition, where ISSI had not received payment for certain sales as of the date of its latest questionnaire response, we based the date of payment for those sales on the date of the preliminary determination and recalculated credit expenses accordingly.

Pursuant to section 772(d)(3) of the Act, gross unit price was further reduced by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, the CEP profit rate was calculated using the expenses incurred by ISSI and its affiliate on their sales of the subject merchandise in the United States and foreign like product in the home market and the profit associated with those sales.

C. UMC

We calculated EP and CEP based on packed, FOB prices, to unaffiliated purchasers in the United States. We adjusted the gross unit price for billing adjustments and freight charges. We made deductions from the gross unit price, where appropriate, for discounts. We also made deductions for foreign inland freight, foreign brokerage and handling, and international freight, where appropriate, pursuant to section 772(c)(2)(A) of the Act.

Where USP was based on CEP, we made additional deductions, in accordance with section 772(d)(1) of the Act, for commissions, warranty and credit expenses, indirect selling expenses, and inventory carrying costs. Regarding credit expenses, UMC reported that it had not received payment for certain sales as of the date of its latest questionnaire response. Consequently, we based the date of payment for those sales on the date of the preliminary determination and recalculated credit expenses accordingly.

Pursuant to section 772(d)(3) of the Act, gross unit price was further reduced by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, the CEP profit rate was calculated using the expenses incurred by UMC and its affiliates on their sales of the subject merchandise in the United States and foreign like product in the home market and the profit associated with those sales.

D. Winbond

We calculated EP and CEP based on packed, delivered and FOB prices to unaffiliated purchasers in the United States. We made deductions from the gross unit price, where appropriate, for discounts. We also made deductions for foreign inland freight, pre-sale warehousing expenses, foreign inland insurance, foreign brokerage and handling, international freight (including air freight, U.S. inland freight from the port to Winbond's U.S. warehouse, U.S. brokerage and handling fees, and customs fees), international insurance, U.S. customs merchandise processing fees, and U.S. inland freight to customer, where appropriate, pursuant to section 772(c)(2)(A) of the Act.

Where USP was based on CEP, we made additional deductions, in accordance with section 772(d)(1) of the Act, for commissions, credit expenses, advertising expenses, warranty expenses, technical service expenses, indirect selling expenses, inventory carrying costs, and U.S. repacking expenses.

Pursuant to section 772(d)(3) of the Act, gross unit price was further reduced by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, the CEP profit rate was calculated using the expenses incurred by Winbond and its affiliates on their sales of the subject merchandise in the United States and foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for each respondent.

Because UMC and Winbond reported home market sales to an affiliated party during the POI, as defined by section 771(4)(B) of the Act, we tested these sales to ensure that the affiliated party sales were at ''arm's length,'' in accordance with our practice. To conduct this test, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, discounts and rebates, and packing, where appropriate. Based on the results of that test, we used the sales from UMC and Winbond to their affiliated parties because they were made at ''arm's length.''

Based on the cost allegation contained in the petition, the Department found reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act.

Where possible, we used the respondents' reported COP amounts, adjusted as discussed below, to compute quarterly weighted-average COPs during the POI. In cases where there was no production within the same quarter as a given sale, we referred to the most recent quarter, prior to the sale, for which costs had been reported. In cases where there was no cost reported for either the same quarter as the sale, or a prior quarter, we used the reported costs from the closest subsequent quarter in which production occurred.

In their calculation of research and development expenses (R&D), three of the respondents, Alliance, ISSI, and Winbond, excluded from their calculation R&D incurred on certain semiconductor products. The fourth respondent, UMC, calculated R&D on a quarterly basis. For all respondents, we revised the R&D ratios to allocate the total amount of semiconductor R&D for the POI over the total cost of sales of semiconductor products sold during the POI, using an annual ratio. *See* the Concurrence memorandum from James Maeder to Louis Apple, dated September 23, 1997, for further discussion. We preliminarily determine that R&D related to semiconductors benefits all semiconductor products, and that allocation of R&D on a product-specific basis was not appropriate. In support of our methodology, we have placed on the record information regarding cross-fertilization of semiconductor R&D.

We compared the weighted-average quarterly COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and discounts.

In determining whether to disregard home market sales made at prices below the COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2) (B) and (C) of the Act. To determine whether prices were such as to provide for recovery of costs within a reasonable period of time, we tested whether the prices which were below the per unit cost of production at the time of the sale were above the weighted-average per-unit cost of production for the POI, in accordance with section 773(b)(2)(D). If they were, we disregarded below cost sales in determining NV.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. Where respondents made no home market sales in the ordinary course of trade (*i.e.*, all sales were found to be below cost), we based profit and SG&A expenses on the weighted average of the profit and SG&A data computed for those respondents with home market sales of the foreign like product made in the ordinary course of trade.

We deducted from CV weighted-average home market direct selling expenses incurred on sales made in the ordinary course of trade. Where a company had no sales above COP, we based home market direct selling expenses on the weighted average selling expense data computed for those respondents with home market sales of the foreign like product in the ordinary course of trade. Company-specific calculations are discussed below.

A. Alliance

We relied on the reported COP and CV amounts except as noted above. Additionally, we did not rely on amounts reported by Alliance for SG&A and profit since all of Alliance's sales were made below the cost of production.

Because all of Alliance's home market sales were sold below COP, we based NV on CV. In addition to the adjustments to CV reported above, in accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment and reduced CV by the amount of weight-averaged home market indirect selling expenses and commissions incurred by respondents with sales above the COP up to the amount of indirect expenses deducted from the CEP under 772(d)(1)(D).

B. ISSI

We relied on respondent's reported COP and CV amounts except as noted above. Additionally, we revised the reported general and administrative and R&D expense ratios to use the cost of sales figure from the audited financial statements as the denominator in these equations.

For those comparison products for which there were sales at prices above the COP, we based NV on delivered prices to home market customers. We made deductions for discounts, foreign inland freight, and insurance, where appropriate, pursuant to section 773(a)(6)(B) of the Act. We also made deductions for credit expenses and bank charges, pursuant to section 773(a)(6)(C)(iii) of the Act. Regarding credit expenses, ISSI reported that it had not received payment for certain sales as of the date of its latest questionnaire response. As such, we based the date of payment for those sales on the date of the preliminary determination and recalculated credit expenses accordingly.

We deducted home market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with 773(a)(6)(C)(ii) of the Act and 19 CFR 353.57. Where applicable, in accordance with 19 CFR section 353.56(b)(1), we offset any commission paid on a U.S. sale by reducing the NV by any home market commissions and indirect selling expenses remaining after the deduction for the CEP offset.

Where NV was based on CV, we deducted from CV the weighted-average home market direct selling expenses. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment and reduced normal value by the amount of commissions and indirect selling expenses incurred by ISSI in Taiwan on sales of SRAMs in Taiwan, up to the amount of commissions and indirect selling expenses incurred on U.S. sales deducted from the CEP, in accordance with section 773(a)(7)(B) of the Act.

C. UMC

We relied on respondent's COP and CV amounts except as noted above.

Additionally, we calculated 1996 bonuses to directors, supervisors, and employees and included them in the cost of manufacturing. We revised the reported general and administrative expense to exclude foreign exchange gains. We revised the reported net financing expense ratio to include net foreign exchange gains related to accounts payable.

UMC has claimed a startup adjustment for a new fabrication facility under section 773(f)(1)(C)(ii) and (iii) of the Act. We conducted an analysis of the facts and have preliminarily granted the claimed startup adjustment. The SAA specifies two conditions for the application of a startup cost adjustment:

(1) The company used new production facilities or was producing a new product that required substantial additional investment; and

(2) Production levels were limited by technical factors associated with the initial phase of commercial production.

UMC appears to have met these threshold criteria by opening and using a new production facility whose production levels were limited by technical factors associated with the initial phase of production. In accordance with the Act, we replaced the unit production costs incurred during the startup period with the unit production costs incurred at the end of the startup period. This resulted in the exclusion of some costs which were incurred during the startup period from the actual cost calculation. The difference between the actual costs incurred and the costs calculated for purposes of the startup adjustment was amortized over the useful life of the machinery, subsequent to the startup phase. We also capitalized certain pre-production costs which were incurred before the new fabrication facility began production. We amortized these pre-production costs, beginning with the first month in which production took place, over the useful life of the machinery. *See* the memorandum to Louis Apple from Chris Marsh, dated September 23, 1997, for a detailed discussion of this issue.

For those comparison products for which there were sales at prices above the COP, we based NV on delivered and FOB prices to home market customers. For home market price-to-EP comparisons, we made deductions, where appropriate, for discounts, export duties, and foreign inland freight, in accordance with section 773(a)(6)(B) of the Act. Pursuant to section 773 (a)(6)(C)(iii) of the Act and 19 CFR section 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for differences in warranty and credit expenses. We did not allow an adjustment for home market commissions because we determined that they were not at ''arm's length.'' *See* the memorandum to Louis Apple from the Team dated September 23, 1997, for a detailed explanation.

For home market price-to-CEP comparisons, we made deductions, where appropriate, for discounts, export duties, and foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. We also made deductions for warranty and credit expenses. We deducted home market indirect selling expenses, including inventory carrying costs, and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR 353.56(b), we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset.

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. In addition, where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with 773(a)(6)(C)(ii) of the Act.

Where CV was compared to EP, we made circumstance of sale adjustments, where appropriate, for credit and warranty expenses and U.S. commissions in accordance with sections 773 (a)(6)(C)(iii) and (a)(8) of the Act. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment and reduced normal value by the amount of commissions and indirect selling expenses incurred by UMC in Taiwan on sales of SRAMs in Taiwan, up to the amount of commissions and indirect selling expenses incurred on U.S. sales deducted from the CEP.

Where CV was compared to CEP, we deducted from CV, where appropriate, credit and warranty expenses. We also deducted indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of commissions and indirect selling expenses incurred on U.S. sales, in accordance with 773(a)(7)(B) of the Act.

D. Winbond

We relied on the reported COP and CV amounts except as noted above. Additionally, we reclassified production technology royalty expenses reported in the Sections B and C of our questionnaire as a cost of manufacturing. We included 1996 bonuses to directors, supervisors, and employees in the cost of manufacturing. We revised the reported general and administrative expense to exclude foreign exchange gains and to include miscellaneous income and expense. We revised the reported net financing expense ratio to include net foreign exchange gains related to accounts payable.

For those comparison products for which there were sales at prices above the COP, we based NV on delivered prices to home market customers.

For home market price-to-EP comparisons, we made deductions, where appropriate, for discounts, import duties and development fees paid on sales to customers outside of duty free zones, and home market movement charges including pre-sale warehouse expenses, foreign inland freight, brokerage and handling charges, and inland insurance. Pursuant to section 773 (a)(6)(C)(iii) of the Act, we made circumstance of sale adjustments, where appropriate, for differences in credit expenses (offset by the interest revenue actually received by the respondent), direct advertising expenses, warranty expenses, technical service expenses, and post-sale payments to a third-party customer.

For home market price-to-CEP comparisons, we made deductions for discounts, import duties and development fees paid on sales to customers outside of duty free zones, and home market movement charges including pre-sale warehouse expenses, foreign inland freight, brokerage and handling charges, and inland insurance, where appropriate, in accordance with section 773(a)(6)(B) of the Act. We also made deductions for credit expenses (offset by the interest revenue actually received by the respondent), direct advertising expenses, warranty expenses, technical service expenses, and post-sale payments to a third-party customer, pursuant to section 773(a)(6)(C)(iii) of the Act.

We deducted home market indirect selling expenses, including inventory carrying costs, other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR section 353.56(b), we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset.

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in

accordance with section 773(a)(6) of the Act. In addition, where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act.

Where CV was compared to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses in accordance with section 773 (a)(6)(C)(iii) of the Act.

Where CV was compared to CEP, we deducted from CV the weighted-average home market direct selling expenses. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment and reduced normal value by the amount of indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales deducted from the CEP.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan dollar did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Advanced Microelectronics	113.85
Alliance	59.06
BIT	113.85
ISSI	10.96
Texas Instruments	113.85
UMC	63.36
Winbond	94.10
All Others	41.30

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded the margins determined entirely under section 776 of the Act from the calculation of the ''All Others Rate.''

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than December 18, 1997, and rebuttal briefs no later than December 22, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on December 23, 1997, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(d) of the Act.

Dated: September 23, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–25943 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–701]

Brass Sheet and Strip From the Netherlands: 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 May 12, 1997, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on brass sheet and strip from the Netherlands. This review covers sales to the United States by one manufacturer/exporter, Outokumpu Copper Strip B.V. (OBV), and its U.S. affiliate, Outokumpu Copper (USA), Inc., of the subject merchandise during the period of

review (POR), August 1, 1995, through July 31, 1996. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review, where indicated below.

FOR FURTHER INFORMATION CONTACT: Karla Whalen or Lisette Lach, Office of Antidumping/Countervailing Duty Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0408 or (202) 482–6412, respectively.

EFFECTIVE DATE: October 1, 1997.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations, as codified at 19 CFR Part 353 (1997).

Scope of This Review

Imports covered by this review include brass sheet and strip, other than leaded and tin brass sheet and strip, from the Netherlands. The chemical composition of the products under review is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C20000 series. This review does not cover products the chemical composition of which are defined by other C.D.A. or U.N.S. series. The physical dimensions of the products covered by this review are brass sheet and strip of solid rectangular cross section over 0.006 inch (0.15 millimeter) through 0.188 inch (4.8 millimeters) in gauge, regardless of width. Coiled, wound-on-reels (traverse-wound), and cut-to-length products are included. The merchandise under review is currently classifiable under items numbers 7409.21.00 and 7409.29.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under review is dispositive.

Background

On August 12, 1988, the Department published in the **Federal Register** the antidumping duty order on brass sheet and strip (BSS) from the Netherlands (53 FR 30455). On August 12, 1996, the Department published the notice of ''Opportunity to Request Administrative Review'' for the period August 1, 1995 through July 31, 1996 on BSS from the Netherlands (61 FR 41768). In accordance with 19 CFR 353.22(a)(1), OBV requested that we conduct a review of its sales. On September 17, 1996, we published in the **Federal Register** a notice of initiation of this antidumping administrative review (61 FR 48882). This review covers entries of BSS by OBV and its U.S. affiliate Outokumpu Copper (USA), Inc. (OCUSA). On May 12, 1997, the Department published in the **Federal Register** the preliminary results of the administrative review (62 FR 25891). On May 27, 1997, respondent submitted a ministerial error allegation.

On June 11, 1997, petitioners submitted a case brief and on June 18, 1997, respondent submitted a reply brief. Neither petitioners (Hussey Copper, Ltd., The Miller Company, Olin Corporation, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL–CIO/CLC)) nor respondent requested a hearing; therefore, no hearing was held. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act.

Analysis of Comments Received

Comment 1: Reporting of Metal Prices on ''Rework'' Sales

Petitioners allege that for certain home market sales, OBV failed to report a metal price. Petitioners base this claim on OBV's statement in its section B response that ''[r]ework sales may also involve reworking scrap purchased by OBV which is fabricated into a finished product.'' Therefore, petitioners conclude that as the Department has been working with an ''incomplete'' database for the home market sales, the Department should reject the home market database as submitted and resort to use of facts available, or at a minimum, impute the maximum metal cost to these sales.

Respondent replies that petitioners' allegation evidences a misunderstanding of ''rework'' sales as reported by OBV. OBV claims that it accurately reported prices for all sales, including the metal component, where applicable. First, OBV reasserts that when it purchased metal, fabricated the metal, and invoiced the customer for both metal and fabrication, the gross unit price reported to the Department included both metal and fabrication prices. Further, respondent asserts that if a transaction reported in the home market sales list does not provide a metal price, that transaction was a toll sale, whereby the customer supplied the metal, OBV processed the metal and subsequently invoiced the customer solely for fabrication. Therefore, OBV did not report a metal price for these toll sales.

Second, OBV believes that petitioners' allegation results partly from confusion regarding the nature of the types of sales coded in Field 8.5, REWRKH, of OBV's home market sales list. When OBV purchased scrap from a customer and provided fabrication services to the customer, OBV considered these non-toll sales, which it reported to the Department with both a metal and fabrication price. Respondent points out that all sales coded in Field 8.5, with an ''R'' or a ''B,'' are toll sales in which the customer provided the metal to OBV for fabrication and OBV invoiced the customer only for fabrication charges. Sales designated in the sales listing by an ''R'' indicate transactions where the customer provides scrap metal for processing into subject merchandise. Sales designated by a ''B'' indicate transactions where the customer provides virgin metal for processing into subject merchandise. The metal fixation codes for each of these types of transactions evidence a tolling process. Thus, respondent reported a zero metal price for both ''R'' and ''B'' transactions, since there is no applicable metal price for these types of transactions.

Third, respondent argues that at verification the Department verified both types of transactions and verified that OBV reported a metal price for all sales where the customer was actually charged for the metal as well as for the fabrication. The Department found no discrepancies in the sales traces. Finally, respondent notes that a comparison of the average prices charged for rework and regular sales demonstrates a credible difference in pricing.

For the reasons identified above, respondent argues that there is no basis for the Department to apply facts available or to make changes to the reported sales information as the record clearly demonstrates that the sales price data reported by OBV was complete, accurate and fully verified by the Department.

Department's Position: We agree with respondent that it fully reported its sales

in accordance with the Department's instructions. Whenever there was a metal price associated with any given sale, it was reported by OBV. The Department verified several scenarios, including sales of the foreign like product in the ordinary course of trade where customers purchased the fully processed, finished product from OBV. The Department also verified that OBV made what are commonly referred to as ''rework'' or ''tolled sales.'' (See OBV Sales Verification Report, dated April 16, 1997, at 32–37). OBV reported these as either an ''R'' or a ''B'' in Field 8.5, REWRKH, of its home market data base. In this situation, OBV acts purely as a subcontractor. OBV receives raw or semi-finished material (whether scrap or plate) from the unaffiliated customer, which OBV then fabricates into the finished merchandise before sending it back to the customer. OBV performs this service for a fabrication fee and never takes title either to the input product or the finished merchandise.

Comment 2: Constructed Value Profit

Petitioners claim that the Department erroneously disregarded ''rework'' sales from its calculation of constructed value (CV) profit. Petitioners maintain that the Department must include all sales of the foreign like product in the CV profit calculation, whether or not such sales are used as the basis of product comparisons. Petitioners argue that the ''rework'' sales are made in the ordinary course of trade and as such must be included in the calculation of CV profit. Petitioners also argue that the nature of the metal or scrap input does not matter in determining whether these sales are outside of the ordinary course of trade, since the final product produced by OBV is identified by identical product control numbers. They argue that it is unjustifiable to exclude such sales for any reason other than a finding that the sales are outside of the ordinary course of trade. Accordingly, petitioners claim that ''rework'' sales should be included in the calculation of CV profit.

OBV states that the Department properly excluded the rework sales from the calculation of constructed value profit because they are toll sales which should properly be classified as outside of the ordinary course of trade. Rework sales are sales of fabrication services, not sales of the foreign like product. OBV equates its rework sales to toll sales because the customer provides the material to be fabricated by OBV. OBV, in turn, fabricates the material into a finished product that is shipped back to the customer, and the customer is only invoiced for the fabrication service provided by OBV. Respondent reiterates that fabrication does not encompass the sale of a product, and consequently, any profit earned by OBV on toll sales should be excluded from the constructed value calculation for normal sales of brass sheet and strip. OBV further argues that it has been the Department's policy to exclude toll sales from the calculation of normal value, where the U.S. transactions did not involve toll sales. *See Brass Sheet and Strip from the Republic of Korea,* 51 FR 40833, 40834 (November 10, 1986). Thus, respondent urges the Department to continue to follow Department practice and exclude rework/toll sales from the normal value calculation and from the calculation of constructed value profit.

OBV adds, however, that should the Department deviate from its own precedents with regard to the issue of rework/toll sales, as well as its established policy in all reviews of *Brass Sheet and Strip from the Netherlands,* the Department should apply a sales-below-cost test using the data reported by OBV and verified by the Department. Respondent argues that petitioners' recommendation that the Department alter the verified prices reported in OBV's sales list for the rework sales prior to the cost test is legally and factually unsubstantiated. Alternatively, respondent suggests that the Department rely on the reported gross price and the reported cost of production (COP).

Department's Position: Previously, the Department treated tolling operations as involving the sale by the subcontractor of the subject merchandise. Under this view, in tolling situations, ''only the fabrication would be subject to the order on brass sheet and strip.'' *Brass Sheet and Strip From Canada; Final Affirmative Determination of Circumvention of Antidumping Duty Order,* 58 FR 33610, 33612 (June 18, 1993). Accordingly, when possible, the Department compared tolled sales to tolled sales and non-tolled sales to non-tolled sales. *See, e.g., Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Italy,* 52 FR 816 (Jan. 9, 1987); *Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from Canada,* 51 FR 44319 (Dec. 9, 1986).

Recently, however, the Department revised its practice and now considers the party contracting for the tolling, rather than the processor or subcontractor, to be the producer/exporter of the merchandise. *See Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Taiwan,* 61 FR 14064, 14070 (March 29, 1996). The Department's new approach to tolling is reflected in the recently adopted regulations implementing the Uruguay Round Agreements Act (URAA). *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27411 (May 19, 1997) (§ 351.401(h)). These regulations do not govern the present review because the review was initiated prior to the date the regulations became effective. However, to the extent the regulations reflect the Department's practice, they do provide guidance.

In the case of tolling, the Department revised its practice prior to the date the new regulations were proposed. Although this change was not directly necessitated by the URAA, the Department considers its new approach to tolling a more reasonable interpretation of the statute's intent. This is because, as described in the preamble to the proposed regulations, the party owning the components of the subject merchandise, the general contractor who arranges for the outside processing or assembly, ''has ultimate control over how the merchandise is produced and the manner in which it is ultimately sold. The Department will not consider the subcontractor to be the manufacturer or producer, regardless of the proportion of production attributable to the subcontracted operation or the location of the subcontractor or owner of the goods.'' *Antidumping Duties; Countervailing Duties; Proposed Rule,* 61 FR 7308, 7330 (Feb. 27, 1996) (preamble).

Thus, the Department does not view OBV's sales of its tolling services as sales of the foreign like product within the ordinary course of trade. See 19 U.S.C. § 1677b(a)(1) (1995). Therefore, we have not included OBV's reported sales of its tolling services within the home market data base for comparison purposes or otherwise. Similarly, any profit derived from these sales should not be included in the calculation of constructed value.

Comment 3: Packing Conversion Error

Petitioners note that in calculating OBV's packing costs for sales in the United States, the Department divided by the conversion factor when it should have multiplied by the conversion factor in converting pounds to kilograms. Therefore, the Department should correct this error in its final margin calculation program. OBV did not comment.

Department's Position: The Department agrees with petitioners and has corrected this error in the final program.

Comment 4: U.S. Imputed Credit Expenses

Petitioners allege that OBV incorrectly used a home market interest rate, instead of a U.S. interest rate, to determine imputed credit expenses for U.S. sales. Petitioners argue that this is inconsistent with the Department's practice, for the Department usually calculates imputed credit expenses by using a weighted-average, short-term borrowing rate that reflects the currency in which the sale was invoiced. Therefore, given that OBV's U.S. sales were invoiced in U.S. dollars, the U.S. short-term interest rate should be used to determine imputed credit expenses for OBV's U.S. sales.

Petitioners state that the Department should recalculate OBV's U.S. imputed credit expenses using the publicly available U.S. short-term borrowing rate prevailing during the POR, since OBV's actual short-term borrowing rate in the United States is not available. Petitioners suggest that the Department use 8.52 percent, which is the average U.S. prime rate for third-quarter 1995 through second-quarter 1996, as published by the International Monetary Fund (*See International Financial Statistics* at 645 (April 1997)). OBV did not comment.

Department's Position: The Department agrees with petitioners. Ordinarily, the Department calculates imputed credit expenses using a weighted-average, short-term borrowing rate which reflects the currency in which the sale was invoiced. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309, 30324 (June 14, 1996); *Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand,* 60 FR 29553, 29557 (June 5, 1995); and *Final Determination of Sales at Less than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand,* 60 FR 10552 (February 27, 1995). The Department has continued to apply OBV's actual Dutch guilders denominated short-term borrowing rates as reported for all home market sales. OBV had no reported short-term borrowing rates for its sales to the United States, all of which were denominated in U.S. dollars. Therefore, consistent with our current practice, the Department has applied 8.47 percent, the average U.S. prime rate for August 1995 through July 1996, as published by the Board of Governors of the Federal Reserve System. *See Federal Reserve Bulletin* at A22 (July 1997).

Comment 5: Cost of Manufacturing

Petitioners note that the Department's cost of production verification report states that OBV discovered errors in its submitted COM while preparing for verification. Petitioners maintain that for the final determination the Department should correct the errors reported by OBV. OBV did not comment on this issue.

Department's Position: The Department agrees with petitioners and has made the required adjustment to COM in the final margin calculation program.

Comment 6: Direct Cost Center Allocation

Petitioners note that in OBV's normal accounting records, it allocates costs for its direct cost centers on the basis of kilograms processed. However, for this review, OBV allocated costs for two of its costs centers on the basis of linear meters processed. Petitioners argue that section 773(f)(1)(A) of the Act requires and the Department's practice is to rely on the respondent's books and records if they reasonably reflect the costs associated with the cost of producing the subject merchandise. *See Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand,* 60 FR 29533, 29559 (June 5, 1995). Petitioners state that the Department obtained information during verification indicating that the allocation methodology used by OBV in its questionnaire response is not consistent with the allocation methods used by OBV in the normal course of business. Therefore, petitioners conclude that the Department should adjust OBV's reported conversion costs to reflect the cost allocation methods used by OBV in the normal course of business.

Respondent states that the Department must reject petitioners' request to adjust OBV's control number specific costs submitted to the Department. According to OBV, the allocation it uses in the normal course of business assigns costs to broad product groups and fails to capture the cost of the product characteristics defined by the Department. Respondent notes that the Department's Section D questionnaire requires that the submitted costs recognize the differences in physical characteristics of the subject merchandise. Respondent maintains that it developed the linear meters processed allocation methodology in order to accurately report product-specific costs to the Department. Respondent contends that allocating costs based on OBV's normal methodology (*i.e.,* on a per kilogram processed basis), as requested by petitioners, results in control numbers being assigned the same average costs. OBV notes that products with different dimensions require vastly differing amounts of processing time, with thin products undergoing more processing than the average product, while thick products undergo less processing. Respondent states that the cost centers allocated based on linear meters processed are primarily responsible for setting the dimension of the products manufactured. Respondent explains that the allocation of these cost center expenses over linear meters processed most accurately recognizes the differences in processing time in a manner that was tied directly to the company's production and financial records.

Department's Position: We agree with OBV that its method of allocating costs based on linear meters processed is reasonable. As a general matter, section 773(f)(1)(A) of the Act provides:

> Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise.

Accordingly, the Department adheres to an individual firm's recording of costs, if we are satisfied that the methodology reasonably reflects the costs of producing the subject merchandise, and is in accordance with the generally accepted accounting principles (GAAP) of the producer's home country. *See, e.g., Canned Pineapple Fruit from Thailand; Final Determination of Sales at Less Than Fair Value,* 60 FR 29553, 29559 (June 5, 1995); *Certain Stainless Steel Welded Pipe from the Republic of Korea; Final Determination of Sales at Less Than Fair Value,* 57 FR 53693, 53705 (November 12, 1992); and *Furfuryl Alcohol from South Africa: Final Determination of Sales at Less Than Fair Value,* 60 FR 22550, 22556 (May 8, 1995). Normal accounting practices provide an objective standard by which to measure costs, while allowing respondents a predictable basis on which to compute those costs. The Department will only reject or adjust a party's reported costs based upon its normal accounting practices if those practices result in an unreasonable allocation of production costs. *See, e.g., Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components*

Thereof, Whether Assembled or Unassembled, From Japan, 61 FR 38139, 38154 (May 26, 1992).

At the same time, parties may adapt their normal cost accounting system to report data to the Department on a product-specific basis, provided the reporting methodology used is reasonable. *See Canned Pineapple From Thailand,* 60 FR at 29559–60. In the instant proceeding, OBV developed its linear meters processed allocation methodology in order to report its cost of production and constructed value on a product-specific basis to the Department. At verification, the Department requested and analyzed in detail source documents relating both to OBV's normal cost accounting system and its linear meter allocation methodology as reported. *See* OBV COP/CV Verification Report, dated March 2, 1997, at 20. OBV argued and we confirmed that OBV's normal cost accounting system, which relied upon an average cost for all products, did not account for the cost differences associated with varying dimensions of brass sheet products. These cost differences resulted from processing time differences between different thicknesses and grades of brass sheet. Although we have not necessarily determined that OBV's normal cost accounting system does not reasonably reflect OBV's costs for reporting purposes, we have determined that the linear meters processed allocation methodology captures the cost differences between the varying dimensions of brass sheet products. Accordingly, we have determined that OBV's submitted methodology for allocating costs to specific products is reasonable and we have continued to rely upon this methodology for the final results.

Comment 7: Duty Absorption

Petitioners allege that the Department incorrectly stated in its duty absorption analysis that dumped sales through OBV's affiliate were 1.13 percent of total U.S. sales. Petitioners state that previous Department duty absorption findings indicate the duty absorption finding should represent the percentage volume of sales that are dumped over the total U.S. sales in the POR, rather than the percentage margin of dumping. As such, in its final results of this review, the Department should identify in its duty absorption finding only the percent of OBV's U.S. sales (by quantity) where dumping was found. Respondent did not comment on this issue in its reply brief.

Department's Position: The Department agrees with petitioners that when there are margins for particular sales, in our final duty absorption determination, we will provide the percentage (by volume) of sales that are dumped out of the total U.S. sales during the POR. During this review, however, the Department has determined that there is no dumping margin for OBV on any of its U.S. sales during the POR. Therefore, the final duty absorption finding is negative.

Comment 8: Ministerial Error Allegation Regarding Credit Adjustments

On May 27, 1997, respondent alleged that the Department made a ministerial error in the preliminary margin calculation program regarding certain credit adjustments. The Department added these reported credit adjustments in the calculation of home market discounts and rebates. In doing so, respondent claimed that the Department double-counted these credit adjustments as the home market gross unit price was reported net of these credit adjustments. Accordingly, OBV requested that this error be corrected prior to the issuance of the final results. Petitioners did not comment on this allegation.

Department's Position: Based on respondent's submissions and the Department's verification findings, we agree with OBV that the credit adjustment field should not have been included in the calculation of discounts and rebates. This error has been corrected in the Department's final margin calculation program. The Department did not issue an amended preliminary determination because doing so is not the Department's standard practice and the noted error did not significantly affect the preliminary results.

Final Results of Review

As a result of this review, we have determined that the following margin exists for the period August 1, 1995 through July 31, 1996:

Manufacturer/exporter	Percent margin
Outokumpu Copper Strip B.V. (OBV)	0.00

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements shall be effective upon publication of his notice of final results of review for all shipments of the subject merchandise from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for OBV will be the rate as stated above; (2) 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; (3) if the exporter is not a firm covered in this review, or the original less than fair value (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; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash rate will be 16.99 percent, which was the ''all others'' rate as established in the LTFV investigation. The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR section 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) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.22.

Dated: September 9, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–26044 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Orlando, FL

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Cancellation.

SUMMARY: The Minority Business Development Agency is canceling the announcement to solicit competitive applications under its Minority Business Development Center (MBDC) program to operate the Orlando MBDC. The solicitation was originally published in the **Federal Register** on Tuesday, December 17, 1996, Vol. 61, No. 243, Page 66261.

(Catalog of Federal Domestic Assistance: 11.800 Minority Business Development Center.)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26032 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Application: Atlanta, GA

AGENCY: Minority Business Development Agency.

ACTION: Notice

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate its Atlanta, Georgia Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development assistance to persons who are members of groups determined by MBDA to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Atlanta, Georgia geographic service area. The award number of the MBDC will be 04–10–98001–01.

DATES: The closing date for applications is *October 31, 1997.* Applications must be received in the MBDA Headquarters' Executive Secretariat on or before *October 31, 1997.* A pre-application conference will be held on *October 15, 1997,* at 9:00 a.m., at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, N.W., Room 1715, Atlanta, Georgia 30308–3516.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Robert Henderson, Regional Director, at (404) 730–3300. Proper identification is required for entrance into any Federal building.

SUPPLEMENTARY INFORMATION: Under the program guidelines, the Department of Commerce will fund up to 60% of the total cost of operating an MBDC on an annual basis. The MBDC operator is required to contribute at least 40% of the total project cost (the ''cost-share requirement''). Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from February 1, 1998 to February 28, 1999, is estimated at $283,156. The total Federal amount is $283,156 and is composed of $276,250 plus the Audit Fee amount of $6,906. The application must include a minimum cost share of 40%, $188,771 in non-federal (cost-sharing) contributions for a total project cost of $471,927. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof. In addition to the traditional sources of an MBDC's cost-share contribution, the 40% may be contributed by local, state and private sector organizations. It is anticipated that some organizations may apply jointly for an award to operate the center.

The funding instrument for this project will be a cooperative agreement. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). The scoring system will be revised to add ten (10) bonus points to the application of community-based organizations. Each qualifying application will receive the full ten points. Community-based applicant organizations are those organizations whose headquarters and/or principal place of business within the last five years have been located within the geographic service area designated in the solicitation for the award. An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 40% of the total project cost through non-federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Pub. L. 103–121, Sections 606 (a) and (b).

(Catalog of Federal Domestic Assistance: 11.800 Minority Business Development Center)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26034 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Chicago I, Nassau/Suffolk, Orange County, and Las Vegas

AGENCY: Minority Business Development Agency.

ACTION: Cancellation.

SUMMARY: The Minority Business Development Agency is canceling the announcements to solicit competitive applications under its Minority Business Development Center (MBDC) program to operate the Chicago I, Nassau/Suffolk, Orange County and Las Vegas MBDCs. The solicitations were originally published in the **Federal Register** on Tuesday, May 27, 1997, Vol. 62, No. 101, Pages 28673, 28674, 28675 and 28676.

(Catalog of Federal Domestic Assistance: 11.800 Minority Business Development Center)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26033 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Consultant Applications: Nationwide

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its Native American Business Consultant (NABC) Program.

The purpose of the NABC is to provide specialized consultant services to Native American Business Development Centers (NABDC) in areas beyond an NABDC's capacity and/or capability, and provide direct business development services to clients outside of the geographic service area of the NABDC and any other MBDA client service center. The recipient will provide service nationwide. The award number of the NABC will be 98–10–98001–01.

DATES: The closing date for applications is October 31, 1997. Applications must be received on or before October 31, 1997. Anticipated processing time of this award is 120 days. A pre-award conference will be held. For the exact date, time and location of the conference, call (202) 482–2366.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, Office of Strategic Planning, Field Coordination Division, 14th and Constitution Avenue, NW., Room 5075, Washington, DC 20230, (202) 482–6022.

FOR FURTHER INFORMATION CONTACT: Joe Hardy at (202) 482–2366.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from February 1, 1998 to February 28, 1999, is estimated at $205,000. The total Federal amount is composed of $200,000 plus the Audit Fee amount of $5,000. The NABC will provide service nationwide.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of Native American businesses, individuals and organizations (50 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the funding.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. If an application is selected for funding, MBDA has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of MBDA.

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Activities—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Recipients and subrecipients are subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Delinquent Federal Debts—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicants' management honesty or financial integrity.

Award Tetmination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or impart at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the NABC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511,''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurment Debarment and Suspension''and the related section of

the certification form prescribed above applies.

Drug-Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352,''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying''and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipient sand should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Indirect Costs—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100% of the total proposed direct costs dollar amount in the application, whichever is less.

Buy American-Made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-Made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution in Pub.L. 103–121, Section 606 (a) and (b).

(Catalog of Federal Domestic Assistance: 11.801 Native American Program)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26035 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Development Center Application: Cherokee

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate its Native American Business Development Center (NABDC).

The purpose of the NABDC is to provide integrated business development services to Native American entrepreneurs and other eligible clients within its designated geographic service area. The recipient will provide service in the Cherokee, North Carolina, geographic service area. The award number of the NABDC will be 04–10–98002–01.

DATES: The closing date for applications is October 31, 1997. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before October 31, 1997. A pre-application conference will be held on October 15, 1997, at 9:00 a.m., at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, N.W., Room 1715, Atlanta, Georgia 30308–3516.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., ROOM 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Robert Henderson, Regional Director, at (404) 730–3300. Proper Identification is Required for Entrance Into Any Federal Building.

SUPPLEMENTARY INFORMATION: The funding instrument for this project will be a cooperative agreement. Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from February 1, 1998 to February 28, 1999, is estimated at $197,825. The total Federal amount is $197,825 and is composed of $193,000 plus the Audit Fee amount of $4,825. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of Native American businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). On May 31, 1995, MBDA issued an Interim Final Notice in the **Federal Register** which announced the Agency's decision to revise application requirements for its closely related Minority Business Development Center program. This decision was made in order to leverage Federal resources together with those existing in communities, and to build local capacity to impact growth in the nation's minority business sector. In accordance with revised scoring requirements announced in that Notice, MBDA will revise the scoring system in the NABDC program to add ten (10) bonus points to the application of community-based organizations. Each qualifying application will receive the full ten points. Community-based organizations are those organizations whose headquarters and/or principal place of business within the last five years have been located within the geographic service area designated in the solicitation for the award. Where an applicant organization has been in existence for fewer than five years or five years, the individual years of experience of the applicant organization's may be applied toward the requirement of five years of

organization experience. The individual years of experience must have been acquired in the geographic service area which is the subject of the solicitation.

An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted in determining if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the NABDC's performance, the availability of funds and Agency priorities. Anticipated processing time of this award is 120 days.

Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the NABDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, Section 26.105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, Section 26.605) are subject to 15 CFR part 26, subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

(Catalog of Federal Domestic Assistance): 11.801 Native American Program:)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26036 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Development Center Application: Northwest

AGENCY: Minority Business Development Agency

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate its Native American Business Development Center (NABDC).

The purpose of the NABDC is to provide integrated business development services to Native American entrepreneurs and other eligible clients within its designated geographic service area. The recipient will provide service in the States of Washington, Oregon and Idaho geographic service areas. The award number of the NABDC will be 10–10–98001–01.

DATES: The closing date for applications is *November 28, 1997.* Applications must be received in the MBDA Headquarters' Executive Secretariat on or before *November 28, 1997.* A pre-application conference will be held. For the exact date, time and location of the conference, call (415) 744–3001.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th And Constitution Avenue NW., Room 5073, Washington, DC. 20230.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Melda Cabrera, Regional Director, at (415) 744–3001. Proper Identification Is Required For Entrance Into Any Federal Building.

SUPPLEMENTARY INFORMATION: The funding instrument for this project will be a cooperative agreement. Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from March 1, 1998 to March 31, 1999, is estimated at $205,000. The total Federal amount is $205,000 and is composed of $200,000 plus the Audit Fee amount of $5,000. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of Native American businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). On May 31, 1995, MBDA issued an Interim Final Notice in the **Federal Register** which announced the Agency's decision to revise application requirements for its closely related Minority Business Development Center program. This decision was made in order to leverage Federal resources together with those existing in communities, and to build local capacity to impact growth in the nation's minority business sector. In accordance with revised scoring requirements announced in that Notice, MBDA will revise the scoring system in the NABDC program to add ten (10) bonus points to the application of community-based organizations. Each qualifying application will receive the full ten points. Community-based organizations are those organizations whose headquarters and/or principal place of business within the last five years have been located within the geographic service area designated in the solicitation for the award. Where an applicant organization has been in existence for fewer than five years or five years, the individual years of experience of the applicant organization's may be applied toward the requirement of five years of organization experience. The individual years of experience must have been acquired in the geographic service area which is the subject of the solicitation.

An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted in determining if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the NABDC's performance, the availability of funds and Agency priorities. Anticipated processing time of this award is 120 days.

Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply

with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the NABDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

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Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

(Catalog of Federal Domestic Assistance: 11.801 Native American Program)

Dated: September 25, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–26037 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092297A]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1076).

SUMMARY: Notice is hereby given that the California Department of Fish and Game in Sacramento, CA (CDFG) has applied in due form for a permit that would authorize takes of a threatened species for scientific research.

DATES: Written comments or requests for a public hearing on the application must be received on or before October 31, 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

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707 575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

SUPPLEMENTARY INFORMATION: CDFG requests a five-year 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), for takes of juvenile, threatened, southern Oregon/northern California coast coho salmon (*Oncorhynchus kisutch*) associated with fishery studies in drainages throughout the Evolutionarily Significant Unit. Eight CDFG workplans are defined in this application for distribution and abundance surveys. ESA-listed juvenile fish are proposed to be captured by electrofishing, anesthetized, handled (weighed, measured, sampled for tissues and/or scales, and fin-clipped), allowed to recover from the anesthetic, and released. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

Those individuals requesting a hearing on this request for a permit should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: September 24, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–25980 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Central Contractor Registration; OMB Number 0704—[To Be Determined].

Type of Request: Existing Collection In Use Without OMB Approval.

Number of Respondents: 300,000.

Responses per Respondent: 1.

Annual Responses: 300,000.

Average Burden per Response: 1 hour.

Annual Burden Hours: 300,000.

Needs and Uses: The information collection requirement provides for a single fact to industry through a single point of entry for contractors wishing to do business with the Department of Defense. This central registry will be used to provide contractor financial and business information to automated systems used by the contracting and business communities. Respondents are contractors who currently are required to submit a completed ''Solicitation Mailing List Application'' form (SF 129) to each buying activity with which they wish to do business. In addition, a significant percentage of this data is required in solicitation responses as certification and representation of the contractor's size and status. Each completed form is entered into a local data base and the hard copy SF 129 is manually filed. The current redundant manual process is labor intensive, resulting in a high error rate and inconsistent data. A central registration system eliminates the redundancy of the government's information, as well as the duplication of effort on the part of the contractor. Registration is available via the World Wide Web (http://www.acq.osd.mil/ec) and through DoD certified Value Added Networks (VANs). Contractors who do not have access to the WWW can contact their regional Electronic Commerce Resource Center or Procurement Technical Assistance Center for assistance.

Affected Public: Business or Other For-Profit, Not-For-Profit Institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing. WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: September 24, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–25941 Filed 9–30–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Availability of Record of Decision (ROD) for the Program Definition and Risk Reduction Phase of the Airborne Laser Program (PDRR ABL)

On September 16, 1997, the Air Force signed the ROD for the Program Definition and Risk Reduction Phase of the Airborne Laser Program (PDRR ABL). The decisions included in the ROD were made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) filed with the Environmental Protection Agency on June 13, 1997.

The decision rendered by the US Air Force is that the USAF will proceed with PDRR ABL Phase test activities at the following locations:

Home Base activities, including weapon system integration, ground tests and initial aircraft flight tests, will take place at Edwards Air Force Base, California.

Diagnostic test activities for initial short-range PDRR ABL equipment tests with non-destructive low-and high-power laser operations will take place over White Sands Missile Range, New Mexico.

Expanded-area test activities for long-range PDRR ABL equipment checks with low-and high-power laser operations and firing of the high-energy laser will take place over the Western Range (Vandenberg Air Force Base and Point Mugu Naval Air Warfare Center, California). Target missiles will be destroyed during this test phase.

The implementation of the PDRR ABL Phase test activities will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations, and all reasonable and practical efforts have been incorporated to minimize harm to the local public and the environment.

Any questions regarding this matter should be directed to: Major Heidi Brothers (505) 846–7675. Correspondence should be sent to: SMC/TM Airborne Laser System Program Office, 1351 Wyoming Blvd. SE Bldg. 20201, Kirtland Air Force Base, NM 87117–5557.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–25957 Filed 9–30–97; 8:45 am]

BILLING CODE 3901–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning the Civil Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following: RTD/KO(CA)–6 for the transfer of fuel assemblies consisting of 100,000 grams of enriched uranium containing 19,900 grams of the isotope U–235 (less than 20 percent enrichment) from Canada to Republic of Korea for use as additional fueling for the HANARO research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 25, 1997.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 97–26004 Filed 9–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Solicitation for Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of solicitation for financial assistance: DE-PS07–98ID13589—Geothermal Reservoir Technology Research, Development and Demonstration.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID), under the authority of the

Geothermal Energy Research, Development and Demonstration Act of 1974 (Pub. L. 93–410), is seeking applications for research, development and demonstration (field testing) in the area of Geothermal Reservoir Technology. The research is to be directed toward the domestic use and development of new technologies for exploration, identification of fractures, location of fracture permeability, and reservoir engineering and chemistry. Proposals involving work in foreign countries will not be considered. This solicitation will remain open for two years. Federal funds available for this solicitation are expected to be from $0–$5,000,000 annually. DOE anticipates making several grant/cooperative agreement awards for projects with durations of five years or less.

FOR FURTHER INFORMATION CONTACT: Carol Bruns, Contract Specialist, Procurement Services Division; U.S. Department of Energy; Idaho Operations Office; 850 Energy Drive, MS 1221, Idaho Falls, ID 83401–1563; telephone (208) 526–1534, facsimile (208) 526–5548, e-mail brunscl@inel.gov. The Contracting Officer is Brad Bauer, (208) 526–0090.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research & Development. The solicitation text is expected to be posted on the DOE–ID Procurement Services Division home page on or about October 1, 1997, and may be accessed using Universal Resource Locator address http://www.inel.gov/doeid/solicit.html. Application package forms will not be included on the home page and should be requested from the contract specialist. Requests for application packages must be in writing and shall include: company name, mailing address, point of contact, telephone number, and fax number.

Issued in Idaho Falls, Idaho, on September 24, 1997.

Dated: September 24, 1997.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 97–26003 Filed 9–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–363–009]

El Paso Natural Gas Company; Notice of Report of Rate Refunds

September 25, 1997.

Take notice that on September 22, 1997, El Paso Natural Gas Company (El Paso) tendered for filing its Report of Rate Refunds at Docket No. RP95–363–000, *et al.*

El Paso states that the Report of Rate Refunds reflects refunds that were distributed to eligible shippers on August 22, 1997.

El Paso states that the refunds totaled $194,003,358.09 inclusive of interest. El Paso states that it also sent invoices to 11 shippers totaling $24,511.28 for additional amounts due under the Settlement.

El Paso states that copies of the document were served upon all interstate pipeline system customers who received a refund distribution and affected state regulatory commissions in accordance with the requirements of Section 385.2010 of the Commission's Rules of Practice and Procedure. El Paso states that each customer received its pertinent detail (included in Volume No. 2) when refunds were distributed. El Paso states that it was not furnishing the complete Volume No. 2 to all customers, since it may contain information that is commercially sensitive to those customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 2, 1997. 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. 97–25963 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket Nos. RP97–346–006 and RP93–187–014]

Federal Energy Regulatory Commission

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

September 25, 1997.

Take notice that on September 19, 1997, Equitrans, L.P. (''Equitrans'') tendered for filing as part of its FERC Gas Tariff the following revised tariff sheets:

First Revised Eighth Revised Sheet No. 5
First Revised Eighth Revised Sheet No. 6
First Revised Eighth Revised Sheet No. 7
First Revised Eighth Revised Sheet No. 8
First Revised Eighth Revised Sheet No. 10

Equitrans proposes an effective date of August 1, 1997 for these tariff sheets.

Second Sub Fifth Revised Sheet No. 7
Second Sub Fifth Revised Sheet No. 7A
Substitute First Revised Sheet No. 255
Substitute First Revised Sheet No. 256

Equitrans proposes an effective date of September 1, 1997 for these tariff sheets.

Equitrans states that these revised tariff sheets are submitted in compliance with the Commission's September 10, 1997 Order Accepting Primary Tariff Sheets Subject to Conditions and Rejecting Alternative Tariff Sheets for the purpose of: (1) filing revised tariff sheets that comply with the prior rate settlement in Docket No. RP93–187, *et al.* to be effective August 1, 1997 establishing rates for all services which reflect the elimination of gathering costs from transportation rates and establishment of separate gathering and transportation retainage levels; and (2) filing revised tariff sheets to be effective September 1, 1997 eliminating the stranded gathering surcharge from the rates charged for Equitrans open access and individually certificated storage services.

Copies of this rate filing were served on the parties to this proceeding, as well as Equitrans' jurisdictional customers and interested state commissions, and a copy of the rate filing has been posted and is available for inspection at Equitrans' corporate headquarters during regular business hours.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20046, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed as

provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining appropriate action, 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. 97–25964 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–764–000]

KN Interstate Gas Transmission Company; Notice of Request Under Blanket Authorization

September 25, 1997.

Take notice that on September 19, 1997, KN Interstate Gas Transmission Company (KNI), P.O. Box 281304, Lakewood, Colorado, 80228, filed in Docket No. CP97–764–000 a request pursuant to Sections 157.205, 157.212, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for approval to relocate a delivery point located in the state of Nebraska, to accommodate natural gas deliveries to a town distribution system operated by K N Energy, Inc., under KNI's blanket certificate authority issued in Docket No. CP89–1043–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

KNI specifically proposes to install and operate new delivery facilities for the town of Broken Bow, Nebraska. KNI further proposes to abandon the existing delivery facilities upon completion of the new town border facilities. KNI estimates that the cost to construct the new facilities is $75,000 and that the cost to abandon the existing facilities is $2000. KNI asserts that new town border station proposed herein will have a maximum daily design capacity of 5,700 Mcf and that the instant proposal will have no adverse impact on KNI'S system operations on either a peak day or annual basis. Additionally, KNI asserts that no customer of KNE will have its service diminished as a result of the proposal set forth herein.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25960 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–763–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

September 25, 1997.

Take notice that on September 19, 1997, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP97–763–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon a 1-inch tap and meter station used to serve Venture Oil Company (Venture) located in Jasper County, Mississippi. Koch Gateway makes such request under its blanket certificate issued in Docket No. CP82–430 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that the tap is located entirely within Koch Gateway's existing right-of-way. Koch Gateway proposes to plug the tap and to remove all associated above ground facilities.

Koch Gateway indicates that the facilities were installed sometime in 1952, at an estimated cost of somewhere between $200–$400,[1] to provide interruptible transportation service of up to 1,000 Mcf per day. However, Koch Gateway was able to cite a Commission order, where Koch Gateway was granted authority to provide transportation service to this delivery tap in conjunction with direct sales service to Exxon Co. U.S.A., Inc.[2] Since then, Tenneco Oil Company and then Venture acquired the Exxon facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25959 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–767–000]

Panhandle Eastern Pipe Line Company; Notice of Request Under Blanket Authorization

September 25, 1997.

Take notice that on September 23, 1997, Panhandle Eastern Pipe Line Company (Panhandle), Post Office Box 1642, filed a request with the Commission in Docket No. CP97–767–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install two hot taps, metering and appurtenant facilities for delivery of natural gas to Getty Gas Gathering Company (Getty) in Marion County, Kansas authorized in blanket certificate issued in Docket No. CP83–83–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

[1] Koch Gateway states that after a diligent search of its records, it was unable to report the complete certificate history of the tap, or locate the accounting entry for the installation of the tap.

[2] Koch Gateway Pipeline Company, 41 FERC ¶ 61,306 (1987) in Docket No. CP87–432–000.

Panhandle proposes to construct and operate metering and appurtenant facilities, in order to deliver up to 20 MMcf per day of natural gas to Getty to be redelivered to Getty's Texaco refinery in Butler County, Kansas. The estimated cost of constructing the proposed facilities is approximately $519,000.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25961 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–359–003]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

September 25, 1997.

Take notice that on September 22, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to become effective September 23, 1997.

Substitute Original Sheet No. 456A
Substitute Original Sheet No. 456B

Texas Eastern asserts that the purpose of this filing is to comply with the Commission's order issued September 11, 1996, in Docket Nos. RP97–359–001 and RP97–359–002, which required two further modifications to pro forma tariff sheets previously filed on June 13, 1997 and required that the pro forma tariff sheets be refiled as actual tariff sheets.

Texas Eastern states that the above listed tariff sheets contain provisions which provide the two required modifications to pro forma tariff sheets previously filed on June 13, 1997 and that the pro forma tariff sheets are herewith refiled as actual tariff sheets as required by the September 11, 1997 order.

Texas Eastern states that copies of the filing were served on all firm customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, 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. 97–25965 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

September 25, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Amendment of License.

b. Project No.: 9985–024.

c. Date filed: May 22, 1997.

d. Applicant: Rivers Electric Company, Inc.

e. Name of Project: Mill Pond.

f. Location: On Catskill Creek, in Greene County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Robert E. King, Rivers Electric Company, Inc., 25 Cliff Street, Arlington, MA 02174, (617) 648–0432.

i. FERC Contact: Michael Spencer, (202) 219–2846.

j. Comment Date: November 10, 1997.

k. Description of Amendment: The amendment of license would consist of: (1) Increasing the elevation of the dam crest by one foot, and (2) replacing the 2-foot-high flashboards with 3-foot-high automated crest gates. The purpose of the amendment is to increase the head from 24 feet to 26 feet. The licensee states that the project currently operates below its authorized capacity and the increase in head would bring the capacity closer to the authorized 1,050 kW. The reservoir would increase from 2.5 to 3.0 acres.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Invervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene is accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25962 Filed 9–30–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00225; FRL–5748–3]

Notice of Availability of Pollution Prevention Grants and Announcement of Financial Assistance Programs Eligible for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Pollution Prevention Grants.

SUMMARY: EPA expects to have approximately $5 million available in fiscal year 1998 grant/cooperative agreement funds under the Pollution Prevention Incentives for States (PPIS) grant program. The grant dollars are targeted at State and Tribal programs that address the reduction or elimination of pollution across all environmental media: air, land, and water. Grants/cooperative agreements will be awarded under the authority of the Pollution Prevention Act of 1990.

FOR FURTHER INFORMATION CONTACT: Your EPA Regional Pollution Prevention Coordinator. Contact names for each Regional Office are listed under Unit VII. of this document.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and the Guidance document are available from the EPA home page at the Federal Register-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/ fedrgstr/).

Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 3055 for a copy of the 1998 Guidance document.

I. Background

Approximately $50 million has been awarded to more than 100 State and Tribal organizations under EPA's multimedia pollution prevention grant program, since its inception in 1989.

In November 1990, the Pollution Prevention Act of 1990 (the Act) (Pub. L. 101–508) was enacted, establishing as national policy that pollution should be prevented or reduced at the source whenever feasible. Section 6603 of the Act defines source reduction as any practice that:

(1) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal.

(2) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

EPA further defines pollution prevention as the use of other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources, or protection of natural resources by conservation.

Section 6605 of the Act authorizes EPA to make matching grants to States to promote the use of source reduction techniques by businesses. In evaluating grant applications, the Act directs EPA to consider whether the proposed State program will:

(1) Make technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice and to assist in the development of source reduction plans.

(2) Target assistance to businesses for which lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques.

In addition to this grant making authority, the Act authorized EPA to establish a national source reduction clearinghouse and expanded EPA's authorities to collect data to better track source reduction activities. The Act also requires EPA to report periodically to Congress on EPA progress in implementing the Act.

II. Availability of FY 98 Funds

EPA expects to have approximately $5 million in grant/cooperative agreement funds available for FY 1998 Pollution Prevention activities. The Agency has delegated grant making authority to the EPA Regional offices. Regional offices are responsible for the solicitation of interest, the screening of proposals, and the actual selection of awards. PPIS grant guidance will be provided to all applicants along with any supplementary information the Regions may wish to provide.

All applicants must address the national program criteria listed under Unit V.2. of this document. In addition, applicants may be required to meet supplemental Regional criteria. Interested applicants should contact their Regional Pollution Prevention Coordinator for more information (see Unit VII. of this document for the listing of Regional Pollution Prevention contacts).

III. Catalogue of Federal Domestic Assistance

The number assigned to the PPIS program in the Catalogue of Federal Domestic Assistance is 66.708 (formerly 66.900).

IV. Matching Requirements

Organizations receiving pollution prevention grant funds are required to match Federal funds by at least 50 percent. For example, the Federal government will provide half of the total allowable cost of the project, and the State will provide the other half. A grant request for $100,000 would support a total allowable project cost of $200,000, with the State also providing $100,000. State contributions may include dollars, in-kind goods and services, and/or third party contributions.

V. Eligibility

1. *Applicants.* In accordance with the Act, eligible applicants for purposes of funding under this grant program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State including State universities, and all Federally recognized Native American tribes. For convenience, the term ''State'' in this notice refers to all eligible applicants. Local governments, private universities, private nonprofit entities, private businesses, and individuals are not eligible. The organizations excluded from applying directly are encouraged to work with eligible applicants in developing proposals that include them as participants in the projects. EPA strongly encourages this type of cooperative arrangement.

2. *Activities and criteria*—a. *General.* The purpose of the PPIS grant program is to support the establishment and expansion of State and Tribal multimedia pollution prevention programs. EPA specifically seeks to build State pollution prevention capabilities or to test, at the State level, innovative pollution prevention approaches and methodologies. Funds awarded under the PPIS grant program must be used to support pollution prevention programs that address the transfer and reduction of potentially harmful pollutants across all environmental media: air, water, and land. Programs should reflect comprehensive and coordinated pollution prevention planning and implementation efforts State-wide.

b. *1998 National Criteria.* There are a growing number of business assistance

organizations established within States interacting with businesses in an increasing number of areas, including environmental concerns. Consequently, as a means to provide substantive support of pollution prevention, EPA is eager to ensure that the PPIS grants will add to the success and sustainability of State environmental assistance providers and contribute to the development of a cooperative network of coordinated business assistance providers. Through the PPIS grant funds, EPA seeks to leverage the expertise of the various environmental assistance organizations to work jointly with business assistance organizations in an effort to provide seamless assistance to industry. To this end, applicants must provide documentation showing they have entered into a partnership agreement with at least one environmental and/or business assistance provider in their State.

EPA also believes it is important for the sustainability of State pollution prevention programs to complement the goals and strategies of the State Performance Partnership Agreements (PPAs), and Performance Partnership Grants (PPGs) under the National Environmental Performance Partnership System (NEPPS) or for those States not participating in the PPAs and PPGs, to show that the pollution prevention work they are undertaking complements and supports the State's environmental strategic plans. EPA encourages all applicants to develop proposals focused on priority industrial sectors, geographic areas, and/or State and Federal Reinvention activities (if applicable). Where the State environmental programs may lack a single comprehensive environmental strategy, PPIS applications must show a correlation between the proposed activity and the environmental goals, or objectives of the State environmental program. The application must demonstrate how the proposed pollution prevention activities will advance State environmental goals as stated in either PPAs, PPGs, or other State environmental strategic planning documents. Applicants submitting proposals that do not show a correlation between the environmental goals of the State and the proposed pollution prevention activity will not be considered eligible for funding.

EPA, through the PPIS grants, is also working to encourage better awareness by the state regulatory and media programs of how pollution prevention and the State pollution prevention programs are helping the regulatory programs address their ever growing and increasingly complex environmental management problems. To address this, applications must include activities the pollution prevention program will undertake to ensure communication and feedback to the regulatory programs showing how pollution prevention is helping to advance multimedia environmental protection.

Based on the above, proposals that do not address these three criteria will not be eligible for funding. In summary, in the narrative of the grant application, the following three requirements must be clearly addressed:

(1) Identify the partnering organization(s) and demonstrate or document the relationship. This can be done, for example, through a letter of agreement, a joint statement, or principles of agreement signed by both parties or multiple parties.

(2) Describe how the activities proposed in the grant will support the State's PPA, PPG under NEPPS, or where the State is not participating in the PPA - PPG process, show how the proposal complements the goals and objectives laid out in State strategic planning documents. Applications must show a correlation between the proposed activity and the environmental goals or objectives of the State environmental program if the State environmental program lacks a single comprehensive environmental strategy. Proposals must include copies of language from PPAs, PPGs, or other strategic planning documents and show directly how P2 will be used to support those goals and objectives.

(3) Describe the outreach and communication strategies that will be undertaken to ensure that the State's regulatory and environmental programs are made aware of the pollution prevention activities in their State and how those activities are addressing multimedia environmental management problems. For example, a work plan might incorporate identifiable activities which supply relevant source reduction information to the affected regulatory program.

Applicants should consult the PPIS program guidance for more detailed information on the 1998 goals and criteria.

Proposals accepted for review under this program must qualify as pollution prevention as defined by EPA.

3. *Program management.* Awards for FY 1998 funds will be managed through the EPA Regional Offices. Applicants should contact their EPA Regional Pollution Prevention Coordinator to obtain specific deadlines for submitting proposals. National funding decisions will be made by April 1998.

4. *Contacts.* Interested applicants are requested to contact the appropriate EPA Regional Pollution Prevention Coordinator listed under Unit VI. of this document to obtain specific instructions and guidance for submitting proposals.

VI. State Single Point of Contact

This program is eligible for review under Executive Order 12372. States must notify the following office in writing within 30 days of this publication whether their State's official E.O. 12372 process will review applications in this program: Policy, Information and Training Branch, Grants Administration Division (3903R), U.S. EPA, 401 M St., SW., Washington, DC 20460, Attention: Carol H. Hoffman.

Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out if the program is subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. Please note that federally recognized tribal organizations are not required to comply with this procedure.

VII. Regional Pollution Prevention Contacts

Region 1: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Mark Mahoney, JFK Federal Bldg/SPN, Boston, MA 02203, Telephone: (617) 565–1155.

Region II: (New Jersey, New York, Puerto Rico, Virgin Islands), Janet Sapadin, (2-OPM-PPI), 290 Broadway, 25th Floor, New York, NY 10007, Telephone: (212) 637–3584.

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Jeff Burke, (3EP10), 841 Chestnut Bldg., Philadelphia, PA 19107, Telephone: (215) 566–2761.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Bernie Hayes, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303, Telephone: (404) 562–9430.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Phil Kaplan, (DRP-8J), 77 West Jackson Blvd., Chicago, IL 60604, Telephone: (312) 353–4669.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Eli Martinez, (6EN-XP), 1445 Ross Ave., 12th Floor, Suite 1200, Dallas, TX 75202, Telephone: (214) 665–2119.

Region VII: (Iowa, Kansas, Missouri, Nebraska), Marc Matthews, (ARTD/TSPP), 726 Minnesota Ave., Kansas

City, KS 66101, Telephone: (913) 551–7517.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Linda Walters, (8P2-P2), 999 18th St., Suite 500, Denver, CO 80202, Telephone: (303) 312–6385.

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam) (WST-1-1), Bill Wilson, 75 Hawthorne Ave., San Francisco, CA 94105, Telephone: (415) 744–2192.

EPA Region X: (Alaska, Idaho, Oregon, Washington), Carolyn Gangmark, 1200 Sixth Ave., Seattle, WA 98101, Telephone: (206) 553–4072.

Dated: September 23, 1997.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 97–26014 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00502; FRL–5742–1]

Proposed Pesticide Amendment Reinvention Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is soliciting comments on a proposed revised policies and procedures concerning certain types of registration amendments. The proposal is available in a draft Pesticide Registration (PR) Notice entitled ''Notifications, Non-notifications and Minor Formulation Amendments'' which is available upon request. Interested parties may request a copy of the Agency's proposed policy as set forth in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number ''OPP–00502,'' must be received on or before December 1, 1997.

ADDRESSES: Submit written comments identified by the docket control number OPP–00502 by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments directly to the OPP docket which is located in Rm. 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PR Notice is available by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

Comments and data may also be submitted electronically by following the instructions under Unit V. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Kempter (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 713E, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5448, e-mail: kempter.carlton@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and the PR Notice are available from the EPA home page at the Federal Register-Environmental Documents entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 6102 for a copy of the PR notice.

This **Federal Register** notice announces the availability of the draft PR Notice and solicits comment on the proposed policy. If, after reviewing any comments, EPA determines that changes to the Notice are warranted, the Agency will revise the draft PR Notice prior to release.

I. Purpose

The purpose of the proposed PR Notice is to reinvent the registration process by expanding the types of minor amendments which may be accomplished by notification, non-notification, or minor formula changes. The proposed PR Notice will supersede the document now in effect, PR Notice 95-2 (May 31, 1995). The goal of this notice is to increase the efficiency and timeliness of the registration amendment process so as to reduce regulatory burdens while maintaining protection to human health and the environment.

II. Applicability

The proposed PR Notice will apply to all applicants seeking minor registration amendments which meet the criteria in the notice.

III. Contents of the PR Notice

The proposed PR Notice simply expands the current PR Notice 95-2 to include more kinds of minor labeling amendments which may be accomplished by notification or non-notification. In addition, the proposed notice revises the process for submission and review of notifications to reflect the new requirements of the Food Quality Protection Act of 1996.

IV. Submission of Confidential Business Information

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

V. Public Record

A record has been established for this action under docket number ''OPP–00502'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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 action, 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 in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: September 22, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–26016 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66245; FRL 5743–3]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by March 30, 1998, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall #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 the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 35 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00645	Bicep Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine
		2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000100–00731	Bicep Lite Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-*s*-triazine
		2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
000352–00370	Du Pont Lannate L Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000352 CA–81–0007	Dupont Lannate SP Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
		S-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
		S-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000352 CA–85–0052	Du Pont Lannate Methomyl Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000352 DE–80–0009	Du Pont Lannate Methomyl Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000352 FL–78–0037	Du Pont Lannate Methomyl Insecticide	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
000861–00072	Wintergreen Mint-Odor Germicide	Potassium 2-benzyl-4-chlorophenate
001057–00061	Mintol-128 Fragrant Mint Disinfectant	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
001270–00085	Zep 50% Malathion Emulsifiable Concentrate	*O,O*-Dimethyl phosphorodithioate of diethylmercaptosuccinate
003125–00339	Pryfon 6 Insecticide	1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate
003125–00442	Laser Flea Killer	*N*-Octyl bicycloheptene dicarboximide
		O,O-Diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-
003125 CA–80–0186	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 CA–83–0064	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 CA–84–0218	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 CA–87–0014	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 CA–88–0020	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 CA–88–0021	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–81–0009	Monitor 4	*O,S*-Dimethyl phosphoramidothioate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
003125 FL–81–0012	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–81–0033	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–81–0034	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–92–0012	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–96–0013	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003635–00268	Fba-1 Mildew Fungistatic Film	2-Benzyl-4-chlorophenol
005747–00007	Concentrated Arofect Pine Odor Disinfectant	2-Benzyl-4-chlorophenol
		Pine oil
005747–00014	ARO Mint Disinfectant	2-Benzyl-4-chlorophenol
008220–00058	X-O-Trol Flea and Tick Household Spray	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-,
		Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
008220–00059	X-O-Trol Flea & Tick Fogger	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-,
		Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
008220–00060	X-O-Trol Flea and Tick Spray for Dogs	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-,
		Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
008220–00062	X-O-Trol Flea & Tick Fogger	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-,
		Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
010370–00308	Blanco Non Selective Weed Killer Concentrate	5-Bromo-3-sec-butyl-6-methyluracil
010404–00064	Turfic Trichlorfon 6.2% Insecticide Granules	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
030942–00004	Algacide 701	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
056473–00003	Amersperse 280	Disodium ethylenebis(dithiocarbamate)
		Sodium dimethyldithiocarbamate

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000861	Uncle Sam Chemical Co., Inc., 575 W. 131st St., New York, NY 10027.
001057	C.B. Dolge Co., Rochester Midland, 333 Hollenbeck Street, Box 1515, Rochester, NY 14603.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
003635	Dubois Chemicals, Agent For: Dubois Chemicals, 3630 E. Kemper Rd., Sharonville, OH 45241.
005747	Arrow Chemical Products Inc., 2067 St. Anne St., Detroit, MI 48216.
008220	Carter-Wallace, Inc., Lambert Kay Division, Box 1418, Cranbury, NJ 08512.
010370	AgrEvo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
010404	Lesco Inc., 20005 Lake Rd., Rocky River, OH 44116.
030942	Scientific Boiler Water Conditioning Co., 1 Maple Ave, Linden, NJ 07036.
056473	Ashland Chemical Co., Drew Ameroid Marine Division, One Drew Plaza, Boonton, NJ 07005.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before March 30, 1998. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: September 16, 1997.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 97–26017 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted

Released: September 22, 1997.

Notice is hereby given that the states listed below have applied to the Commission for State Telecommunications Relay Service (TRS) Certification. Current state certifications expire July 25, 1998. Applications for certification, covering the five year period of July 26, 1998 to July 25, 2003, must demonstrate that the state TRS program complies with the Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. § 225. These rules are codified at 47 CFR §§ 64.601–605.

Copies of applications for certification are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM. Interested persons may file comments with respect to those applications on or before November 7, 1997. Comments should reference the relevant state file number of the state application that is being commented upon. One original and five copies of all comments must be sent to William F. Caton, Acting Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Two copies also should be sent to the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Room 235, Washington, D.C. 20554.

Applicants for State Certification

File No: TRS–97–01,
Applicant: Florida Public Service Commission, State of Florida
File No: TRS–97–02,
Applicant: Hawaii Public Utilities Commission, State of Hawaii

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov, at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25789 Filed 9–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review and approval of the information collection system described below.

Type of Review: Revision of currently approved collection.

Title: Independent Audits and Reporting Requirements.

Form Number: None.

OMB Number: 3064–0113.

Annual Burden: Number of Respondents: 420. Number of Responses per Respondent: 3. Total Annual Responses: 1,260. Hours per Response: 32. Total Annual Burden Hours: 40,320.

Expiration Date of OMB Clearance: September 30, 1998.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before October 31, 1997 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) (''FDI Act'') imposes auditing and reporting requirements on insured depository institutions which are implemented by the FDIC's 12 CFR part 363. Pursuant to part 363, an insured depository institution which has total assets of $500 million or more: files an annual report including audited financial statements, management's statement of its responsibilities and assessment of its internal control structure and its compliance with designated safety and soundness laws and regulations, and an auditor's attestation regarding management's assessments; and, notifies the FDIC when it selects or changes its independent public accountant. The FDIC proposes to revise the collection by deleting Schedule A ''Agreed Upon Procedures for Determining Compliance with Designated Laws,'' from Appendix A of part 363. This revision will conform the collection to the deletion of Section 36(e) of the FDI Act by Section 2301 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Dated: September 25, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–25949 Filed 9–30–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1188–DR]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1188–DR), dated September 17, 1997, and related determinations.

EFFECTIVE DATE: September 17, 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, in a letter dated September 17, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Illinois, resulting from severe thunderstorms and flash flooding on August 16–17, 1997, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Lawrence L. Bailey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Illinois to have been affected adversely by this declared major disaster: Cook County for Individual Assistance.

All counties within the State of Illinois are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–26028 Filed 9–30–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, by October 14, 1997.

Agreement No.: 202–010689–067.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Neptune Orient Container Line, Inc.
Nippon Yusen Kaisha, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.

Synopsis: The proposed amendment would reduce from three days to two days, the notice period required before a member line may take independent action on cargo which will not fit in standard sized containers or on ''out-of-gauge cargo.'' The parties have requested a shortened review period.

Dated: September 25, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–25940 Filed 9–30–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 3040
Name: AAA Forwarding Company
Address: P.O. Box 298, 1047 Moorefield Road, Suite 200, Collierville, TN 38017
Date Revoked: August 1, 1997.
Reason: Surrendered license voluntarily.

License Number: 3403
Name: Associated Shipping Agencies Ltd.
Address: 100 Brook Drive, Dover, NJ 07801
Date Revoked: August 12, 1997.
Reason: Surrendered license voluntarily.

License Number: 1780
Name: B.W.S. Trade Coordinators, Inc.
Address: 115 Essex Road, Summit, NJ 07901
Date Revoked: May 31, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 2029
Name: Cadenas International Freight Forwarding, Inc.
Address: 8046 West 18th Lane, Hialeah, FL 33014
Date Revoked: June 26, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3341
Name: Christa Katten d/b/a World Bridge
Address: 2135 St. John Ct., Santa Rosa, CA 95403
Date Revoked: September 3, 1997.
Reason: Surrendered license voluntarily.

License Number: 3909
Name: E.R.A. Freight Forwarding Inc.
Address: 3019 N.W. 74th Avenue, 2nd Floor, Miami, FL 33122
Date Revoked: July 9, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 96
Name: Frederic Henjes Jr., Inc.
Address: P.O. Box 361, Lake Worth, FL 33460
Date Revoked: August 15, 1997.
Reason: Surrendered license voluntarily.

License Number: 1668
Name: Freight Express International, Inc.
Address: 138–01 Springfield Boulevard, Jamaica, NY 11413
Date Revoked: June 30, 1997.
Reason: Surrendered license voluntarily.

License Number: 1422
Name: Glenn Ellyn Storage Corporation
Address: 1530 Wrightwood Ct., Addison, IL 60101
Date Revoked: August 4, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 4280
Name: I.C.A.T. Logistics, Inc.
Address: 1340 Charwood Road, Suite G, Hanover, MD 21076
Date Revoked: July 10, 1997.
Reason: Surrendered license voluntarily.

License Number: 3509
Name: International Container Transport, Inc.
Address: 430 Mountain Avenue, Murray Hill, NJ 07974
Date Revoked: July 14, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 4145
Name: Intrepid Overseas Shipping Corporation
Address: 440 Benmar Drive, Suite 1030, Houston, TX 77060
Date Revoked: May 20, 1997.
Reason: Surrendered license voluntarily.

License Number: 4203
Name: JF Hillebrand USA West Coast, Inc.
Address: 621 West Spain Street, Sonoma, CA 95476
Date Revoked: July 25, 1997.
Reason: Surrendered license voluntarily.

License Number: 2041
Name: La-Rama Shipping Company, Inc.
Address: P.O. Box 1723, Savannah, GA 31402
Date Revoked: August 8, 1997.
Reason: Surrendered license voluntarily.

License Number: 152
Name: Maron Shipping Agency, Inc.
Address: 20 Vesey Street, New York, NY 10007
Date Revoked: May 17, 1997.
Reason: Surrendered license voluntarily.

License Number: 1138
Name: McCandless, Inc.
Address: One Canal Place, Suite 2100, New Orleans, LA 70130
Date Revoked: July 29, 1997.
Reason: Surrendered license voluntarily.

License Number: 113
Name: Nehls & O'Connell Inc.
Address: 151–06 132nd Avenue, Jamaica, NY 11434
Date Revoked: June 23, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 4166
Name: O'Keefe and Associates, Inc.
Address: 525 Sandy Creek Drive, Brandon, FL 33511
Date Revoked: July 30, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 2299
Name: Oscar Import & Export Corp.
Address: 7 Dey Street, New York, NY 10007
Date Revoked: May 25, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3898
Name: Partec Forwarding Corporation
Address: 6960 N.W. 50th Street, Miami, FL 33166
Date Revoked: June 12, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3225
Name: Pioneer General, Inc.
Address: 3401–F N.W. 72nd Avenue, Miami, FL 33122
Date Revoked: June 26, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3689
Name: Vialoma Trading Corporation d/b/a Singen Shipping
Address: 1030 Washington Street, Hollywood, FL 33019
Date Revoked: July 25, 1997.
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97–25939 Filed 9–30–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Monday, October 6, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed 1998–99 Federal Reserve Board budget objective.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 29, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26132 Filed 9–29–97; 11:17 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 10:30 a.m., Monday, October 6, 1997, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 29, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26133 Filed 9–29–97; 11:15 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–126]

Formation of the Community/Tribal Subcommittee of the ATSDR Board of Scientific Counselors and Solicitation of Volunteers To Serve as Special Consultants

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces ATSDR's intent to establish the Community/Tribal Subcommittee of the Board of Scientific Counselors (BSC), ATSDR and solicits interested parties to serve as special consultants. This will be a standing Subcommittee to provide the Board with input, recommendations, and advice on ATSDR's community and tribal community involvement practices, programs, and policies from community/tribal members who live near hazardous waste sites or are otherwise affected by hazardous substances in the community environment. The Subcommittee will be established, at the request of the Assistant Administrator, ATSDR, to provide the agency, through its Board of Scientific Counselors with a formal vehicle for citizen input.

FOR FURTHER INFORMATION CONTACT: To express interest in serving as special consultants and obtain additional information, contact: Triangle Associates, Inc., 811 First Avenue, Suite 255, Seattle, WA 98104, telephone 800–216–1743 (toll free) or 206–583–0655, FAX 206–382–0669. Applications must be received by Triangle Associates by October 15, 1997.

The ATSDR contact person for this program is: Charles Xintaras, Sc.D., Executive Secretary, Board of Scientific Counselors, ATSDR (MS E–28), 1600 Clifton Road, NE., Atlanta, GA 30333, telephone (404) 639–0708.

SUPPLEMENTARY INFORMATION: ATSDR conducts public health-related activities at hazardous waste sites and releases, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*). ATSDR established a BSC which is chartered under the Federal Advisory Committee Act (5 U.S.C. app.). In 1994, the chair of the BSC, ATSDR, appointed three community/tribal representatives as consultants to ensure that its deliberations include the views of community and tribal members who live around Superfund and other hazardous waste sites and are representatives of groups that work at local, regional, or national locations with these affected communities. To supplement the work of these consultants, nine additional community/tribal representatives will be added as consultants to this newly formed standing Subcommittee of the BSC. Two members of the BSC will serve on this Subcommittee, one of which will be appointed as chair.

The Community/Tribal Subcommittee's objective will be to provide the BSC, ATSDR, with the views and recommendations of community/tribal representatives on ATSDR's community involvement program, practices and policies, and other relevant issues impacting communities and tribes who live near Superfund and hazardous waste sites. The Subcommittee will review ATSDR's community involvement practices, programs, and policies; provide advice, findings, and recommendations to the Board on these issues; and bring broad-based community/tribal involvement issues to the attention of the Board of Scientific Counselors.

The Subcommittee will present findings, advice, and recommendations to the full Board. The BSC will discuss and review reports of the Subcommittee and may forward recommendations to ATSDR for action. The Community/Tribal Subcommittee will periodically meet or hold conference calls.

A slate of candidates for the Community/Tribal Subcommittee will be selected by a Planning Committee consisting of a BSC member, the three above-mentioned community/tribal consultants, and two additional community representatives. The Planning Committee, assisted by an ATSDR-contracted facilitator, will perform outreach activities at communities around National Priorities List (NPL) and other hazardous wastes

sites to elicit interest by community members in serving on the Community/Tribal Subcommittee. From responses to these efforts and to this **Federal Register** notice, a pool of applicants will be obtained from which the Planning Committee will recommend a slate of candidates. The BSC will then select the nine community representatives of the Community/Tribal Subcommittee from the pool, with special consideration given to the recommended slate. Accordingly, any person who lives in a community affected by an NPL or other hazardous waste site, or is a representative of a group that works at local, regional, or national locations with these communities, who wishes to be considered for serving on this Subcommittee should write to Triangle Associates, Inc. at the address above to express their interest and obtain additional information.

Dated: September 25, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–25968 Filed 9–30–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 62 FR 46751, dated September 4, 1997) is amended to reflect the reorganization of the Epidemiology Program Office (EPO) as follows: revise the functional statement for the EPO to more accurately reflect the mission of the office; establish the Office of Program Management and Operations; revise the functional statement for the Scientific Information and Communications Program and retitle as the Office of Scientific and Health Communications; revise the functional statement for the Division of Surveillance and Epidemiology and retitle as Division of Public Health Surveillance and Informatics; revise the functional statement for the Division of Training and retitle as the Division of Applied Public Health Training; establish the Division of Prevention Research and Analytic Methods; establish the Division of International Health; abolish the Division of Field Epidemiology.

Section C–B, *Organization and Functions*, is hereby amended as follows:

Delete the functional statement for the Epidemiology Program Office (EPO) (CB) and insert the following:

(1) Plans, directs, and manages CDC-wide training and service programs, including the Epidemic Intelligence Service (EIS), the Preventive Medicine Residency (PMR), and the Public Health Program Specialist (PHPS) programs, as well as various internship and fellowship programs; (2) plans, develops, edits, publishes and disseminates the Morbidity and Mortality Weekly Report (MMWR), related publications, and various scientific and health communication documents and special reports; (3) serves as a focal point for the development of innovative methods for the collection, analysis, and communication of public health surveillance information (e.g. National Electronic Telecommunications System for Surveillance, 122 Cities Mortality Reporting System, and CDC WONDER); (4) in collaboration with other Centers, Institutes, and Offices (CIOs) and state health departments, coordinates, develops, implements, and supports various public health information systems for agency application; (5) provides consultation, technical assistance, and training on epidemiology, public health surveillance and informatics, health information systems, prevention effectiveness, scientific communications, behavioral science, statics, and development of community health practice guidelines to CDC/ATSDR, states, other agencies, other countries, and domestic and international organizations; (6) provides policy and staff support for CDC's Health Information and Surveillance Systems Board; (7) provides epidemiologic assistance and epidemic aid through the field assignment of epidemiologists; (8) provides liaison with governmental agencies, international organizations, the Council of State and Territorial Epidemiologists, and other outside groups; (9) plans conducts, and evaluates research activities in various aspects of disease and injury control for global programs; (10) promotes the development of international field epidemiologic training programs; (11) develops, promotes, and implements programs for international and domestic data policy formation for decision makers to identify information needs and to use information for improved decision making; (12) in carrying out the above functions, collaborates, as appropriate, with the CDC Office of the Director, other CDC CIOs, domestic and international agencies and organizations.

Delete the functional statement for the *Office of the Director (CB1)* and insert the following:

(1) Manages, directs, coordinates, and evaluates the activities of EPO; (2) develops goals and objectives and provides leadership, policy formation, scientific oversight, and guidance in program planning and development; (3) coordinates EPO program activities with other CDC components, other PHS agencies, other federal agencies, other international organizations, state and local health departments, community-based organizations, business, and industry; (4) consults and coordinates activities with medical, scientific and other professional organizations interested in epidemiology, public health surveillance and informatics, health information systems, behavioral science, statistics, scientific communications, community health practice guidelines, prevention effectiveness, and training activities; (5) ensures quality of scientific products of EPO staff and adherence to ethical principles and guidelines as specified in Department of Health and Human Services (DHHS) policy statements; (6) coordinates technical assistance to states, other nations and international organizations; (7) advises the Director, CDC, on policy matters concerning EPO activities.

Delete the title and functional statement for the *Scientic information and Communications Program (CB12)* and insert the following:

Office of Scientific and Health Communications (CB12). (1) Plans, coordinates, edits, and produces the MMWR series and various special reports and publications; (2) provides editorial services and support to EPO; (3) develops, implements, and evaluates innovative methods for the communication of scientific and health information by EPO and its domestic and international constituents; (4) assists EPO and its constituents in identifying and building needed expertise, state-of-the-art technology, logistical support, and other capabilities required to conduct effective scientific and health communication in domestic and international settings; (5) provides expert consultation and training to EPO, other CIOs, and outside domestic and

international constituencies on development of effective messages, materials, and methods to clearly and effectively communicate risks and prevention recommendation, including written, oral, and visual communication; (6) provides leadership, coordination, and collaboration for the planning and management of EPO communications with other CDC programs and outside organizations in scientific and health communication, including serving as the primary EPO liaison with the CDC Office of Communication; (7) works closely with state and federal agencies and EPO domestic and international constituents to develop health information networks and to promote information sharing; (8) in conjunction with the CDC Office of Communication, collaborates with organization in the public and private sectors to market prevention strategies; (9) coordinates EPO's information-sharing activities, including involvement on the Internet.

Delete the functional statement for the *Office of the Director (CB12)* and insert the following:

(1) Provides leadership and overall direction for the Office of Scientific and Health Communications and for all EPO scientific and health communication application; (2) provides leadership, guidance, consultation, and training on policy, planning, management, and operations of scientific and health communications for EPO activities in domestic and international settings; (3) establishes office goals, objectives, and priorities; (4) monitors progress in implementation of projects and achievement of objectives; (5) provides technical information and support in scientific and health communication methods to the epidemiologic, surveillance, and other scientific services and applied research activities in EPO; (6) provides EPO-wide graphics support and coordinates major scientific and health communications efforts; (7) plans, coordinates, and provides support for the electronic dissemination of the MMWR series.

Delete the title and functional statement for the *MMWR Branch (CB122)* and insert the following:

Morbidity and Mortality Weekly Report Activity (CB122). (1) Develops, plans, coordinates, edits, and produces the weekly component of the MMWR series; (2) participates with other office personnel for the delivery of services and training to external organizations, both domestic and international, in the area of scientific and health communications; (3) provides EPO-wide desktop publishing support, including the support of the MMWR series.

Delete the title and functional statement for the *Public Health Publications Branch (CB123) and insert the following:*

Public Health Publications Activity (CB123): (1) Develops, plans, coordinates, edits, and produces other components of the MMWR series, including the MMWR Recommendations and Reports, CDC Surveillance Summaries, and the Annual Summary of Notifiable Diseases; (2) plans, coordinates, edits, and produces other EPO and CDC program publications; (3) provides editorial services for work to be published outside CDC; (4) reviews EPO documents for editorial clearance for all publications; (5) develops and manages an internship program in scientific and health publications management; (6) participates with other office personnel for the delivery of services and training to external organizations, both domestic and international, in scientific and health communications.

Delete in their entirety the title and functional statement for the Information Resources Management Branch (CB124) and insert the following:

Office of Program Management and Operations (CB12). (1) Provides leadership, oversight, and guidance in the management and operations of EPO's programs; (2) plans, coordinates, and provides administrative management support, advice, and guidance to EPO; (3) conducts EPO planning and evaluation activities; (4) reviews, prepares, and coordinates legislation, congressional testimony, and briefing documents; (5) coordinates the development of the EPO annual budget submission; (6) coordinates the annual EPO program briefing; (7) conducts management analyses of EPO programs and staff to ensure optimal utilization of resources and accomplishment of program objectives; (8) plans, allocates, and monitors EPO resources; (9) maintains liaison and collaborates with other CDC components and external organizations in support of EPO management and operations; (10) plans, coordinates, and provides information resource management support, advice, and guidance to EPO.

Office of the Director (CB131). (1) Directs and coordinates the activities of the office; (2) develops long-range plans, sets annual objectives, monitors progress, and evaluates results; (3) sets policies and procedures; (4) provides leadership and oversight of EPO's program management and operations; (5) plans, allocates, and monitors EPO-wide resources; (6) maintains liaison and collaborates with the Director, Office of Program Support, other CIOs, CDC staff offices, other federal agencies, state and local health agencies, and other external organizations; (7) maintains liaison, on behalf of EPO, with the CDC Foundation and other similar organizations for the coordination of mutually-beneficial collaborative activities; (8) within the policies and guidelines of DHHS and CDC, conducts EPO planning and evaluation activities including tracking program objectives and performing evaluation studies; (9) coordinates the development of the EPO annual budget submission; (10) coordinates the annual EPO program briefing, including preparation of all written and visual materials; (11) reviews, prepares, and coordinates legislation, congressional testimony, and briefing materials; develops proposed legislation; analyzes bills; and provides for other legislative-related activities; (12) plans and prepares EPO promotional and marketing materials; (13) works closely with other federal agencies involved with EPO interagency agreements; (14) coordinates EPO requirements relating to procurement, materiel management, and interagency agreements; (15) provides fiscal management and stewardship of grants, contracts, and cooperative agreements.

Information Resources Management Activity (CB132). (1) Provides technical information support to the communications, epidemiologic, surveillance, training, and prevention research activities of EPO; (2) manages the EPO Local Area Network (LAN); (3) assists users with network applications; (4) provides personal computer support for EPO users; (5) researches and performs appropriate testing and installation of new software for use in EPO; (6) coordinates and authorizes requests for the acquisition of automatic data processing, word processing, telecommunication, and LAN equipment, and the provision of information services; (7) provides interface with CDC and DHHS management systems; (8) assures that all functional groups within EPO have access to suitable and compatible equipment and services; (9) plans, coordinates, and provides EPO-wide Information Resources Management (IRM) support and services; (10) represents EPO on a variety of IRM committees, task forces, and workgroups; (11) coordinates the utilization of data information systems and technologies.

Management Services Activity (CB133). (1) Plans, coordinates, and provides administrative management support, advice, and guidance to EPO

involving the areas of fiscal management, personnel, travel, and other administrative services; (2) prepares annual budget plans and budget justifications; (3) coordinates EPO requirements relating to contracts, grants, cooperative agreements, and reimbursable agreements; (4) develops and implements administrative policies, procedures, and operations, as appropriate for EPO, and prepares special reports and studies, as required, in the administrative management areas; (5) conducts management analyses of EPO programs and resources to ensure optimal utilization of resources and accomplishment of program objectives.

Delete in its entirety the title and functional statements for the *Division of Field Epidemiology (CB3).*

Delete the title and functional statement for the *Division of Surveillance and Epidemiology (CB5)* and insert the following:

Division of Public Health Surveillance and Informatics (CB5). (1) Collects, performs analyses, and disseminates public health surveillance information; (2) manages and operates the National Electronic Telecommunications System for Surveillance (NETSS), the National Notifiable Diseases Surveillance System (NNDSS), and the 122 Cities Mortality Reporting System and produces statistical tables and graphics for the MMWR and associated publications; (3) in collaboration with other CIOs and state health departments, coordinates, develops, implements, and supports various CDC-wide public health information systems, including informational and communications applications; (4) develops improved surveillance and informatics methods; (5) provides consultation, technical assistance, and training on public health surveillance and health information systems to CDC and to other agencies and domestic and international organizations; (6) coordinates activities of the CDC Surveillance Coordination Group; (7) provides policy and staff support for CDC's Health Information and Surveillance Systems Board; (8) coordinates a CDC-wide initiative aimed at building state and local capacity to perform the core public health function of assessment and use of data for policy development and assurance.

Delete the functional statement for the *Office of the Director (CB51)* and insert the following:

(1) Provides leadership and overall direction for the division; (2) provides leadership and guidance on policy, program planning, program management, and operations; (3) establishes division goals, objectives, and priorities; (4) monitors progress in implementation of projects and achievements of objectives; (5) provides management, administrative, and support services, and coordinates with appropriate EPO offices on program and administrative matters; (6) provides liaison with other CDC organizations, other governmental agencies, international organizations, the Council of State and Territorial Epidemiologists, and other constituent groups and partners; (7) plans, allocates, and monitors resources; (8) provides scientific leadership and guidance to the division to assure highest scientific quality and ethical standards; (9) plans and coordinates the activities of the CDC Surveillance Coordination Group; (10) provides guidance and supervision to EIS officers and Preventive Medicine Residents assigned to the division; (11) coordinates and serves as a focal point for a CDC-wide initiative aimed at building state and local capacity to perform the core health function of assessment and use of data for public health policy development and assurance.

Delete in their entirety the title and functional statement for the *Statistics and Epidemiology Branch (CB52)* and insert the following:

Public Health Information Systems Branch (CB53). (1) In collaboration with the Information Resources Management Office (IRMO) and other CDC organizations with subject matter expertise and responsibility, coordinates, designs, develops, implements, and supports CDC-wide public health, epidemiologic, scientific, and laboratory information systems, including database, informational, and communications applications (e.g., CDC WONDER); (2) collaborates with CDC organizations to jointly develop, test, and implement CDC-wide public health information systems; (3) participates in the development or implementation of CDC plans for public health information systems; (4) researches and develops new an innovative approaches to public health applications development and database design; (5) determines appropriate technology architecture and methodology for branch-developed systems; (6) maintains inventories and data dictionaries of CDC's public health data; (7) develops and recommends approaches for public health systems and interfaces between various information technologies for sharing data and performing cooperative applications processing; (8) in consultation with CDC organizations and the CDC Information Systems Security Officer, determines appropriate security measures for branch-developed databases and applications, in accordance with sensitivity and criticality of the data or system; (9) evaluates and recommends CDC-wide equipment and software acquisition for public health database and communications systems; (10) coordinates the provision of technical support and training in the use of CDC-wide public health information systems purchased or developed by the branch; (11) coordinates public health information resource management user groups.

Delete in their entirety the title and functional statement for the *Systems Development and Support Branch (CB58).*

Delete the functional statement for the *Systems Operation and Information Branch (CB59)* and insert the following:

(1) Operates and maintains the NETSS, the NNDSS, and the 122 Cities Mortality Reporting System; (2) provides service and support to other CDC programs and state and local health departments to enable program-specific surveillance information to be collected and disseminated through the NETSS; (3) provides support, technical assistance, consultation, and training on surveillance system development, maintenance, and operation for CDC, states, and international organizations; (4) provides leadership and direction in the development of mainframe systems for use in surveillance and epidemiology; (5) plans, coordinates, and produces tables, graphs, maps, and figures for the Annual MMWR Summary of Notifiable Diseases, U.S.; (6) produces MMWR tables from NNDSS; (7) plans, coordinates and develops training and educational materials for all surveillance systems operated by the branch; (8) provides guidance in the development, implementation, and analysis of electronic public health data to international, state, and local groups; (9) creates, disseminates, and archives historical public health data in an electronic form; (10) provides support, technical assistance, and training for new, developmental systems and software for use in surveillance and epidemiology; (11) provides support, technical assistance, consultation, and training on computerized surveillance system development, maintenance, and operation for CDC, states, and international organizations; (12) provides service and support in the expansion of the NETSS; (13) plans and coordinates state-supported activities related to the NETSS; (14) analyzes needs and designs computer systems for use by public health professionals in the effective practice of public health surveillance and epidemiology; (15) provides technical consultation for

activities of the CDC Surveillance Coordination Group.

Delete the title and functional statement for the *Division of Training (CB6)* and insert the following:

Division of Applied Public Health Training (CB6). Plans, directs, and manages a CDC-wide training and service program for the teaching and training of public health professionals in applied epidemiology and other public health sciences, preventive medicine, and public health program planning, implementation, and evaluation; (2) plans, directs, and manages CDC-wide training and service programs for the EIS, the PMR, and the PHPS Programs; (3) responds to domestic and international request for assistance and consultation; (4) maintains liaison with other governmental agencies, academic institutions and organizations, state and local health agencies, private health organizations, and professional organizations, and other outside groups; (5) assumes an active national and international leadership role in public health training.

Delete the functional statement for the *Office of the Director (CB61)* and insert the following:

(1) Provides leadership, direction, coordination, and management oversight to the activities of the division; (2) develops long-range plans, sets annual objectives, monitors progress, and evaluates results; (3) sets policies and procedures; (4) plans, allocates, and monitors resources; (5) provides administrative guidance and oversight in the areas of personnel, travel, and other administrative services, and coordinates with the EPO Office of Program Management and Operations, Human Resources Management Office, and Financial Management Office; (6) coordinates collaborative activities of the division and maintains liaison with other CIOs, other federal agencies, and other outside groups.

Delete in their entirety the title and functional statement for the *Epidemiolgy Training Activity (CB62).*

Delete the title and functional statement for the *Epidemic Intelligence Service Program (CB63)* and insert the following:

Epidemic Intelligence Service Branch (CB63). (1) Establishes overall policies, plans, and procedures, and evaluates the effectiveness of program activities; (2) develops and maintains a strategic plans for recruitment, analyzes data to more effectively target recruitment efforts, and conducts recruitment in accordance with the CDC workforce diversity goals; (3) plans, directs, and coordinates the application, interview, selection. and assignment processes for new EIS officers (4) plans, directs, coordinates, and conducts training and training activities for EIS officers in applied epidemiology and public health practice; (5) monitors the completion of program requirements by EIS officers; (6) maintains liaison with supervisors of EIS officers, and evaluates EIS assignments within CDC, state and local health agencies, and other sponsoring organizations; (7) approves request, for epidemiologic assistance (EPI–AIDs) and the expenditures of funds; (8) maintains liaison with alumni within and outside CDC to assist with recruitment and promotional activities; (9) plans, directs, and coordinates the Epidemiologic Elective Program for medical and veterinary students.

Delete in their entirety the title and functional statement for the *Preventive Medicine Residency Program (CB64)* and insert the following:

Public Health Prevention Service Branch (CB65). (1) Establishes overall policies, plans, and procedures, and evaluates the effectiveness of program activities; (2) develops and maintains a strategic plan for recruitment, analyzes data to more effectively target recruitment effort, and conducts recruitment in accordance with the CDC workforce diversity goals; (3) plans, directs, and coordinates the application, interview, selection, and assisgnment processes for new PHPS trainees; (4) plans, directs, coordinates, and conducts training and training activities for PHPS trainees in the development, implementation, and evaluation of prevention programs and interventions; (5) monitors the completion of program requirements by PHPS trainees; (6) maintains liaison with supervisors of PHPS trainees, and evaluates PHPS assignments within CDC, state and local health agencies, and other sponsoring organizations; (7) coordinates and provides staff support to a steering committee/advisory group charged with advising on policy matters concerning the program.

State Branch (CB66). (1) Provides guidance and supervision to EIS officers, PMRs, and career epidemiologists assigned to state and local health departments; (2) monitors and evaluates the quality of assignments through site visits and by maintaining liaison with supervisors and other individuals in CIOs and states; (3) monitors the completion of program requirements and evaluates the performance of state-based EIS officers; (4) serves as the focal point for assistance requests from state health departments; (5) coordinates field training activities (6) participates in recruitment, interviewing, and assignment activities of EIS officers; (7) provides on-site consultation with state and local health departments on the establishment and maintenance of epidemiology programs; (8) provides technical assistance to other components of CDC in the investigation of multi-state disease outbreaks; (9) coordinates liaison activities with state epidemiologists and other public health officials, (10) evaluates the effectiveness of branch activities.

Division of Prevention Research and Analytic Methods (CB7). (1) Provides leadership to CDC and other organizations on the allocation of resources including the integration of prevention research with policy needs, and assists in making recommendations for policy decisions based on effectiveness and cost-effectiveness; (2) promotes CDC's capacity to conduct epidemiologic, prevention effectiveness, statistical, behavioral science, and evaluative studies; (3) develops, adapts, evaluates, and implements innovative prevention effectiveness, epidemiologic, statistical, evaluative, and behavioral research methods; (4) provides consultation, technical assistance and training on analytic methods, data management and collection, including prevention effectiveness, epidemiologic and statistical methods, evaluation, and behavioral studies issues to CDC and to other agencies and domestic and international organizations; (5) develops projects in defined urban populations in which to evaluate the effectiveness of prevention activities; (6) develops CDC capacity and establishes a national scientific network in epidemiologic, behavioral, prevention effectiveness, statistical, and outcome evaluation science; (7) develops recommendations and guidelines based on effectiveness, cost-effectiveness, behavioral, outcome evaluation, and statistical research to enhance health promotion and disease and injury prevention in various settings and populations; (8) acquires, develops, applies, and evaluates statistical methods for use in public health; (9) supports CDC activities related to the Cochrane Collaboration; (10) develops recommendations (guidelines) based on effectiveness, cost-effectiveness, behavioral, outcome evaluation, and statistical research to enhance health promotion and disease and injury prevention in various settings and populations; (11) designs and conducts epidemiologic studies; (12) in carrying out the above the functions, collaborates, as appropriate, with the other CDC CIOs.

Office of the Director (CB71). (1) Manages, directs, and coordinates the activities of the division; (2) provides leadership and guidance on policy, program planning, program management, and operations; (3) establishes division goals, objectives, and priorities; (4) monitors progress in implementation of projects and achievement of objectives; (5) develops and manages internship, fellowship, and visiting scientist programs in prevention effectiveness, evaluation, behavioral science, and statistical methodologies; (6) develops, conducts, and provides support for training in prevention effectiveness, evaluation, behavioral science, epidemiologic and statistical methodologies CDC-wide, as well as at national, state, and local levels; (7) provides management, administrative and support services, and coordinates with appropriate EPO offices on program and administrative matters; (8) provides liaison with other CDC organizations, other governmental agencies, international organizations, and other outside groups; (9) plans, allocates, and monitors resources; (10) manages grants and CDC-wide prevention effectiveness and statistical analysis contracts; (11) provides support for internal scientific advisory groups; (12) provides scientific leadership and guidance to the division to assure highest scientific quality and ethical standards.

Prevention Effectiveness Branch (CB72). (1) Establishes capacity in the public health community to conduct and use prevention effectiveness studies; (2) develops, adapts, evaluates, and applies economic and decision science methods for public health applications; (3) provides economic technical assistance, consultation, direction, review, and information resources to other organizations units within EPO and throughout CDC; (4) collects and analyzes data; (5) integrates prevention research with policy needs; (6) assists in making recommendations for policy decisions on public health policy based on prevention effectiveness assessments of each prevention strategy; (7) provides coordinative support for CDC's Prevention Effectiveness Working Group.

Statistics and Epidemiology Branch (CB73). (1) Provides and maintains leadership in the acquisition, development, application, and evaluation of statistical and epidemiologic methods for use in public health; (2) provides statistical and epidemiologic consultation, training, and analytic assistance to EPO, other components of CDC, and to outside organizations; (3) conducts research in methods development and evaluation; (4) analyzes public health data; (5) coordinates and supports CDC's Statistical Advisory Group; (6) provides programming and data management consultation and support for major studies; (7) develops scientific methods to address cross-cutting issues of epidemiology, such as disabilities, race and ethnicity, special settings, and gender; (8) designs and conducts epidemiologic studies to determine risk factors and causes of selected diseases and other conditions of public health importance; (9) collaborates on international epidemiologic and statistical science projects by providing technical assistance and consultation; (10) supports the CDC-based Cochrane Collaboration; (11) provides guidance and supervision to EIS officers and PMRs assigned to the division.

Community Preventive Services Guide Section (CB732). (1) Coordinates and develops community health practice guidelines for the assessment of effectiveness of prevention strategies; (2) assists CRC programs on methods for guidelines development processes; (3) coordinates and manages CRC-wide working group on practice guidelines methodology; (4) convenes a task force for development of community health practice guidelines; (5) produces a Guide to Community Health Practice Guidelines based on available scientific evidence; (6) identifies research needs for developing science-based guidelines; (7) updates guidelines on an ongoing basis.

Evaluation and Behavioral Science Methods Section (CB733). (1) Develops a conceptual framework for conducting behavioral and evaluation studies; (2) organizes and establishes populations for research in urban areas; (3) develops within CDC outcome evaluation capacity and systematize method for evaluating health outcomes; (4) develops key combinations of evaluation and behavioral interventions in urban populations; (5) provides information for public policy for urban areas by establishing credibility of the scientific approach; (6) assists in making recommendations for policy decisions; (7) conducts public health surveillance in urban health communities; (8) provides technical assistance; (9) provides coordinative support for CDC's Behavioral and Social Sciences Work Group.

Division of International Health (CB8). (1) Develops, promotes, and conducts international training, consultation, capacity building, and other assistance in applied epidemiology, public health surveillance, and systematic use of epidemiologic and other data for health policy formulation, allocation of health resources, and direction and evaluation of public health program operations and effectiveness; (2) provides policy direction for all EPO activities associated with international health; (3) collaborates with the other CDC organizations, international agencies, foreign governments, and non-profit organizations in support of EPO's international activities.

Office of the Director (CB81). (1) Provides leadership and overall direction for the division; (2) provides leadership and guidance on policy, program planning, program management, and operations; (3) plans, allocates, and monitors resources; (4) provides leadership and management oversight in assisting national ministries of health, international agencies, and non-profit organizations in the delivery of epidemiologic services and the development of international epidemiologic networks; (5) provides liaison with other CDC organizations, other federal agencies, national ministries of health, and international organizations.

Data for Decision Making and Policy Branch (CB82). (1) Plans, directs, and coordinates data for decision making activities, both foreign and domestic; (2) assists with the development of capacity to design and conduct economic evaluation of health care interventions; (3) collaborates with national ministries of health to facilitate data use for policy formulation, resource allocation, and public health program management; (4) provides leadership and expertise in assisting national ministries of health and domestic entities in utilizing trained epidemiology generalists in developing health policy and implementing and evaluating health programs; (5) collaborates with federal agencies, national ministries of health, international agencies, and non-profit organizations to promote systematic use of data to improve public health.

Program Development Branch (CB83). (1) Plans, directs, and coordinates field epidemiology training programs; (2) provides leadership and management oversight in assisting national ministries of health in training epidemiology generalists for future ministry positions and for positions with international organizations; (3) oversees provision of consultation to national ministries of health and international organizations regarding epidemiologic practice, surveillance systems development and operation, and epidemiologic training; (4) assigns professional epidemiologist as long-term consultants to national programs in epidemiologic training and

public health capacity development; (5) provides on-site epidemiologic consultation to national ministries of health and international organizations as required; (6) provides on-site technical assistance, consultation, and training to other countries and international organizations in applied communications, publications management, health information systems development and management, and health economics.

Effective Date: September 19, 1997.

David Satcher,

Director.

[FR Doc. 97–25946 Filed 9–30–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0390]

Guidance for the Submission of 510(k)'s for Solid State X–Ray Imaging Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Guidance for the Submission of 510(k)'s for Solid State X-ray Imaging Devices.'' The draft guidance is neither final nor is it in effect at this time. This draft guidance applies to a new category of medical devices, Solid State X-ray Imagers (SSXI), and is currently available for comment. This draft guidance is intended to provide guidance to the significant number of premarket (510(k)) submissions resulting from this new technology. The draft guidance addresses the type of data needed by the Center for Devices and Radiological Health (CDRH) to establish the substantial equivalence of an SSXI to a previously cleared conventional radiographic film/screen system, fluoroscopic image intensified imaging system, or SSXI.

DATES: Written comments by December 30, 1997.

ADDRESSES: Submit written requests for single copies of ''Guidance for the Submission of 510(k)'s for Solid State X-ray Imaging Devices'' to the Division of Small Manufacturers Assistance (HFZ–200), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on ''Guidance for the Submission of 510(k)'s for Solid State X-ray Imaging Devices'' to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Robert J. Doyle, Center for Devices and Radiological Health (HFZ–476), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–1212.

SUPPLEMENTARY INFORMATION: The final version of this guidance will provide instruction concerning the type of data needed by CDRH to clear a new category of medical devices, SSXI's, for marketing via section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)). This new category of medical devices is intended to replace conventional x-ray film/screen systems and image intensifier based fluoroscopic and image recording systems. As solid state imaging technology continues to progress, FDA anticipates a significant number of premarket (510(k)) submissions to be based on this new technology. By issuing the guidance, FDA hopes to receive a larger percentage of complete premarket submissions upon submittal. This will avoid the need for additional information requests which are time consuming for both FDA and manufacturers.

Under the Medical Device Amendments to the act, a device may be cleared for marketing via a 510(k) premarket notification. To do so, the device must be shown to be substantially equivalent to a legally marketed predicate device. This guidance sets forth nonclinical and clinical data necessary to establish the substantial equivalence of the new device to the identified predicate device(s).

This draft guidance document represents the agency's current thinking on the data necessary to establish the substantial equivalence of SSXI to a previously cleared device. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before December 30, 1997, submit to the contact person (address above) written comments regarding this draft guidance. Persons with access to the Internet may obtain the draft guidance via the World Wide Web (WWW) at ''http://www.fda.gov/cdrh''.

Dated: July 31, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–25992 Filed 9–30–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 62 FR 46751, dated September 4, 1997) is amended to reflect the organizational structure for mine safety and health research functions within the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention.

Section C–B, *Organization and Functions,* is hereby amended as follows:

After the functional statement for the *Contracts and Purchases Branch (CA582), Procurement and Grants Office (CA58), Office of Program Support (CA5),* insert the following:

Contracts Management Branch (Pittsburgh) (CA583). (1) Provides leadership, direction, procurement options and approaches in developing specifications/statements of work and contract awards; (2) Executes research and development contracts for all of NIOSH.

Revise the functional statement for the *Office of Administrative and Management Services (CC11)* to insert the following as item (4) and renumber the remaining items accordingly: (4) provides management information, advice, and guidance to CDC/OPS regarding the conduct and the evaluation of Staff Office procurement activities with respect to their effectiveness in meeting NIOSH's administrative and programmatic needs.

After the functional statement for the *Office of Administrative and Management Services (CC11),* insert the following:

Administrative Services Branch (Pittsburgh) (CC112). (1) Provides basic facilities operations, maintenance, and

support functions for the offices, laboratories, and grounds at the Pittsburgh Research laboratory; (2) provides access to library and information services for Pittsburgh laboratory personnel; (3) facilitates procurement support for the Laboratory; (4) coordinates Institute activities and overall operations with the facility management activities of the other Agencies operating at the Bruceton Research Center.

After the functional statement for the *Administrative Services Branch (Cincinnati) (CC113),* insert the following:

Administrative Services Branch (Spokane) (CC114). (1) Provides basic facilities operations, maintenance, and support functions for the offices, laboratories, and grounds at the Spokane Research Laboratory; (2) provides access to library, information services, and computer access to the CDC network for Spokane Research Laboratory personnel; (3) provides site-wide safety and health program support, site environmental compliance activities, employee assistance programs, and employee wellness programs; (4) provides procurement and budget support for the Laboratory; (5) provides material management functions, including inventory control for accountable property, and warehouse supply for daily operations.

After the functional statement for the *Management Systems Branch (CC115),* insert the following:

Procurement Branch (Pittsburgh) (CC116). (1) Plans, directs, and conducts the acquisition of equipment, materials, and non-personnel services in support of the NIOSH Pittsburgh operations; (2) executes contracts for repairs, and capitol improvements to NIOSH Pittsburgh facilities.

After the functional statement for the *Regional Operations Branch (CC134),* insert the following:

Pittsburgh Research Laboratory (CC2). (1) Provides leadership for prevention of work-related illness, injury, and fatalities of miners; (2) carries out the surveillance of fatal and non-fatal traumatic injuries, occupational diseases, health and safety hazards, and the use of control technology and protective equipment for prevention of injury and disease in mining; (3) conducts research on the measurement, monitoring, and control of dust and other toxic substances to which miners may be exposed; (4) conducts laboratory and field research to evaluate and control hearing loss and occupational noise exposure in mining; (5) conducts field investigations and laboratory studies on mining injuries and the means for their prevention; (6) conducts laboratory and field investigations to better understand the causes of catastrophic events that may lead to fatalities, such as fires, explosions, and structural or ground failures; (7) develops sensors, predictive models, and engineering controls to reduce miners risk for injury or death; (8) translates research findings, new control technology concepts, and newly identified approaches to health and safety problems affecting miners into usable effective interventions; (9) utilizes the unique facilities and resources of the Laboratory as a National resource in collaboration with other NIOSH units as well as other Departments and Agencies of the government.

Surveillance, Statistics, and Research Support Activity (CC22). (1) Collects and analyzes health and safety data related to mining occupations in order to report on the overall incidence, prevalence and significance of occupational safety and health problems in mining; (2) describes trends in incidence of mining-related fatalities, morbidity, and traumatic injury; (3) conducts surveillance on the use of new technology, the use of engineering controls, and the use of protective equipment in the mining sector; (4) coordinates surveillance activities with other NIOSH surveillance initiatives; (5) provides statistical and computer support for surveillance and research activities of the Laboratory; (6) analyzes and assists in the development of research protocols for developing studies; (7) conducts mining-relevant risk analyses and assists with interpretations for development of NIOSH policy or documents.

Extramural Coordination and Information Dissemination Activity (CC23). (1) Collaborates with research staff to translate findings from laboratory research to produce compelling products that motivate the mining sector to engage in improved injury control and disease prevention activities; (2) incorporates recommended control technologies, work practices, and findings of technological feasibility into NIOSH policy documents and testimony; (3) coordinates with other health communication, health education, and information dissemination activities within the Institute to ensure that mining research information is effectively integrated in the NIOSH dissemination and intervention strategies; (4) serves as the laboratory focal point for partnerships with labor, industry and academia and other government agencies to foster mission-relevant responsive research; (5) assists in the development of mission-relevant CRADAs and patents; (6) coordinates mission-relevant technical assistance and response activities; (7) coordinates mining grants and cooperative agreements with the NIOSH Office of Extramural Coordination and Special Projects.

Dust and Toxic Substance Control Branch (CC24). (1) Develops, plans, and implements a program of research to develop or improve personal and area direct reading instruments for measuring mining contaminants including but not limited to respirable dust, silica, and other toxic substances and mixtures; (2) conducts field tests, experiments, and demonstrations of new technology for monitoring and assessing mine air quality; (3) designs, plans, and implements laboratory and field research to develop airborne hazard reduction control technologies; (4) carries out field surveys in mines to identify work organization strategies that could result in reduced dust or toxic substance exposure; (5) evaluates the performance, economics, and technical feasibility of engineering control strategies, novel approaches, and the application of new or emerging technologies for underground and surface mine dust and toxic substance control systems; (6) develops and evaluates implementation strategies for using newly developed monitors and control technology for exposure reduction or prevention.

Hearing Loss Prevention Branch (CC25). (1) Plans and conducts laboratory and field research on noise-induced hearing loss in miners; (2) conducts field dosimetric and audiometric surveys to assess the extent and severity of the problem and to identify those mining segments in greatest need of attention and to objectively track progress in meeting loss prevention goals; (3) conducts field and laboratory research to identify noise generation sources and to identify those areas most amenable to intervention activities; (4) develops, tests, and demonstrates new control technologies for noise reduction; (5) evaluates technical and economic feasibility of controls; (6) develops, evaluates, and recommends implementation strategies to promote the adoption and use of noise reduction technology.

Mining Injury Prevention Branch (CC26). (1) Conducts laboratory, field, and computer modeling research to focus on human physiological capabilities and limitations and their interactions with mining jobs, tasks, equipment, and the mine work environment; (2) assesses the health and

safety relevance of mining equipment design features using scientific and engineering techniques, and analyses of reported case-studies of mining incidents that lead to traumatic injuries or fatalities; (3) designs and conducts epidemiological research studies to identify and classify risk factors that cause, or may cause, traumatic injuries to miners; (4) designs, builds, and tests proposed interventions, including demonstrations of proposed technologies using laboratory mock-ups, full-scale demonstrations at the laboratory's experimental mines, or through field evaluation in operating mines; (5) evaluates and recommends implementation strategies for injury prevention and control technologies developed by the Laboratory.

Disaster Prevention and Response Branch (CC27). (1) Conducts laboratory and field investigations of catastrophic events such as explosions and catastrophic structural or ground failures to better understand cause and effect relationships that initiate such events; (2) designs and implements appropriate intervention strategies; (3) develops, tests, and promotes the use of disaster prediction and risk evaluation systems for control or reduction of risk; (4) develops criteria and tests for explosives to determine their suitability for mine use and transportation; (5) evaluates and recommends implementation strategies for disaster prevention; (6) assists in the development and evaluation of curricula for mine rescue, firefighting, and the use of life support (self-rescuer) equipment, in conjunction with other health education, health communication, and other information and education activities of the Institute.

Following the functional statement for the *Division of Surveillance, Hazard Evaluations, and Field Studies (CC5),* insert the following:

Spokane Research Laboratory (CC6). (1) Provides leadership for prevention of work-related illness, injury, and death in the extractive industries in the Western United States; (2) conducts surveillance and tracks trends of fatal and non-fatal traumatic injuries, occupational diseases, health and safety hazards, and the use of control technology in the extractive industries, with a focus on unique Western issues such as those associated with deep metal mines, Western coal mines, and precious metal deposits; (3) conducts field investigations, health hazard evaluations, and laboratory studies of occupational diseases, injuries, and fatalities with focus on western-area mineral-extractive industries; (4) conducts laboratory and field investigations to better understand the causes of catastrophic events that may lead to multiple injuries and fatalities, such as collapse of underground workings, massive slope failures, and the collapse of mining facilities; (5) develops, tests, and demonstrates sensors, predictive models, and engineering control technologies to reduce miners risk for injury or death; (6) develops and recommends appropriate criteria for new standards, NIOSH policy, documents, or testimony related to health and safety in the extractive industries.

Extramural Coordination and Information Dissemination Activity (CC62). (1) Coordinates with other education and information dissemination activities within the Institute to assure that coordinated and comprehensive mining research information is effectively integrated into the NIOSH dissemination and intervention strategies; (2) serves as the laboratory focal point for partnerships with labor, industry and academia involved with Western extractive industries; (3) assists in the development of mission-relevant CRADAs and patents; (4) coordinates mission-relevant technical assistance and response activities for the western United States.

Mining Surveillance and Statistics Support Activity (CC63). (1) Describes trends in incidence of mining-related fatalities, morbidity, and traumatic injury; (2) conducts surveillance on the use of new technology and the use of engineering controls; (3) coordinates the surveillance activities with other Institute-wide surveillance initiatives; (4) provides statistical support for all surveillance and research activities of the Laboratory; (5) assists in the development of research protocols; (6) communicates the results of surveillance activities to researchers to assist in the planning and prioritization of future studies.

Mining Injury and Disease Prevention Branch (CC64). (1) Designs and conducts field and laboratory research studies to identify and classify risk factors that cause, or may cause, traumatic injuries or illness to miners; (2) designs, builds, and tests proposed interventions to reduce risk of injury or disease, and conducts demonstrations of proposed control technologies; (3) assesses the health and safety implications of mining equipment design features using scientific and engineering techniques; (4) evaluates and recommends implementation strategies for injury and disease prevention and the effective utilization of control technologies developed by the laboratory.

Catastrophic Failure Detection and Prevention Branch (CC65). (1) Conducts laboratory and field investigations of catastrophic events such as collapse of underground workings, massive slope failures, collapse of mine facilities, or other events that lead to traumatic injuries or fatalities; (2) develops computer visualization models to simulate mine conditions and test alternative mining methods and approaches for risk reduction and catastrophic failure prevention; (3) develops, tests, and promotes the use of catastrophic failure prediction and risk evaluation systems; (4) evaluates and recommends implementation strategies for catastrophic failure prevention.

Dated: September 4, 1997.

David Satcher,

Director.

[FR Doc. 97–25947 Filed 9–30–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Revised Recovery Plan for the Chittenango Ovate Amber Snail (Novisuccinea Chittenangoensis) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft revised Recovery Plan for the Chittenango ovate amber snail (Novisuccinea Chittengangoensis). The Chittenango ovate amber snail is a terrestrial species with only one known population, which is located in the Chittenango Falls State Park in Madison County, New York. It was listed as a threatened species in July 1978, and the initial recovery plan was completed in March 1983. This species was listed due to its rarity and population decline; since listing, habitat protection and captive propagation activities have been implemented, but the species' status remains exceedingly precarious. The primary threat to the Chittenango ovate amber snail is considered to be over-competition by an introduced snail, *Succiena* sp B. Additionally, potential threats persist from habitat changes and inadvertent human disturbance. The revised recovery objective for this species is to stabilize it by maintaining, to the extent possible, the extant Chittenango ovate

amber snail population in its Chittenango Falls habitat while establishing or verifying five additional discrete populations in protected habitats. The Service solicits review and comment from the public on this draft Plan revision.

DATES: Comments on the draft Recovery Plan must be received December 1, 1997, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft Recovery Plan can obtain a copy from the U.S. Fish and Wildlife Service, Northeast Region Endangered Species Program, 300 Westgate Center Drive, Hadley, Massachusetts 01035, telephone 413–253–8628. Comments should be sent to this address, to the attention of Mary Parkin.

FOR FURTHER INFORMATION CONTACT: Mary Parkin (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plans for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires the development of Recovery Plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft Chittenango Ovate Amber Snail (*Novisuccinea chittenangoensis*) Revised Recovery Plan. Since its discovery in 1905, only one extant Chittenango ovate amber snail population has been verified, from a site within the Chittenango Falls State Park in New York.

This terrestrial snail requires the cool, mild-temperature, moist conditions provided by the spray and mist in its environment. Its habitat lies within a ravine at the base of a 167-foot waterfall, and the ledges it occupies comprise an early successional sere that is periodically rejuvenated to a bare substrate by floodwaters. This snail is found on green vegetation such as various mosses, liverworts, and other low herbaceous vegetation within the spray zone of the falls.

The Chittenango ovate amber snail was listed as a threatened species in July 1978 based on its rarity and a decline in its population, and the initial recovery plan for the species was completed in March 1983. Since then, full protection of the snail's habitat has been achieved and a captive propagation program is underway, but the species' status remains exceedingly precarious. The primary threat to the sole wild population of this snail is considered to be over-competition by an introduced snail, *Succinea* sp B. Additionally, potential threats persist from habitat changes and inadvertent human disturbance.

Due to the pervasive threat posed by the competitor *Succinea* sp. B, delisting of the Chittenango ovate amber snail is not deemed achievable at this time. The revised recovery objective for this species, therefore, is to stabilize, to the extent possible, the extant population at Chittenango Falls while establishing or verifying five additional, discrete Chittenango ovate amber snail colonies in protected habitats free from the competition of *Succinea* sp. B. To achieve this objective, four major actions need to be implemented: (1) continued protection of the species and its habitat and Chittenango Falls; (2) acquiring more data on the biological and environmental requirements of *N. chittenangoensis*; (3) enhancing the snail's habitat at Chittenango Falls as feasible or appropriate; and (4) as feasible, broadening the distribution of the Chittenango ovate amber snail.

The draft Recovery Plan revision is being submitted for agency review. After consideration of comments received during the review period, the revised Plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 25, 1997.

Ronald E. Lambertson,

Regional Director, Region 5.

[FR Doc. 97–26094 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Comprehensive Management Plan

ACTION: Notice of intent to prepare comprehensive management plans and associated environmental documents.

SUMMARY: This notice advises the pubic that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare comprehensive management plans (CMPs) and environmental assessments for units within Illinois, Iowa, Michigan, Minnesota, Missouri, and Ohio. Readers should note that pending legislation may change the names of CMPs to comprehensive conservation plans. The CMPs will be prepared for the Illinois River Refuges and Mark Twain, DeSoto, Shiawassee, Minnesota Valley, Squaw Creek, and Ottawa National Wildlife Refuges and the Wetland Management Districts in Minnesota. The Service is furnishing this notice in compliance with Service CMP policy and the National Environmental Policy Act (NEPA) and implementing regulations:

(1) To advise other agencies and the public of our intentions, and

(2) To obtain suggestions and information one the scope of issues to include in the environmental document.

DATES: Inquire at the address below for due dates for comments regarding specific projects.

ADDRESSES: Address comments and requests for more information or to be put on a mailing list to: Chief, Branch of Ascertainment and Planning, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111, (612) 725–3306, *E-mail*: R3PLANNING@fws.gov

SUPPLEMENTARY INFORMATION: The Service will solicit information from the public via open houses and written comments. Special mailings, newspaper articles, and radio announcements in the areas near each unit will inform people of the time and place of open houses to be held in 1997 and 1998 related to the CMP and NEPA documentation.

It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved CMP. The CMP guides management decisions and identifies goals, objectives, and strategies for achieving unit purposes. Public input into this planning process is encouraged. The CMPs will provide other agencies and the public with a clear understanding of the desired conditions of each of its units and how the Service will implement management strategies.

The Illinois River National Wildlife and Fish Refuges is a complex of four areas in the Illinois River floodplain. The names of the four areas, the year they were established, and their acreage are: Chautauqua Refuge (1936) 4,658; Meredosia Refuge (1973) 3,397; Emiquon Refuge, which is authorized for 11,312 acres, (1993) 1,120; and the Cameron/Billsbach Unit (1958) 1,709. Each of the areas consists of backwater lakes, bottomland forests, floodplain wetland, and a small amount of upland forest.

The Mark Twain National Wildlife Refuge (NWR) Complex encompasses over 350 miles of the Mississippi River bottoms between Muscatine, Iowa, and Gorham, Illinois. As part of an area of 100,000 acres cooperatively managed by the States of Iowa, Illinois, and Missouri, and the Corps of Engineers, the Service directly manages 31,500 acres. The Refuge was established in 1958 and includes the Wapello, Iowa; Annada, Missouri; and Brussels, Illinois Districts; and the Clarence Cannon NWR in Missouri. The Refuge is part of the internationally significant migratory bird corridor along the Mississippi River.

DeSoto NWR is located in southwestern Iowa, approximately 30 miles north of Omaha, Nebraska. Established in 1958, the Refuge includes 3,499 acres in Iowa and 4,324 acres in Nebraska. Located in the Missouri River Valley, the Refuge is a fall migration stop for hundreds of thousands of snow geese. In addition, the Refuge houses a salvaged 1860's steamboat and its cargo.

Shiawassee NWR consists of 9,102 acres located near Saginaw, Michigan. The Refuge was established in 1953 and has an approved plan to expand by 7,500 acres. The Refuge is part of the ''Shiawassee Flats'' in the Saginaw Bay watershed, historically one of the largest and most productive wetland ecosystems in Michigan.

Minnesota Valley NWR, which was established in 1976, consists of 9,429 acres within the metropolitan area of Minneapolis and St. Paul, Minnesota. The Refuge, which has an authorized acreage of 14,000, is a greenbelt providing wildlife habitat along 34 miles of the Minnesota River. The Refuge also provides environmental education and compatible outdoor recreation opportunities.

Squaw Creek NWR, which was established in 1935, includes 7,178 acres of the Missouri River floodplain. Located northwest of St. Joseph, Missouri, the Refuge is a major wintering area for bald eagles and snow geese. Wetlands and loess bluff hills with remnants of native prairie exist within the Refuge.

Ottawa NWR (5,794 acres) and its satellite units, Cedar Point National Wildlife Refuge (2,445 acres) and West Sister Island National Wildlife Refuge and Wilderness Area (77 acres), are situated along the southwestern shore of Lake Erie in Lucas and Ottawa Counties, Ohio. The major parcel of Ottawa NWR was acquired in 1961 with land acquired under the authority of the Migratory Bird Conservation Act. Cedar Point was accepted as a donation by the Secretary of Interior in 1964. West Sister Island was established as a Refuge in 1938 by Presidential Order and was designated a National Wilderness in 1975. Under a lease agreement, Ottawa NWR also manages the Navarre Marsh, which is owned by the Toledo Edison Power Company. The Refuge is authorized to expand by an additional 5,000 acres.

The five Minnesota Wetland Management Districts (WMDs) exist within the Prairie Pothole Region. In 1958, Congress amended The Duck Stamp Act to authorize acquisition of wetlands and uplands as Waterfowl Production Areas (WPAs). The WPAs became part of the National Wildlife Refuge System in 1966 through the National Wildlife Refuge Administration Act. The WMDs were created in 1962 as the acquisition of wetlands and uplands accelerated due to a loan from Congress against future Duck Stamp sales. The WMDs include approximately 172,000 acres. In addition to WPAs, WMD staff manage wetland and grassland easements that are perpetual contracts with private landowners. Current wetland easement acreage is approximately 62,000.

The Service units need CMPs because no formal, up-to-date, long-term management direction exists. Until the CMPs are completed, management will be guided by official unit purposes; Management and General Public Use of the National Wildlife Refuge System (Executive Order 12996); Federal legislation regarding management of national wildlife refuges and wilderness; and other legal, regulatory and policy guidance.

Upon implementation, the CMPs will apply to Federal lands, easements, and lands leased by the Service within the boundaries of the units. The plans will be consistent with the Service's Ecosystem Approach to Fish and Wildlife Conservation and include approaches to habitat management, wildlife population management, cultural resource identification and protection, and management of any special uses.

The environmental review of these projects will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, and Service policies and procedures for compliance with those regulations.

We estimate that the first draft CMPs and associated environmental documents will be available by March 1998.

Dated: September 25, 1997.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 97–25967 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24 1A]

OMB Approval Number 1004–0134; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 3501 *et seq.*). On March 28, 1996, the BLM published a notice in the **Federal Register** (61 FR 13868) requesting comments on the collection. The comment period ended May 28, 1996. No comments were received. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM Clearance Officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and

suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0134), Office of Information and Regulatory Affairs, Washington, DC., 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: 43 CFR 3160—Onshore Oil and Gas Operations, Nonform Items.

OMB Approval Number: 1004–0134.

Abstract: Federal and Indian (except Osage) oil and gas operators and operating rights owners are required to retain and/or provide data so that proposed operations may be approved or compliance with granted approvals may be monitored.

Bureau Form Numbers: None.

Frequency: Nonrecurring.

Description of Respondents: Operators and operating rights owners of Federal and Indian (except Osage) oil and gas leases.

Estimated Completion Time:

Requirement	Number of respondents	Completion time (hours)	Annual burden
Well-Spacing Program	150	3	450
Drilling Plans	2,875	10	28,750
Well Markers	300	0.1	30
Directional Drilling	165 (5% of wells)	1	165
Drilling Tests, Logs & Surveys	330 (10% of wells)	1	330
Plug and Abandon for Water Injection	1,200	0.5	600
Plug and Abandon for Water Source	1,200	0.5	600
Additional Gas Flaring	400	1	400
Report of Spills, Discharges or Other Events	200	1	200
Disposal of Produced Water	1,500	2	3,000
Contingency Plan	50	20	1,000
Schematic/Facility Diagrams	2,350	12.3	28,851
Approval and Reporting of Oil in Pits	520	0.5	260
Prepare Run Tickets	90,000	0.167	15,000
Records on Seals	90,000	0.08	7,500
Application for Suspension	100	1.25	800
State Director Review	100	1.25	800
Site Security	2,415	3.1	7,454

Annual Responses: 193,855.

Annual Burden Hours: 96,190.

Bureau Clearance Officer: Carole Smith (202) 452–0367.

Dated: August 25, 1997.

Carole Smith,

Bureau of Land Management Information Collection Officer.

[FR Doc. 97–25953 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–4710–02–24 1A]

Reinstatement of Expired Information Collection, OMB Number 1004–0132

AGENCY: Bureau of Land Management, Interior.

ACTION: Information collection submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

SUMMARY: The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3051 *et seq.*). On May 19, 1997, BLM published a notice in the **Federal Register** (62 FR 96) requesting comment on this proposed collection. The comment period ended on July 18, 1997. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0132), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Geothermal Resources Operations (43 CFR 3260). OMB approval number: 1004–0132.

Abstract: The Bureau of Land Management is proposing to renew the approval of an information collection for an existing rule at 43 CFR 3260. The

rule sets out the standards and regulations for operating a geothermal resource production facility.

Bureau Form Number: 3260–2, 3260–3, 3260–4, 3260–5.

Frequency: 3260–2, non-recurring; 3260–3, on occasion; 3260–4, on occasion; 3260–5, monthly.

Description of Respondents: Respondents are lessees and operators of Federal geothermal leases and Indian geothermal contracts subject to BLM oversight.

Estimated Completion Time: 3260–2, 10 hours; 3260–3, one hour; 3260–4, 2–6 hours; 3260–5, one hour.

Annual Responses: 760.

Annual Burden Hours: 1700 hours.

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: August 25, 1997.

Carole J. Smith,

Information Collection Officer.

[FR Doc. 97–25954 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–230–1030–02–24 1A]

OMB Approval Number 1004–0058; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On March 26, 1996, BLM published a notice in the **Federal Register** (61 FR 13209) requesting comment on this proposed collection. The comment period ended on May 28, 1996. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below. OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0058), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Timber Export Reporting and Substitution Determination (Regulations at 5424.1).

OMB Approval Number: 1004–0058.

Abstract: The Bureau of Land Management is proposing to reinstate approval of an information collection for an existing rule at 43 CFR 5424.1(a) and the form which contains the information relevant to it. The rule authorizes BLM to collect information to determine if there was a substitution of Federal timber for exported private timber in violation of 43 CFR 5400.3(c).

Bureau Form: 5460–17.

Frequency: Annually.

Description of Respondents: Respondents include timber purchasers or their affiliates. Estimated completion time: 2 hours per response, 1 hour for records search and form completion, and 1 hour to keep and maintain records.

Annual responses: 100.

Annual burden hours: 190 (10 respondents filing the form do not export timber during the year).

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: August 28, 1997.

Carole Smith,

Bureau Information Collection Clearance Officer.

[FR Doc. 97–25955 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–230–1030–24 1A]

OMB Approval Number 1004–0001; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3510 *et seq.*). On March 22, 1996, BLM published a notice in the **Federal Register** at 61 FR 11860 requesting comments on this collection. The comment period ended on May 21, 1996. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirements should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0001), Office of Information and Regulatory Affairs, Washington, D.C. 20503. Please provide a copy of your comments to the Bureau Information Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper function of BLM, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

Title: Free Use Application and Permit (43 CFR Parts 3620 and 5510).

OMB Approval Number: 1004–001.

Abstract: The BLM is proposing to reinstate the approval of an information collection for an existing form, Free Use

Application and Permit, authorized by the regulations at 43 CFR parts 3620 and 5510. The form contains information that BLM uses to determine whether or not the timber, plant or mineral material applied for qualifies for free use and whether or not disposal is consistent with land-use plans and to ensure that the appropriate BLM administrative office is issuing the permit.

Bureau Form Number: 5510–1.

Frequency: On occasion, as applied for.

Description of Respondents: Respondents are generally individuals who are procuring timber, other vegetative or mineral materials for personal or construction use.

Estiamted Completion Time: 30 minutes (0.5 hour) per response.

Annual responses: 430.

Annual Burden Hours: 215.

Bureau Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: August 28, 1997.

Carole Smith,

Bureau of Land Management Information Clearance Officer.

[FR Doc. 97–25956 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Pima-Maricopa Irrigation Project Final Programmatic Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the final programmatic environmental impact statement; INT–FES 97–30, Filed September 26, 1997.

SUMMARY: The Gila River Indian Community (Community) and the Bureau of Reclamation (Reclamation) have prepared a Final Programmatic Environmental Impact Statement (PEIS) on the Pima-Maricopa Irrigation Project (Project) in compliance with the National Environmental Policy Act of 1969, as amended, and other applicable environmental laws. The purpose of the final PEIS is to assist in decision making by the Commissioner of Reclamation regarding the approval of construction-related expenditures of funds authorized for the Central Arizona Project (CAP) to implement portions of the Project within the constraints of law. Any project that involves a major Federal action, such as Federal funding, permitting or approval, must comply with NEPA.

This final PEIS describes four alternatives for rehabilitation of 66,000 acres and new development of 80,330 acres of irrigated agricultural lands. The proposed action is to rehabilitate San Carlos Indian Irrigation Project (SCIIP) facilities and build new facilities both on and off the Reservation. Ultimate project size would be 146,330 acres, which will enable the Gila River Indian Community to better utilize water supplies and provide additional economic employment opportunities. A No Federal Action alternative is also described.

The Community is the Project proponent and is responsible for the preparation of this final PEIS through a Self-Governance Agreement with Reclamation. Reclamation is responsible for disbursing CAP-related Federal funds and functions as the lead Federal agency for the Project. The Bureau of Indian Affairs (BIA) is a cooperating agency in this process because of its trust responsibility and administration of SCIIP.

ADDRESSES: Single copies of the final PEIS may be obtained on request. Requests for copies should be addressed to: Mr. Bruce D. Ellis (PXAO–1500), Bureau of Reclamation, PO Box 9980, Phoenix, AZ 85068. Copies may also be requested by telephone at (602) 395–5683.

Copies of the final PEIS are available for inspection at the address above and also at the following locations:

Office of the Commissioner, Bureau of Reclamation, Room 7612, 849 C Street, NW, Washington DC 20240

Reclamation Service Center, Bureau of Reclamation, Library, Room 167, Building 67, Denver Federal Center, Denver CO 80225

Lower Colorado Region, Bureau of Reclamation, Library, Room 105, Mead Building, 3 Miles South on Buchanan Boulevard, Boulder City NV 89005.

Libraries

Arizona Department of Library Archives and Public Records, Phoenix AZ

Phoenix Public Library, Phoenix AZ

Chandler Public Library, Chandler AZ

Florence Public Library, Florence AZ

Coolidge Public Library, Coolidge AZ

Arizona Collection, Hayden Library, Arizona State University, Tempe AZ

University of Arizona, Main Library, Tucson AZ

Ms. Rebecca Burke, Government Document Service, Arizona State University, Tempe AZ.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce D. Ellis (PXAO–1500), Bureau of Reclamation, PO Box 9980, Phoenix, AZ 85068; telephone: (602) 395–5685.

SUPPLEMENTARY INFORMATION: The recommended plan proposes construction of a common-use irrigation system to deliver water to 146,330 acres within the Gila River Indian Reservation (Reservation) and to rehabilitate SCIIP Joint Works facilities. The recommended plan, known as the Project, represents a component of the Community's Master Plan for Land and Water Use (Franzoy Corey, 1985). The Master Plan identifies the Community's major goals and preferences for improving and developing Reservation land and water resources.

The Project would support the continued role of agriculture as a primary element of the Community's traditional economy and way of life. The Project would enhance economic growth, development and self-sufficiency of the Community. The Project has the potential to significantly improve the standard of living for Community members. No significant changes have been made to the recommended plan as presented in the draft PEIS (DEIS 96–46).

The final PEIS presents the recommended plan, alternatives, and the no Federal action alternative. The document describes the existing environment and analyzes, at a programmatic level, the environmental consequences of project construction. The final PEIS also includes responses to comments received during the 60-day public review and hearing process on the draft statement.

Dated: September 26, 1997.

V. LeGrand Neilson,

Assistant Regional Director.

[FR Doc. 97–25987 Filed 9–30–97; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

(Investigation No. 332–384)

The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competiveness of the U.S. Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: September 23, 1997.

SUMMARY: Following receipt of a request on August 18, 1997, from the House Committee on Ways and Means, the Commission instituted investigation No. 332–384, The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competitiveness of the U.S. Industry,

under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from Mr. Peder Andersen (202–205–3388), Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation contact Mr. William Gearhart of the Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

Background

As requested by the House Committee on Ways and Means in a letter dated August 13, 1997, the Commission, pursuant to section 332(g) of the Tariff Act of 1930, has instituted an investigation and will prepare a report examining key developments pertinent to the competitiveness of the U.S. large civil aircraft industry, focusing on the period 1992–96, and to the extent possible, 1997. The Commission will address changes in the structure of the global large civil aircraft industry, including the Boeing-McDonnell Douglas merger and the restructuring of Airbus Industrie. The report will also examine the emergence of Russian producers of large civil aircraft and the potential for Asian parts suppliers to form consortia to manufacture airframes. In addition, the Commission will address the implementation and status of the 1992 U.S.-EU Large Civil Aircraft Agreement, developments in the global market for aircraft, including the emergence of markets for regional jet aircraft and jumbo jets, issues involving ''open skies'' agreements and ''free flight'' systems, as well as other developments affecting the competitiveness of the U.S. industry.

The report in this investigation will be similar in scope to the report prepared by the Commission in investigation No. 332–332, Global Competitiveness of U.S. Advanced-Technology Manufacturing Industries: Large Civil Aircraft, prepared at the request of the Senate Committee on Finance and transmitted to the Committee in August 1993. The report was published in August 1993 (USITC Publication 2667) and may be accessed through the USITC Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on March 17, 1998. All persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., March 3, 1998. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 3, 1998; the deadline for filing post-hearing briefs or statements is 5:15 p.m., March 31, 1998. In the event that, as of the close of business on March 3, 1998, no witnesses are scheduled to appear at the hearing, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–1816) after March 3, 1998 to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on March 31, 1998. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: September 24, 1997.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 97–26021 Filed 9–30–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–383]

Certain Hardware Logic Emulation Systems and Components Thereof; Notice of Commission Determination Granting Complainant's Petition to Modify the Amount of Respondents' Temporary Relief Bond

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined to grant complainant's petition to modify respondents' temporary relief bond in the above-captioned investigation. Respondents' temporary relief bond for all entries made since issuance of temporary relief in this investigation remains at 43 percent of the entered value of the subject imported articles if entered value equals transaction value as defined in applicable U.S. Customs Service regulations. Respondents' temporary relief bond for all entries made since issuance of temporary relief in this investigation is increased to 180 percent of the entered value of the subject imported articles if entered value does not equal transaction value as defined in applicable U.S. Customs Service regulations.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3116.

SUPPLEMENTARY INFORMATION: This investigation and temporary relief proceedings were instituted on March 8, 1996, based upon a complaint and motion for temporary relief filed on January 26, 1996, by Quickturn Design Systems, Inc. (''Quickturn''). 61 Fed. Reg. 9486 (March 8, 1996). The respondents are Mentor Graphics Corporation of Wilsonville, Oregon (''Mentor'') and Meta Systems of Saclay, France (''Meta'') (collectively ''respondents''). The products at issue are hardware logic emulation systems that are used in the semiconductor manufacturing industry to test

electronic circuit designs for semiconductor devices.

After an eleven-day evidentiary hearing, the presiding administrative law judge (''ALJ'') issued an initial determination granting Quickturn's motion for temporary relief and a recommended determination (''TEO RD'') regarding the appropriate remedy and bonding during the pendency of the permanent relief phase of the investigation. In his TEO RD, the ALJ recommended to the Commission that respondents' temporary relief bond (''TEO bond'') be determined based on the erosion in sales price that Quickturn was likely to suffer as a result of importations during the investigation. The Commission determined that the appropriate respondents' TEO bond should protect Quickturn against both sales price erosion and other losses of gross revenues that would reduce its research and development budget. Commission TEO Opinion at 19–21. The Commission imposed a bond of 43 percent of entered value on respondents' emulation systems, of which 25 percent was to compensate Quickturn for price erosion and 18 percent was to compensate for lost gross revenues that would otherwise be used for research and development. Commission TEO Opinion at 19–21.

On June 9, 1997, Quickturn petitioned the Commission pursuant to rule 210.76 for an increase in respondents' TEO bond rate from 43 percent of entered value of the subject emulation systems to 180 percent of entered value in view of the entered values that respondents have declared to the U.S. Customs Service. Quickturn argued that evidence gathered in the permanent relief phase of the investigation revealed that the TEO bond rate established in the temporary relief phase (43 percent of entered value) is inadequate to protect Quickturn from injury, as required by section 337. On June 19, 1997, respondents and the Commission investigative attorneys (''IAs'') filed responses to that petition. The IAs supported the petition and respondents opposed it.

On July 22, 1997, the Commission determined to rule on Quickturn's petition to modify the TEO bond rate after receiving the ALJ's recommended determination on remedy and bonding in the permanent phase of the investigation. On August 1, 1997, the ALJ issued his recommended determination.

A Commission opinion in support of its determination will be issued shortly.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission rule 210.76, 19 CFR § 210.76.

Copies of all nonconfidential documents filed in connection with this investigation are, or will be, available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: September 24, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26022 Filed 9–30–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–67]

Wheat Gluten Industry Council

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) (the Act).

SUMMARY: Following receipt of a petition filed on September 19, 1997, on behalf of the Wheat Gluten Industry Council, the Commission instituted investigation No. TA–201–67 under section 202 of the Act to determine whether wheat gluten, provided for in subheadings 1109.00.10 and 1109.00.90 of the Harmonized Tariff Schedule of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: September 19, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the Investigation and Service list

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Confidential Business Information (CBI) Under an Administrative Protective Order (APO) and CBI Service List.

Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

Hearings on Injury and Remedy

The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on December 16, 1997, at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on February 10, 1998. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before December 5, 1997, and January 30, 1998, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing

conferences to be held at 9:30 a.m. on December 9, 1997 and February 3, 1998, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is December 10, 1997; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. § 2252(a)(6)(B), is February 3, 1998. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is December 23, 1997; that for filing posthearing briefs on remedy is February 18, 1998. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before December 23, 1997, and pertinent to the consideration of remedy on or before February 18, 1998. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Issued: September 26, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26020 Filed 9–30–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Temporary Relocation of the Office of the Secretary

AGENCY: United States International Trade Commission.

ACTION: The Office of the Secretary will be relocating beginning Monday, October 20, 1997, for approximately 2 to 3 weeks, to room 317, 500 E Street SW., Washington, DC, 20436. Hours of operation and filing hours will remain 8:45 a.m.–5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Secretary Donna R. Koehnke (202–205–2000), Assistant Secretary Ruby J. Dionne (202–205–2799), or William R. Bishop (202–205–2000), Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Members of the media should contact Margaret O'Laughlin, Office of External Relations, at 202–205–1819. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

AVAILABILITY OF OFFICIAL FILES:

The following services will be available during the temporary relocation:

- The Electronic Document Imaging System (EDIS)
- In-house duplication services (EDIS documents and new petitions/complaints only)
- Fax-on-demand services
- Paper copies of Commission publications.

The following services will not be available during the temporary relocation:

- Paper copies of investigative files
- Microfiche files.

Issued: September 24, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26023 Filed 9–30–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Under 28 C.F.R. § 50.7, notice is hereby given that on September 12, 1997, a proposed Consent Decree in *United States* v. *Marine Shale Processors, Inc.*, Civ. No. CV90–1240, was lodged with the United States District Court for the Western District of Louisiana.

In this action against Marine Shale Processors, Inc., (''MSP'') the United States sought to recover civil penalties and enjoin violations of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. § 6901 *et seq.*, the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the Clean Air Act, 42 U.S.C. § 7413. The United States also sought relief under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § § 9604, 9606, and 9607. MSP operated a facility in Morgan City, Louisiana that treated hazardous waste by combustion.

This settlement resolves civil claims pending against MSP, as well as the civil claims against Southern Wood Piedmont, one of MSP's customers, and Recycling Park, Inc., an intervenor. The Proposed Decree also settles the claims of the State of Louisiana, co-Plaintiff in a number of the claims.

Under the proposed Decree, a new company, GTX, Inc. will purchase the assets and liabilities of MSP if and when GTX obtains certain environmental permits. MSP will pay a total penalty in excess of $10 million. GTX will dispose of the incinerator ash produced by MSP in a RCRA Subtitle C landfill. Further, GTX will upgrade the pollution control devices and hazardous waste storage tanks at the Facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Marine Shale Processors, Inc.*, D.J. Ref. 90–11–2–204.

The consent decree may be examined at the Office of the United States Attorney, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130, at U.S. EPA Region VI, 1445 Ross Avenue Dallas, TX 75202–2733, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $30.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

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

[FR Doc. 97–25996 Filed 9–30–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on September 2, 1997, a proposed Consent Decree in *United States* v. *Vogel Paint and Wax Co.,* C97–4078 MWB (N.D. Iowa) was lodged with the United States District Court for the Northern District of Iowa. The proposed Consent Decree resolves the United States' claims in this action against Vogel Paint and Wax Company, Incorporated (''Vogel'') under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs incurred and to be incurred by the United States at the Vogel Paint and Wax Company Site (''Site'') in Sioux County, Iowa.

The proposed Consent Decree requires, *inter alia,* that Vogel will pay to the EPA Hazardous Substance Superfund $200,000. In addition, Vogel is required to implement and perform certain response actions at the Site as ordered by the State of Iowa. The proposed Consent Decree grants to Vogel a covenant not to sue under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and the contribution protection afforded by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed in the proposed Consent Decree. The proposed Consent Decree contains reopeners which allow the United States, in certain situations, to institute additional proceedings to require Vogel to perform response actions or reimburse the United States for additional costs of response.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Vogel Paint and Wax Co.,* DOJ No. 90–11–3–855.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Iowa, 320 6th St., Sioux City, Iowa 51101; and at the Consent Decree library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree library. When requesting a copy, please enclose a check in the amount of $11.25 (25 cents per page reproduction cost) payable to the Consent Decree library.

Joel Gross,

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

[FR Doc. 97–25995 Filed 9–30–97; 8:45 am]

BILLING CODE 4410–15–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

September 26, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Thursday, September 25, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission postponed until October 3, 1997, consideration and action on the following:

1. Whether to propose revisions to Commission Procedural Rules 5, 9, 10, 45(f), 70, and 75.

TIME AND DATE: 10:00 a.m., Friday, October 3, 1997 (Previously scheduled for September 25, 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. Whether to propose revisions to Commission Procedural Rules 5, 9, 10, 45(f), 70, and 75.

TIME AND DATE: 10:00 a.m., Friday, October 17, 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. *Rock of Ages Corp.* v. *Secretary of Labor,* Docket No. YORK 94–76, etc. (Issues include whether the judge correctly determined that the operator violated four regulations relating to the use and handling of explosives and that the violations were due to the operator's unwarrantable failure; correctly assessed the penalty for the violations; and failed to be impartial in his decision and conduct of the hearing).

TIME AND DATE: 2:00 p.m. Friday, October 17, 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. *Rock of Ages Corp.* v. *Secretary of Labor,* Docket No. YORK 94–76, etc. (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 INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97–26209 Filed 9–29–97; 3:53 pm]

BILLING CODE 6735–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board

Sunshine Act Meeting

DATE AND TIME: October 8, 1997, 2:30 p.m., Open Session; October 9, 1997, 8:30 a.m., Open Session; October 10, 1997, 8:30 a.m., Open Session.

PLACE: University of Houston, Hilton Conference Center, 4800 Calhoun Road, Houston, TX 77204–3902.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, October 8, 1997

Open Session (2:30 p.m.–5:30 p.m.)

—Minutes, August 1997 Meeting
—Closed Session Agenda Items for November 1997 Meeting
—Chairman's Report
—Report of the Task Force on the October 1997 Meeting
—Working paper on Government Funding of Scientific Research

Thursday, October 9, 1997

Open Session (8:30 a.m.–6:15 p.m.)

Subject of Meeting: Convocation on Graduate and Postdoctoral Education: The Federal Role

I. The National Interest and Federal Role in Science & Engineering Graduate and Postdoctoral Education

—Federal/University Partnership in Research and Education for the Future

(Principles of Federal Support for Graduate and Postdoctoral Education)
—Modes of Federal Support for Graduate and Postdoctoral Education

II. Science & Engineering Graduate/Postdoctoral Education: Needs and Issues

Friday October 10, 1997

Open Session (8:30 a.m.–11:00 a.m.)

—Discussion of NSB Report to OSTP on Graduate Education
—Adjourn

Marta Cehelsky,

Executive Officer.

[FR Doc. 97–26110 Filed 9–29–97; 9:46 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–607]

United States Air Force; Notice of Proposed Issuance of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a facility operating license to the United States Air Force (the applicant). The license would authorize the applicant to operate a nuclear research reactor (the facility), located at McClellan Air Force Base, Sacramento, California, at power levels not to exceed 2300 kilowatts (thermal), with pulse step reactivity insertion not to exceed $1.75. The facility is presently operating under the authority of Section 91b of the Atomic Energy Act of 1954, as amended (the Act).

In compliance with the terms and conditions of the application, as amended, and in the absence of good cause to the contrary, the Commission will issue to the applicant (without prior notice) a class 104c facility license authorizing operation of the nuclear research reactor at the power and pulse levels specified above, since the application is complete enough to permit evaluation of the safety and environmental impact of the operation of the facility in the manner and location proposed. Prior to the issuance of the license, the facility will be inspected by a representative of the Commission to determine whether it has been constructed in accordance with the application. The license will not be issued until the Commission makes the findings required by the Act and the Commission's rules and regulations and concludes that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public or to the environment. In addition, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and by 10 CFR part 140 of the Commission's regulations.

By October 31, 1997, the licensee may file a request for a hearing with respect to issuance of the 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. 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 application 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: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Col. Robert Gibson, SM–ALC/JA, 5219 Arnold Avenue, McClellan AFB, Sacramento, California 95652–1085, 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).

For further details with respect to this action, see the application for dated October 30, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland, this 23rd day of September 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26009 Filed 9–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–59]

Texas A&M University; Notice of Consideration of Application for Renewal of Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–23, issued to the Texas A&M University for operation of the Texas A&M University AGN–201 reactor located on the Texas A&M campus in College Station, Texas.

This renewal would extend the expiration date of Facility License No. R–23 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated July 22, 1997.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Within thirty days of publication of this notice, the licensee may file a request for a hearing with respect to renewal of the subject facility 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 20037. If a request for a hearing or petition for leave to intervene is filed within the time prescribed above, 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 of 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 fifteen (15) days prior to the first rehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first rehearing 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 intents 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 renewal 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 Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC within the time prescribed above.

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 Ms. Susan Spinks, Office of the General Counsel, John B. Connelly Building, 301 Tarrow, Sixth Floor, College Station, Texas 77843–1230.

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).

For further details with respect to this action, see the application for renewal dated July 22, 1997, which is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington, DC.

Dated at Rockville, Maryland, this 23rd day of September 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26010 Filed 9–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–22]

Westinghouse Electric Corporation; Waltz Mill Test Reactor, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order approving, under 10 CFR 50.80, the transfer of Facility License No. TR–2, now held by the Westinghouse Electric Corporation. The license authorizes possession only of the Waltz Mill Test Reactor (WTR), located in Westmoreland County, Pennsylvania. The Commission is also considering issuance of a conforming amendment under 10 CFR 50.90 which would reflect the transfer.

Environmental Assessment

Identification of the Proposed Action

The proposed action would approve the transfer of the WTR license from Westinghouse Electric Corporation to a newly formed corporation which will utilize the same name. The new corporation will consist of most of the industrial businesses of the present Westinghouse Electric Corporation including the WTR facility. The media businesses of the existing Westinghouse Electric Corporation will remain with the existing corporation, which will change its name to CBS Corporation. The proposed action would also amend the license to reflect the transfer to the new corporation.

The proposed action does not modify the WTR facility configuration or licensed activities. The Westinghouse employees responsible for the licensed WTR facility will become employees of the new corporation, and will continue to be responsible after the transfer, for all licensed activities. The new corporation will be qualified to carry out licensed activities. The WTR facility will not change as a result of the action, including Technical Specifications or procedures, and licensed activities will continue in their present form without interruption of any kind. The new corporation will be financially qualified to hold the WTR facility possession only license, and will provide the financial assurance needed to decommission the facility.

The proposed action is in accordance with the licensee's application dated August 18, 1997, for approval of transfer of the license and conforming amendment.

Need for the Proposed Action

The proposed action is needed to permit the consummation of the proposed transfer of the WTR facility license from the Westinghouse Electric Corporation to a newly formed corporation as described above.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there will be no physical or technical changes to WTR. The technical qualifications of the proposed transferee will be identical to those of the current Westinghouse Electric Corporation. The present facility organization, the oversight organizations, and the engineering and support organizations will be transferred to the new corporation essentially intact.

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability or consequences of accidents would not be increased and that radiological releases would not be greater than previously determined. Further, the Commission has determined that the proposed action would not affect routine radiological facility effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action would not affect nonradiological facility effluents and would have no environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested 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 identical.

Alternative Use of Resources

No alternatives appear that will have different or lesser effect on the use of available resources.

Agencies and Persons Contacted

In accordance with its stated policy, on September 9, 1997, the staff consulted with the Pennsylvania State Official, James G. Yusko, of the Bureau of Radiation Protection, Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 18, 1997, and related letter dated August 15, 1997. which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland, this 23rd day of September 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Project Management, Office of Nuclear Reactor Regulation .

[FR Doc. 97–26008 Filed 9–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Reactor Fuels, Onsite Fuel Storage, and Decommissioning

Postponement

A meeting of the ACRS Subcommittee on Reactor Fuels, Onsite Fuel Storage, and Decommissioning scheduled to be held on October 9, 1997, in Room T–2 B3, 11545 Rockville Pike, Rockville, Maryland, has been postponed due to the unavailability of documents. Notice of this meeting was published in the **Federal Register** on September 22, 1997 (62 FR 49541). Rescheduling of this meeting will be announced in a future **Federal Register** Notice. For further information contact: Dr. Medhat El-Zeftawy, the cognizant ACRS staff engineer (telephone 301–415–6889) between 7:30 a.m. and 4:15 p.m. (edt).

Dated: September 25, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–26012 Filed 9–30–97; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

OMB Approval of Agency Information Collection Activity; Procedures for PBGC Approval of Multiemployer Plan Amendments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of OMB approval.

SUMMARY: This notice announces that the Office of Management and Budget has extended its approval of a collection of information contained in the Pension Benefit Guaranty Corporation's regulation on Procedures for PBGC Approval of Plan Amendments.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: OMB has extended its approval, under OMB control number 1212–0031, of the collection of information contained in PBGC's regulation on Procedures for PBGC Approval of Plan Amendments (29 CFR part 4220). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Issued in Washington, D.C. this 26th day of September, 1997.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–26050 Filed 9–30–97; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on September 5, 1997 (62 FR 47071). Individual authorities established or revoked under Schedules A and B and established under Schedule C between August 1, 1997, and August 31, 1997, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

The following Schedule A authority was established during August 1997:

Department of Justice

Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in Foreign Countries. Initial appointments under this authority may not exceed 2 years, but may be extended for an additional period not to exceed 2 years. Effective August 29, 1997.

No Schedule A authorities were revoked during August 1997.

Schedule B

No Schedule B authorities were established or revoked during August 1997.

Schedule C

The following Schedule C authorities were established during August 1997:

Commission on Civil Rights

Executive Assistant to the Staff Director. Effective August 28, 1997.

Department of Agriculture

Confidential Assistant to the Director, Human Resources Management. Effective August 21, 1997.

Confidential Assistant to the Director, Office of Communications, Rural Development. Effective August 28, 1997.

Staff Assistant to the Assistant Secretary for Administration. Effective August 28, 1997.

Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective August 28, 1997.

Department of Defense

Special Assistant to the Assistant Secretary, International Security Policy. Effective August 6, 1997.

Department of Education

Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs. Effective August 8, 1997.

Confidential Assistant to the Secretary's Regional Representative, Region V. Effective August 14, 1997.

Department of Energy

Special Assistant to the Deputy Assistant Secretary for Building Technology, State and Community Programs. Effective August 1, 1997.

Department of Health and Human Services

Speechwriter to the Director of Speechwriting. Effective August 19, 1997.

Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective August 28, 1997.

Department of Housing and Urban Development

Deputy Counselor to the Counselor to the Secretary. Effective August 13, 1997.

Director, Corporate and Constituent Outreach to the Assistant Secretary for Public Affairs. Effective August 13, 1997.

Senior Advisor to the Deputy Secretary. Effective August 21, 1997.

Department of Justice

Confidential Assistant to the Deputy Attorney General. Effective August 7, 1997.

Public Affairs Specialist to the Director, Public Affairs. Effective August 7, 1997.

Department of Labor

Chief of Staff to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs. Effective August 13, 1997.

Department of the Navy (DOD)

Staff Assistant to the Secretary of the Navy. Effective August 22, 1997.

Department of State

Special Assistant to the Legal Advisor. Effective August 1, 1997.

Department of Transportation

Scheduling/Advance Assistant to the Director for Scheduling and Advance. Effective August 7, 1997.

Scheduling/Advance Assistant to the Director for Scheduling and Advance. Effective August 7, 1997.

Senior Policy Advisor to the Deputy Secretary. Effective August 19, 1997.

Associate Direct or Media Relations and Special Projects to the Assistant to

the Secretary and Director of Public Affairs. Effective August 19, 1997.

Department of the Treasury

Senior Advisor to the Assistant Secretary for Management and CFO. Effective August 12, 1997.

Deputy Director of Scheduling to the Director, Scheduling Affairs. Effective August 13, 1997.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective August 21, 1997.

Environmental Protection Agency

Special Assistant to the Chief of Staff. Effective August 20, 1997.

Farm Credit Administration

Special Assistant to the Member. Effective August 6, 1997.

National Aeronautics and Space Administration

Writer-Editor to the Associate Administrator for Public Affairs. Effective August 22, 1997.

Office of Management and Budget

Confidential Assistant to the Associate Director, National Security and International Affairs. Effective August 22, 1997.

Office of National Drug Control Policy

Events Manager to the Director. Effective August 14, 1997.

Securities and Exchange Commission

Confidential Assistant to the Commissioner. Effective August 28, 1997.

Small Business Administration

Deputy Associate Administrator to the Associate Administrator for Communications and Public Liaison. Effective August 14, 1997.

Senior Advisor to the Administrator. Effective August 28, 1997.

United States Information Agency

White House Liaison to the Chief of Staff, Office of the Director. Effective August 7, 1997.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 comp., P. 218.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–25950 Filed 9–30–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–22832; 812–10650]

Harbor Fund and Harbor Capital Advisors, Inc.; Notice of Application

September 25, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the ''Act'') from the provisions of section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants Harbor Fund (the ''Trust'') and Harbor Capital Advisors, Inc. (the ''Adviser'') request an order to permit the Adviser to enter into and materially amend contracts with the Trust's subadvisers without shareholder approval.

FILING DATES: The application was filed on May 9, 1997, and amended on August 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, One SeaGate, Toledo, Ohio 43666.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust is organized as a Delaware business trust and is registered under the Act as an open-end management investment company. The Trust is comprised of nine series (''Funds''), each of which has its own investment objectives and policies.[1] Each Fund offers only one class of shares, which are distributed to the public without a sales charge or distribution or service fees. The Adviser, a Delaware corporation, is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'').

2. The Trust, on behalf of each Fund, has entered into separate investment advisory agreements (''Agreements'') with the Adviser. Under the terms of these Agreements, the Adviser provides each Fund with investment research, advice and supervision, and furnishes continuously an investment program for each Fund consistent with the investment objectives and policies of the Fund. The Adviser also administers each Fund's business affairs, furnishes each Fund with office facilities and is responsible for clerical, recordkeeping, and bookkeeping services and for the financial and accounting records required to be maintained by each Fund (other than those maintained by the Trust's custodian and shareholder servicing agent). The Agreements specifically permit the Adviser to enter into investment subadvisory agreements (''Subadvisory Agreements'') with portfolio managers (''Portfolio Managers'') to whom the Adviser delegates its responsibility for providing investment advice and making investment decisions for the particular Fund.

3. Since 1987, the Adviser has selected Portfolio Managers to make investment decisions for the Funds, and has represented itself as an investment adviser whose strength, experience, and expertise lies in its ability to evaluate, select, and supervise those Portfolio Managers who can add the most value to a shareholder's investment in the Trust. Currently, all nine Funds have contracted for subadvisory services with Portfolio Managers selected by the Adviser.[2] In addition to selecting Portfolio Managers, the Adviser provides management oversight services to the Funds, which include, but are not limited to, supervising the Portfolio

[1] Applicants also request relief with respect to any series of the Trust that may be created in the future and all subsequently registered open-end investment companies that in the future are advised by the Adviser, operate in substantially the same manner as the Funds with respect to the Adviser's responsibility to select, evaluate and supervise portfolio managers, and comply with the conditions to the requested order.

[2] As of the date of the application, only one Fund has more than one Portfolio Manager.

Managers' compliance with federal regulations, including those imposed under the Act; extensive evaluation of the Portfolio Managers' investment performance; analyzing the composition of the investment portfolios of each Fund and preparing reports for the Trustees; preparing presentations to shareholders which analyze each Fund's overall investment program and performance; and intensive and continual review of its Portfolio Manager selection process. The Adviser retains the ultimate responsibility to both oversee the Portfolio Managers which it selects and to recommend to the Trust's board of trustees (the ''Board of Trustees'') their hiring, termination, and replacement.

4. Under the terms of the Subadvisory Agreements, the Portfolio Managers have authority to provide the respective Funds with advice concerning the investment management of that portion of the Fund's assets allocated to the Portfolio Manager by the Board of Trustees. The Portfolio Managers determine what securities will be purchased and sold. The Portfolio Managers also perform certain recordkeeping and compliance functions required by the Act and the Advisers Act.

5. For the Adviser's advisory and administrative services, each fund pays the Adviser a monthly fee at an annual rate based on the average daily net assets of that fund. For their subadvisory services to the Funds, the Adviser pays each Portfolio Manager a monthly fee at an annual rate based on the average daily net assets of the Fund. Subadvisory fees paid by the Adviser to a Portfolio Manager of a Fund with more than one Portfolio Manager depend both on the fee rate negotiated with the Adviser and on the percentage of the Fund's assets allocated to the Portfolio Manager by the Adviser.

6. Applicants request an exemption from section 15(a) of the Act and rule 18f-2 under the Act to permit the Adviser, subject to the approval of the Trust's Board of Trustees, to enter into and materially amend Subadvisory Agreements with Portfolio Managers without obtaining shareholder approval. The Adviser will obtain shareholder approval of a Subadvisory Agreement with a Portfolio Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Adviser, other than by reason of serving as Portfolio Manager to one or more of the Funds.

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f-2 provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) to permit the Adviser, subject to the approval of the Trust's Board of Trustees, to enter into and materially amend Subadvisory Agreements with Portfolio Managers without obtaining shareholder approval.

3. Applicants assert tha, from the perspective of the investor, the role of the Portfolio Managers with respect to the Trust is substantially equivalent to the role of the individual portfolio managers employed by an adviser to an investment company. In both cases, the portfolio managers are concerned principally with selection of portfolio investments in accordance with the fund's investment objectives and policies and have no significant supervisory, management or administrative responsibilities with respect to the fund. Applicants also assert that investors look to the Adviser when they have questions or concerns about the Trust's management or about their Fund's investment performance. Applicants state that investors expect the Adviser and the Board of Trustees to select the Portfolio Managers for the Fund and, for multiple manager Funds, rely upon the Adviser's expertise in selecting specific Portfolio Managers for segments of the Fund's assets in accordance with a Portfolio Manager's experience and expertise.

4. Applicants contend that the requested relief will allow each Fund to operate more efficiently. Without the delay inherent in calling and holding shareholder meetings and without the associated costs, the Funds will be able to act more quickly and with less expense to replace Portfolio Managers when the Adviser and the Board of Trustees feel that change would benefit a Fund.

5. Applicants believe that the requested relief is consistent with the protection of investors in light of the management structure of the Trust, as well as the Adviser's significant experience and expertise in selecting Portfolio Managers and the shareholder's expectation that the Adviser will utilize that expertise and select the most able Portfolio Managers.

6. Applicants also believe that shareholders of the Funds will be provided with adequate information about the Portfolio Managers. The Trust's prospectus and statement of additional information will contain all required information regarding each Portfolio Manager. The Trust will furnish to shareholders, within 90 days of the date that a Portfolio Manager is appointed, relevant information that would have been provided in a proxy statement.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, or, in the case of a new Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition number 2 below, by the sole initial shareholder(s) before offering shares of that Fund to the public.

2. The Trust will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to this application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility to oversee Portfolio Managers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the Trust's Board of Trustees will be persons each of whom is not an ''interested person'' of the Trust as defined in section 2(a)(19) of the Act (''Independent Trustees''), and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

4. The Adviser will not enter into a Subadvisory Agreement with any Portfolio Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Adviser or the Funds, other than by reason of serving as Portfolio Manager to one or more of the Funds (''Affiliated Portfolio Manager''), without that agreement, including the compensation to be paid thereunder,

being approved by the shareholders of the applicable Fund.

5. When a Portfolio Manager change is proposed for a Fund with an Affiliated Portfolio Manager, the Trust's Trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Portfolio Manager derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Portfolio Manager, shareholders will be furnished relevant information about a new Portfolio Manager that would be contained in a proxy statement, including any change in such disclosure caused by the addition of a new Portfolio Manager. The Adviser will meet this condition by providing shareholders, within 90 days of the hiring of a Portfolio Manager, an informal information statement meeting the requirements of Regulation 14C and Schedule 14C of the Securities Exchange Act of 1934 (''Exchange Act''). The information statement will also meet the relevant requirements of Schedule 14A of the Exchange Act.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and subject to review and approval by the Trustees, will: (i) Set the Fund's overall investment strategies; (ii) select Portfolio Managers; (iii) when appropriate, recommend to the Fund's Board of Trustees the allocation and reallocation of a Fund's assets among multiple Portfolio Managers; (iv) monitor and evaluate the performance of Portfolio Managers; and (v) ensure that the Portfolio Managers comply with the Board's investment objectives, policies, and restrictions.

8. No Trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that Trustee, director or officer) any interest in a Portfolio Manager except for (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (ii) ownership of less than 1 percent of the outstanding securities of any class or debt or equity of a publicly-traded company that is either a Portfolio Manager or an entity that controls, is controlled by or is under common control with a Portfolio Manager.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25990 Filed 9–30–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39129; File No. SR–NYSE–97–16]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Amendments to NYSE Rule 79A

September 25, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 28, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange rule 79A to conform with requirements for display of customer limit orders as contained in Rule 11Ac1–4 under the Exchange Act. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

* * * * *

NYSE Rule 79A

Miscellaneous Requirements on Stock and Bond Market Procedures

.10 Request to make better bid or offer. When any [member] *Floor broker* does not bid or offer at the limit of an order which is better than the currently quoted price in the security and is requested by his principal to bid or offer at such limit, he shall do so.

.15 With respect to limit orders received by specialists, each specialist shall publish immediately (i.e., as soon as practicable, which under normal market conditions means no later than 30 seconds from time of receipt) a bid or offer that reflects:

(i) the price and full size of each customer limit order that is at a price that would improve the specialist's bid or offer in such security; and

(ii) the full size of each limit order that

(A) is priced equal to the specialist's bid or offer for such security;

(B) is priced equal to the national best bid or offer; and

(C) represents more than a de minimis change (i.e., more than 10 percent) in relation to the size associated with the Exchange's bid or offer.

The requirements with respect to specialists' display of limit orders shall not apply to any customer limit order that is:

(1) executed upon receipt of the order;

(2) placed by a customer who expressly requests, either at the time the order is placed or prior thereto pursuant to an individually negotiated agreement with respect to such customer's orders, that the order not be displayed;

(3) an odd-lot order;

(4) delivered immediately upon receipt to an exchange or association-sponsored system or an electronic communications network that complies with the requirements of Securities and Exchange Commission Rule 11Ac1–1 (c)(5)(ii) under the Securities Exchange Act with respect to that order;

(5) delivered immediately upon receipt to another exchange member or over-the-counter market maker that complies with the requirements of Securities and Exchange Commission Rule 11Ac1–4 under the Securities Exchange Act with respect to that order;

(6) an ''all or none'' order;

(7) a limit order to buy at a price significantly above the current offer or a limit order to sell at a price significantly below the current bid that is handled in compliance with Exchange procedures regarding such orders, (''too marketable limit orders''); or

(8) an order that is handled in compliance with Exchange procedures regarding block crosses at significant premiums or discounts from the last sale.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has recently adopted requirements (the ''Order Execution Rules'') for specialists to display immediately the price and full size of customer limit orders that would improve the bid or offer in a security.[3] The term ''immediately'' means as soon as practicable, which under normal market conditions requires display no later than 30 seconds after receiving such orders. The proposed amendments to NYSE Rule 79A would make the rule consistent with the order execution requirements of Rule 11Ac1–4 under the Exchange Act, as well as incorporate certain Commission interpretations of the Rule.[4]

Rule 79A.10 would be amended to apply only to Floor brokers rather than to all members. This would require brokers to represent an order at its limit when requested to do so by the customer, while continuing to allow brokers to use brokerage judgment in representing an order for a customer. A new section would be added to Rule 79A which would apply only to specialists. Rule 79A.15 would provide that, upon receipt of a customer limit order, a specialist must ''immediately'' (*i.e.*, as soon as practicable, which under normal market conditions means within 30 seconds from time to receipt) publish a bid or offer that reflects:

(i) The price and full size of the order, if it is at a price that would improve the bid or offer in the subject security;[5] and

(ii) The full size of the order, if it is priced at the same price as the current bid or offer in the subject security, and the current bid or offer is equal to the national best bid or offer. The specialist would not, however, be required to add size to the prevailing bid or offer if the size of the customer's limit order represents a *de minimis* increase (*i.e.*, 10% or less) over the size of the prevailing bid or offer.

Requrements for specialists to display customer limit orders would *not* apply to the following:[6]

(i) An order that is executed upon receipt;

(ii) An order placed by a customer who has requested (either on an order-by-order basis or respectively) that the order not be displayed;

(iii) An odd-lot order;

(iv) An order that is immediately delivered to an exchange or association-sponsored system, or electronic communications network (''ECN'') that complies with the ECN display alternative of the Quote Rule (Rule 11Ac1–1(c)(5)(ii);

(v) An order that is immediately delivered to another exchange member or OTC market maker that complies with the Limit Order Display Rule (Rule 11Ac1–4);

(vi) an ''all or none'' order;

(vii) a ''too-marketable'' limit order[7]; or,

(viii) an order that is handled in compliance with Exchange procedures regarding block crosses at significant premiums or discounts from the last sale.[8]

2. Statutory Basis

The basis under the Exchange Act for the proposed rule change is the requirement under Section 6(b)(5) of the Exchange Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that this rule change will accomplish these ends by facilitating increased transparency in the market, thus providing the public with better information on which to base investment decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. 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, 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 in 450 Fifth Street, N.W., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–NYSE–97–16 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act and the rules and regulations thereunder applicable to an exchange and with Section 11A of the Exchange Act. The proposal will make the NYSE's limit order display rule consistent with the Commission's Limit Order Display Rule (''Display Rule''),[9] thereby furthering the investor protection and market

[3] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

[4] *See* letter from Richard Lindsey, Director, Division of Market Regulation, SEC to James E. Buck, Senior Vice President and Secretary, NYSE, dated January 17, 1997. The letter provided no-action relief for a specialist that does not display a limit order while complying with Exchange procedures for ''too marketable'' limit orders or for block crosses at significant premiums or discounts from the last sale.

[5] In an August 28, 1997, letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Kathy England, Assistant Director, Market Regulation, the Exchange stated that Rule 79A.10 refers to ''the limit of an order which is *better than* the currently quoted price'' since the procedures for representing an order whose limit is *equal to* the currently quoted price are covered by Exchange Rules 70 and 123A.42. These rules provide that when a bid or offer is clearly established, no bid or offer at an inferior price shall be made, and require a broker to use due diligence to execute a limit order at its limit price, or at a better price, *if available under Exchange procedures.* (Emphasis in original.)

[6] The Exchange is not including the exception for block orders contained in Rule 11Ac1–4(c)(4).

[7] A ''too-marketable'' limit order is an order to buy at a price much higher than the offer, or an order to sell at a price much lower than the bid. When such an order is received, the specialist may execute the order at the market or may seek price confirmation. (*See* memorandum from Market Surveillance Division, NYSE, to Specialists dated April 15, 1996.)

[8] Issued as NYSE Information Memo 94–32 (August 9, 1994). *See* Securities Exchange Act Release No. 34303 (July 1, 1994) and File No. SR–NYSE–93–48.

[9] 17 CFR 240.11Ac1–4.

transparency objectives of the Order handling Rules.[10] In adopting the Order Handling Rules, the Commission increased investor protection by ensuring that customer limit orders were immediately displayed in the markets and by providing investors information about and access to superior prices that specialists and market makers displayed in ECNs. Although the Order handling Rules supersede existing NYSE rules, the proposed rule change will help provide consistency among Commission and NYSE rules.[11] Consequently, the proposed changes submitted by the NYSE will help remove impediments to the operation of a free and open market and a national market system, enhance the protection of investors and the public interest, and produce fair and informative quotations.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to ensure consistency between NYSE rules and the Order Handling Rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act, that the proposed rule change (SR–NYSE–97–16) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25991 Filed 9–30–97; 8:45 am]

BILLING CODE 8010–01–M

[10] The Display Rule, which requires the display of customer limit orders priced better than a market maker or specialist's quote, and adopted amendments to the Quote Rule to enhance the quality of published quotations for securities, and competition and pricing efficiency in U.S. securities markets. These rules (collectively, ''Order Handling Rules'') were designed to address growing concerns about the handling of customer orders for securities. *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release''). *See also* Securities Exchange Act Release Nos. 38110 (January 2, 1997), 62 FR 1279 (January 9, 1997) (order revising the effective date of the Order Execution Rules to January 13, 1997); and 38139 (January 8, 1997) (order revising the effective date of the Order Execution Rules until January 20, 1997).

[11] The NYSE proposal requires that specialists publish certain bids or offers ''immediately (*i.e.*, as soon as practicable, which under normal market conditions means no later than 30 seconds from time of receipt).'' The Commission notes that some industry participants have developed automated systems to ensure that customer limit orders are displayed no later than 30 seconds from receipt. Users of such systems, however, should use caution when relying on these systems for compliance. While ''default'' systems that ensure display no later than 30 seconds after receipt in situations where a market maker or specialist cannot otherwise attend to an order are not inappropriate, market makers or specialists that routinely allow such a system to display customer limit orders at the 30th second after receipt would *not* be deemed to be in compliance with the Display Rule. The Display Rule requires *immediate* display. *See* Letter from Richard Lindsey, Director, Division of Market Regulation, SEC to James F. Duffy, Executive Vice President and General Counsel, American Stock Exchange, dated April 1, 1997.

[12] 17 CFR 200.30–3(a)(12).

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 6⅜ percent for the October–December quarter of FY 98.

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 of the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

LeAnn Oliver,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 97–26027 Filed 9–30–97; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Austin Express, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 97–9–25, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Austin Express, Inc., fit, willing, and able to provide commuter air service under 49 U.S.C. 41738.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, X–56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 8, 1997.

FOR FURTHER INFORMATION CONTACT: Carol Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: September 23, 1997.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–25906 Filed 9–30–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 97–7–32 established the currently effective two-month SFFL applicable through September 30, 1997.

In establishing the SFFL for the two-month period beginning October 1, 1997, we have projected non-fuel costs based on the year ended June 30, 1997 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 97–9–32 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.3355

Latin America—1.3927

Pacific—1.4779

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: Dated September 25, 1997.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–25979 Filed 9–30–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–113; Notice 2]

Ford Motor Company; Denial of Application for Decision of Inconsequential Noncompliance

This notice denies the application by Ford Motor Company (Ford) for exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with the requirements of 49 CFR 571.118 Federal Motor Vehicle Safety Standard No. 118 ''Power-Operated Window, Partition, and Roof Panel Systems.'' Ford applied for the exemption on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on October 28, 1996, and an opportunity afforded for comment (61 FR 55686).

Paragraph S4(e) of Standard No. 118 requires that ''power operated windows may be closed only'' during the interval between the time the locking device which controls the activation of the vehicle's engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors.

From September 18, 1995, through July 31, 1996, Ford manufactured approximately 57,400 Mercury Villager and 46,500 Nissan Quest vehicles that do not comply with Paragraph S4(e) because their power-operated windows can be closed after the ignition key is turned to the ''off'' position and the right front (passenger) door is opened.

Ford supported its application for inconsequential noncompliance with the following arguments:

> In the affected Villager and Quest vehicles, it is likely that as long as the driver's door has not been opened, an adult (the driver) would remain present in the vehicle to supervise any children because a driver would exit the vehicle through the driver's door under all but the most extraordinary circumstances. As previously noted, the power window operation is canceled when the driver door is opened—the door through which the operator would be expected to exit the vehicle—thus eliminating any potential risk associated with operation of the power windows by unsupervised children remaining in the vehicle. In addition, the design of the front door power window control switches located on the door arm rests is such that closing these windows requires the switch to be pulled up and held. Further the switches are recessed in a cavity below the switch assembly surface. The intent of these design features is to minimize the chance of unintentional activation of power window closing that could, with other switch design configurations, result from a child leaning or resting a foot on the switch. An additional feature that minimizes the potential risk of injury to unsupervised children in the affected vehicles is that no power window switch controls are located in the rear seat positions, and the control switches for the third row seat optional power quarter windows are located in an overhead console in the front passenger compartment, relatively out of sight. In addition to the items cited above to mitigate the risk of injury, the Villager and Quest owner guides warn against leaving children unattended in the vehicle, specifically warn of the potential danger of children playing with the vehicle's power windows, and identify the fact that the accessory delay feature allows the power windows to be operated for a fifteen minute period after the ignition is turned off or until the driver door is opened.
>
> Neither Ford nor Nissan is aware of any field or owner reports or allegations of injuries related to this condition. We [Ford] believe the likelihood of unsupervised children left in one of the affected vehicles being exposed to injury during the fifteen minute period after the ignition key has been turned off and a driver has exited the vehicle through other than the driver's door is very remote, and therefore the noncompliance presents no reasonably anticipated risk to motor vehicle safety. We [Ford] request that the agency find this condition to be inconsequential to motor vehicle safety, and accordingly that Ford and Nissan be exempted from the notice and remedy requirements of the Code. The agency recently granted a petition from Volkswagen of America, Inc., as documented in **Federal Register**, Volume 60, page 48197, (September 18, 1995), for vehicles with power windows operating in a manner similar to the affected Villagers and Quests.

No comments were received in response to the public notice.

Ford is correct that the Volkswagen noncompliance is similar. The power windows in the noncompliant Volkswagen GTIs and Jetta IIIs could be operated when the ignition key was in the ''off'' position and the passenger side front door has been opened. And as in the Mercury and Nissan vehicles, if the operator exits by the driver's door, the system is disabled. In granting Volkswagen's application, the agency concluded that it was ''not likely that an operator would exit by means of the passenger door since that would entail passing over the cumbersome console between the two seats. Thus, the purpose of the requirement in this situation is still highly likely to be met.'' (61 FR at 48198).

The agency examined the front seating area in the noncompliant Mercury and Nissan vehicles and found no console or other impediment such as a transmission tunnel that would hinder a driver from exiting on the passenger side. Indeed, a prudent driver might well choose to exit by the front passenger door when parked on a busy city street. Thus, the configuration of the vehicles that the agency exempted from notification and remedy is clearly distinguishable from that of the Mercury/Nissan vehicles for which exemption is sought. Further, there is a greater floor pan to ceiling height resulting in the seating in the Quests and Villagers being more upright, making it easier for the driver to move across the front seats and out the passenger side.

The purpose of requiring inoperative power windows is to reduce the possibility of unsupervised children operating them. The agency is sensitive to the fact that a greater number of children are likely to be at risk from Ford's noncompliance. Although children can be carried in the approximately 20,000 GTIs and Jetta IIIs that were excused from notification and remedy, these passenger cars are not advertised and promoted for family use in the same manner that minivans are marketed, including the approximately 103,900 noncomplying Villagers and Quests.

For the reasons expressed above, it is hereby found that the applicant has not met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety, and the application is denied.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 24, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–25971 Filed 9–30–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388]

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail, Inc. and Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice of final scope of environmental impact statement (EIS).

SUMMARY: On June 23, 1997, CSX Corporation and CSX Transportation, Inc. (CSX), Norfolk Southern Corporation, and Norfolk Southern

Railway Company (NS), and Conrail Inc. and Consolidated Rail Corporation (Conrail) filed an application (primary application) with the Surface Transportation Board (Board) under 49 U.S.C. 11323–25. NS, CSX, and Conrail are jointly seeking authority for NS and CSX to acquire control of Conrail and for the subsequent division of some of Conrail's assets and for the joint operation of other Conrail assets. The proposed transaction involves more than 44,000 miles of rail lines and related facilities covering a large portion of the eastern United States. To evaluate and consider the potential environmental impacts that might result from the proposed transaction, the Board's Section of Environmental Analysis (SEA) is preparing an environmental impact statement (EIS). The Board has determined that an EIS is warranted due to the nature and scope of environmental issues that may arise. SEA published the draft scope of the EIS in the **Federal Register** on July 7, 1997, a 30-day public comment period on the draft scope ended August 6, 1997, and the final scope of the EIS is included as part of this notice. Changes made to the draft scope are detailed in the Response to Comments section of this notice.

DATES: SEA expects to distribute the Draft EIS for public review and comment in November 1997.

ADDRESSES: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33388, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

In the lower left-hand corner of the envelope, include: Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565–1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565–1552. (TDD for the hearing impaired: (202) 565–1695).

SUPPLEMENTARY INFORMATION:

Background

The proposed transaction, also referred to as the proposed action, would result in the individual assignment of certain existing Conrail facilities and operations to either CSX or NS through operating agreements or other mechanisms, and the sharing and operation of other existing Conrail facilities and operations for the benefit of both CSX and NS. This would result in an expanded CSX rail system, an expanded NS rail system, and certain areas of joint ownership and operation. According to CSX, NS, and Conrail (collectively, Applicants), CSX and NS would continue to compete with each other in providing rail freight services and would expand their competition to areas in which Conrail is currently the only major rail carrier. Each of the two railroads would utilize its existing lines, would operate certain Conrail lines independently of the other, and would jointly operate certain Conrail lines.

Applicants anticipate that the proposed transaction would provide benefits that include: reduced energy usage, enhanced safety, reduced highway congestion, reduced system-wide air pollutant emissions, expanded competition, and a more efficient rail transportation system. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic, changes in activity at rail yards and intermodal facilities, rail line abandonments and rail line connection construction projects. The proposed transaction is detailed in the primary application, and is discussed in specific terms in the operating plans and the environmental report (ER) that are part of the application. The ER describes the physical and operational changes that would be associated with the proposed transaction and discusses the potential environmental impacts of those changes. Applicants also filed corrected and supplemental information in the Errata and Supplemental ER on August 28, 1997.

Applicants served the ER, the Errata and the Supplemental ER on appropriate Federal, state, and local agencies. Applicants also served these documents on affected cities with populations of more than 50,000, as well as on counties and regional planning organizations that could be affected.

Environmental Review Process and Alternatives

The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before the Board may make a decision on a proposed action. During scoping, the first phase of the NEPA process, the Board's environmental staff, SEA, published a draft scope in July 1997, soliciting information and comments on the scope of environmental issues to be addressed in the EIS for the proposed transaction. Under the NEPA process, SEA will evaluate the potential environmental impacts of operational and physical changes that are related to the proposed transaction. Existing rail operations are the baseline against which the potential environmental impacts of the proposed transaction will be evaluated. SEA will not propose mitigation of environmental impacts relating to existing rail operations and existing railroad facilities.[1]

In making its decision in this proceeding, the Board will consider public comments and SEA's environmental analysis contained in the EIS, including any proposed environmental mitigation. The alternatives SEA will consider in the EIS are: (1) Approval of the transaction as proposed; (2) disapproval of the proposed transaction in whole (No-Action alternative); and, (3) approval of the proposed transaction with conditions, including environmental mitigation conditions.[2]

Other parties may file inconsistent or responsive applications requesting modifications to the proposed transaction, such as requests for trackage rights or the acquisition of particular rail lines. The EIS will address potential environmental impacts and rail system changes proposed in the inconsistent and responsive applications.

Relationship With Other Agencies

The authority of the Board is broad and extends to all matters affecting change in rail operations resulting directly from the proposed transaction. Conditions may be imposed to mitigate adverse environmental impacts that are the result of the proposed transaction, or any alternative considered and approved by the Board. In determining appropriate conditions for the transaction, the Board will exercise its authority with due regard for the jurisdiction and expertise of other Federal agencies (e.g., the Federal Railroad Administration, the Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service).

[1] In merger and control cases, the Board's practice consistently has been to mitigate only those environmental impacts that result from the transaction. The Board, like its predecessor, the Interstate Commerce Commission, has not imposed mitigation to remedy preexisting conditions such as those that might make the quality of life in a particular community better, but are not a direct result of the merger (i.e., congestion associated with the existing rail line traffic, or the traffic of other railroads).

[2] The Board has broad authority to impose conditions in railroad control transactions under 49 U.S.C. 11324 (c). However, the Board's power to impose conditions is not limitless; the record must support the imposition of the condition at issue. Moreover, there must be a sufficient relationship between the condition imposed and the transaction before the agency, and the condition imposed must be reasonable.

Related Activities

NS and CSX requested, and the Board allowed, the proposed construction of seven small rail line connections (Seven Connections) totaling approximately four miles to be filed and reviewed separately from the primary application. This separate environmental review process will address only the potential environmental impacts of the physical construction of these Seven Connections and Applicants' proposed operations over these individual lines. The operational implications of the transaction as a whole, including proposed operations over these Seven Connections, if authorized, will be examined in the context of the EIS that is being prepared for the proposed transaction.[3]

Public Participation

SEA encourages broad participation in the EIS process during scoping and review of the Draft EIS. Interested agencies and persons were invited to participate in the scoping phase by reviewing the draft scope of the EIS. Due to the broad geographic scope of the proposed transaction, SEA did not conduct public scoping meetings. However, in addition to publication of the draft scope of the EIS in the **Federal Register** on July 7, 1997, SEA implemented an extensive public outreach program to notify the public that SEA was soliciting comments on the draft scope of the EIS and to encourage public participation in the environmental review process.

SEA distributed information about the proposed transaction and SEA's intent to prepare an EIS through the following outreach activities:

- On July 3, 1997, a scoping package that included the draft scope of the EIS was distributed to approximately 1,900 Federal, state and local elected and agency officials. In this package, the Board also announced its intent to prepare an EIS and requested comments on the draft scope.
- On July 7, 1997, SEA published a notice in the **Federal Register** to announce the Board's intent to prepare an EIS, to publish the draft scope of the EIS, and to request comments on the proposed scope.
- In July 1997, a press release detailing this same information was distributed to the media in the 24 affected states, and a legal notice was placed in the newspapers with the highest circulation for each of the potentially affected counties.
- During July and August 1997, SEA also prepared and widely distributed a Fact Sheet describing the proposed transaction to 7,000 elected officials, agencies and organizations for cities and counties potentially affected by the proposed transaction.
- To further assist SEA in receiving input from the public, SEA established a toll-free environmental hotline (1–888–869–1997), established a website (www.conrailmerger.com), and initiated media monitoring services that involved a weekly review of newspaper articles.

The SEA study team established a comprehensive database to record and maintain all comments received in writing and via telephone and the website. Written comments on the draft scope of the EIS were due to the Board within the 30-day comment period, which ended on August 6, 1997. All comments have been placed in the Public Record for this proceeding. In preparing the final scope of the EIS, SEA has considered all the environmental comments.

Response to Comments: SEA received more than 170 comments concerning the draft scope of the EIS. Twenty-one comments were received from Federal agencies, including the U.S. Departments of Agriculture, Commerce, Housing and Urban Development, Interior, and Transportation; the U.S. Army Corps of Engineers; the U.S. Coast Guard; and the Environmental Protection Agency. Forty-eight comments were received from state agencies in AL, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NC, NJ, NY, OH, PA, RI, SC, TN, VT, VA, and WV. Seventy-eight comments were received from local, county, and regional agencies from the states of AL, DE, DC, FL, GA, IL, IN, KY, LA, MD, MA, MI, NC, NJ, NY, OH, PA, TN, and VA. Nine comments were received from citizens in DE, GA, and OH. Five businesses—including Interstate Commodities, Inc., Johnson Environmental Consulting Group, Inc., Newark (DE) Center for Creative Learning, Newark (DE) Day Nursery, and Port Richmond Community Council, Inc., provided comment, as did a rail carrier, National Railroad Passenger Corporation (Amtrak). Seven comments were received from other interested parties, including the League of Women Voters of New Castle County, DE; the American Public Transit Association; The Waterfront Historic Area League, New Bedford, MA; Indianapolis Power & Light Company, IN; Downtown Newark, DE; University of Delaware, DE; and Rutgers, The State University of New Jersey School of Law. The comments covered a broad range of topics, including air quality, water resources, noise, at-grade highway safety, rail accidents, emergency vehicle response times, hazardous materials transportation and spills, environmental justice, and current and future commuter rail service.

SEA reviewed and considered all comments received in its preparation of the final scope of the EIS. The final scope reflects changes made because of comments on the draft scope of the EIS. Other changes in the final scope of the EIS were made for clarification.

Specifically, the Safety Section of the final scope of the EIS provides that grade crossing safety generally will be considered for at-grade highway crossings with average daily traffic levels of 5,000 or more vehicles. In applying this threshold for the review of at-grade crossings in past environmental documents, SEA found it to be a conservative baseline.

SEA received several comments concerning hazardous waste. In response, section 1(D)(7) of the final scope of the EIS was added to indicate that the Draft EIS will assess the locations and types of hazardous waste sites and spills on the rights-of-way of proposed construction projects and rail line abandonments. SEA notes, however, that other Federal and state agencies have primary jurisdiction for investigation, clean-up, and remediation of hazardous waste sites.

SEA received approximately 20 comments related to potential impacts on commuter rail service. In response, Section 2 of the final scope has been expanded to include an analysis of potential passenger diversions, and reasonably foreseeable commuter rail inception or expansion plans (i.e., where capital improvements are planned, approved, and funded). Section 2 also addresses comments requesting that SEA discuss the potential impacts of increased train traffic on movable (draw) bridges over navigable channels.

Section 4, Energy, has been clarified in the final scope to address estimated system-wide changes in energy efficiency (fuel use), including the impact of truck-to-rail diversions. Section 4(C) addresses the overall

[3] Board Decision No. 9 in this proceeding, issued June 12, 1997, granted Applicants' petition for waiver related to the Seven Connections and explained what the environmental review process for those projects would be. Specifically, SEA intends to prepare a separate Environmental Assessment for each of these small construction projects. However, if SEA determines that any one of the construction proposals could potentially cause, or contribute to, significant environmental impacts, then the project will be incorporated into the EIS for the overall proposed transaction, and will not be separately considered. Also, no rail operations can begin over these Seven Connections until completion of the EIS process, and issuance of a further decision.

estimated changes in energy efficiency resulting from rail-to-truck diversions subject to the Board's regulatory thresholds in 49 CFR.1105.7(e)(4)(iv).

Section 5, Air Quality, has been expanded to include the calculation of net increases of emissions from the proposed transaction for counties where increases in locomotive emissions are projected to be 100 tons or more per year. Section 6, Noise, has been modified to reflect the actual data that are available to analyze noise impacts. Estimates of receptors will be developed where noise levels are predicted to rise to 65 decibels L_{dn} or greater as a result of rail traffic increases related to the proposed transaction.

Section 9, Environmental Justice, has been expanded in the final scope to include a report on the demographics in the vicinity of rail line segments with projected rail traffic increases of eight (8) trains or more per day. The portion of Section 3 of the final scope of the EIS, involving Socioeconomic Issues, includes a consideration of socioeconomic impacts to the extent that they result directly from changes to the physical environment due to the proposed transaction. That approach is consistent with the U.S. Supreme Court decision in *Metropolitan Edison Co.* v. *People Against Nuclear Energy,* 460 U.S. 766 (1982). Those most directly and immediately affected by the proposed transaction, the employees of the consolidating carriers, will be covered by the labor protection afforded by the Board in considering the merits of the proposed transaction. Therefore, these impacts need not be addressed in the EIS. Section 3 also has been expanded to specifically state that the EIS will address the potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

Several comments on the draft scope of the EIS suggested there be an analysis of the cumulative impacts of certain environmental effects related to the proposed transaction. The final scope of the EIS indicates the Draft EIS will undertake cumulative effects analyses related to the proposed transaction where such effects could have regional or system-wide impacts. The effects to be analyzed will include air quality and energy. Cumulative effects also may be analyzed for other projects or activities related to the proposed transaction where information is provided in a timely fashion to the Board describing those projects, their interrelationship to the proposed transaction, and the type and severity of the potential environmental impacts, and SEA determines that there is the likelihood of significant environmental impacts.

Parties of Record

The Board received 228 notices of designation as a Party of Record (POR). As stated in Board Decision No. 6 in this case,[4] copies of Board decisions, orders, and notices will be served only on persons designated as PORs, members of Congress, and governors on the Board's official service list. All other interested persons who wish to receive copies of Board decisions, orders, and notices served in this proceeding are encouraged to make advance arrangements with the Board's copy contractor, DC News & Data, Inc., at (202) 289–4357.

For Additional Information

Contact Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565–1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565–1552 (TDD for the hearing impaired: (202) 565–1695). Summary information about the proposed transaction and the final scope of the EIS can be found at the following Internet web site: *http://www.conrailmerger.com*. Requests for summary environmental information on the proposed transaction and the EIS process can be made through SEA's toll-free Environmental Hotline at (888) 869–1997.

Environmental Review Schedule

The Board has adopted a 350-day procedural schedule for this proceeding,[5] and has determined that preparation of an EIS is warranted in this case. The 350-day schedule will permit SEA to prepare an EIS that fully considers the potential environmental consequences of this proposed action. Below is a discussion of how SEA plans to conduct the environmental review process in this case.

On June 23, 1997, Applicants filed an ER containing the information specified in the Board's environmental rules at 49 CFR 1105.7(e), as part of the primary application. The ER was served concurrently on the agencies listed in the Board's environmental rules at 49 CFR 1105.7(b), and other appropriate entities. The ER describes the physical and operational changes in the rail systems and facilities anticipated as a result of the proposed transaction. In the ER, Applicants also discuss the potential environmental impacts that would be associated with the anticipated changes. The Applicants have provided, and continue to provide, SEA with supplemental information to the ER. Also, as previously discussed, on August 28, 1997, the Applicants filed an Errata and Supplemental ER.

Based on the Council on Environmental Quality's (CEQ) regulations, the Board's environmental rules at 49 CFR 1105, the ER, the draft scope, the comments received on the draft scope, and all other information available to date, SEA has prepared this final scope of the EIS. This final scope of the EIS will be distributed to all PORs, interested parties, and appropriate agencies.

Based on SEA's independent environmental analysis, review of all information available to date, and consultations with appropriate agencies, SEA will prepare a Draft EIS. The Draft EIS will address relevant environmental concerns, as described in the final scope of the EIS, and will recommend appropriate environmental mitigation. In addition, the Draft EIS will include environmental impacts associated with any inconsistent or responsive applications or settlement agreements.[6] SEA intends to serve the Draft EIS in November 1997. SEA will serve the Draft EIS on all PORs to this proceeding, all interested parties, appropriate Federal, state, and local government agencies, and any other parties specifically requesting a copy of the Draft EIS. In addition, the Environmental Protection Agency will publish a notice of the availability of the Draft EIS in the **Federal Register**. There will be a 45-day comment period on the Draft EIS, as required by CEQ regulations at 40 CFR 1506.10(c).

After considering comments on the Draft EIS, SEA will issue a Final EIS. The Final EIS will address comments on the Draft EIS and will include SEA's final recommendations, including appropriate environmental mitigation. Environmental comments not received in accordance with the 45-day comment period for the Draft EIS will not be incorporated into the Final EIS. The Final EIS and SEA's final environmental

[4] Board Decision No. 6 was issued May 30, 1997, and published at 62 FR 29387–29391.

[5] See Decision No. 6. This schedule is based on the filing date (F) of the primary application, which was June 23, 1997.

[6] Under the procedural schedule previously established for this proceeding in Decision No. 6, inconsistent and responsive applicants must provide a description of the proposed inconsistent or responsive application by August 22, 1997. Inconsistent and responsive applicants must file Responsive Environmental Reports or verified statements indicating that there are no potentially significant environmental impacts by October 1, 1997. They must file inconsistent and responsive applications by October 21, 1997. SEA anticipates that the issues addressed in the final scope of the EIS will be similar to issues that may be raised in any subsequent filing of inconsistent or responsive applications.

recommendations serve as the basis for the Board's disposition of environmental issues.

SEA plans to serve the Final EIS in late March or early April 1998, prior to the Board's voting conference, which currently is scheduled for April 14, 1998. At the voting conference, the Board will announce whether it will grant or deny the application, or grant it with appropriate conditions, including environmental mitigation conditions. The Board intends to serve a written decision in this case by June 8, 1998. In that decision, the Board will address both environmental and transportation issues and impose any conditions deemed appropriate.

Parties who wish to file an administrative appeal of the Board's written decision (including any environmental conditions that the Board might impose) may do so within 20 days from the service date of the Board's written decision, as provided in the Board's rules. Any interested party will have approximately two months to consider the Final EIS prior to commencement of the aforementioned period for filing administrative appeals. The schedule will provide adequate time to pursue administrative review of the Board's June 1998 decision after it is issued. Any administrative appeals will be addressed in a subsequent decision. This process is consistent with CEQ rules (40 CFR 1506.10(b)).

Projected Schedule [7]

- Preliminary Environmental Report [8] submitted to SEA. (F–30). [9]—May 16, 1997.
- Primary Application and Environmental Report filed.—(F). June 23, 1997.
- Notice of Intent to Prepare an Environmental Impact Statement and Environmental Impact Statement Scoping Notice issued. (**Federal Register** Notice).—July 7, 1997.
- Comments on the Draft Scope of the Environmental Impact Statement due (end of 30-day comment period).—August 6, 1997.
- Descriptions of Inconsistent and Responsive Applications filed. (F + 60).—August 22, 1997.
- Preliminary Draft Environmental Assessments for the Seven Separate Construction Projects referenced in Decision No. 9.—September 5, 1997.
- Final Scope of the Environmental Impact Statement issued.—September 1997.
- Responsive Environmental Reports and Verified Environmental Statements due. (F + 100).—October 1, 1997.
- Inconsistent and Responsive Applications due. (F + 120).—October 21, 1997.
- Draft Environmental Impact Statement served.—November 1997.
- Draft Environmental Impact Statement comments due (end of 45-day comment period).—January 1998.
- Final Environmental Impact Statement served.—Late March or Early April 1998.
- Oral Argument.—April 9, 1998.
- Voting Conference.—April 14, 1998.
- Final Decision served.—June 8, 1998.
- Administrative Appeals filing deadline.—June 29, 1998.

Final Scope of the EIS

Proposed Action and Definition of Alternatives

The proposed action is Applicants' proposed acquisition and control, jointly or individually, of Conrail's rail lines and facilities, as explained in the primary application's operating plan and ER. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic on rail lines, changes in activity at rail yards and intermodal facilities, and rail line abandonment and construction projects.

Reasonable or feasible alternatives that will be evaluated in the EIS are: (1) Approval of the proposed transaction; (2) the No-Action alternative; and (3) approval of the proposed transaction with conditions, including environmental mitigation conditions. Proposed modifications to the proposed transaction as requested by other parties in their inconsistent or responsive applications also will be addressed in the EIS.

Environmental Impact Analysis

Analysis in the EIS will address proposed activities and their potential environmental impacts, as appropriate. The scope of the analysis will include the following types of activities:

1. Anticipated changes in level of operations on rail lines (e.g., an increase in average trains per day) for those rail line segments that meet or exceed the Board's thresholds for environmental review in 49 CFR 1105.7. In circumstances where the Board's environmental rules do not provide a threshold, the EIS generally will use increases of eight trains per day or more as the threshold for addressing environmental impacts.
2. Proposed rail line abandonments.
3. Proposed changes in activity at rail yards and intermodal facilities to the extent such changes may exceed the Board's thresholds for environmental analysis in 49 CFR 1105.7.
4. Proposed requests for trackage rights or rail line acquisitions that meet or exceed the Board's thresholds that may be included in inconsistent and responsive applications.
5. Proposed physical construction of rail line segments other than the Seven Connections discussed above and in Decision No. 9.[10] Subsequent references to construction projects in this scoping document do not include these Seven Connections. Alternatives to construction may include feasible alternate alignments that may be environmentally preferable.

Environmental Impact Categories

The EIS will address potential impacts on the environment that will include the areas of safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects related to physical changes in the environment, environmental justice, and cultural and historic resources, as described below.

1. Safety

The EIS will:

A. Consider at-grade rail crossing accident probability and safety factors. This will generally include grade crossings with average daily traffic levels of 5,000 or more trips.[11] Accident probability analysis will address the potential for rail and vehicle accidents.

B. Consider increased probability of train accidents and derailments due to increased traffic on a system-wide basis.

C. Address potential effects of increased freight traffic on commuter and intercity passenger service operations.

D. Discuss the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation of hazardous materials, including:

[7] Actual dates for environmental documents may vary slightly.

[8] The Preliminary Environmental Report contained preliminary, descriptive information on the proposed transaction.

[9] "F" is the filing date of the primary application. The Board established the time periods related to the filing date in the procedural schedule set out in Decision No. 6 in this proceeding.

[10] As noted in Decision No. 9, in reviewing the Seven Connections separately, the Board will consider the regulatory and environmental aspects of these proposed constructions and Applicants' proposed operations over these lines together in the context of whether to authorize each individual physical construction project. The operational implications of the proposed transaction as a whole, including operations over the four or so miles embraced in the Seven Connections, will be examined in the context of the EIS for the overall proposed transaction.

[11] Previous SEA environmental analyses have used the 5,000 average daily traffic level threshold.

(1) Changes in the types of hazardous materials and quantities transported or re-routed;

(2) Nature of the hazardous materials being transported;

(3) Applicants' safety practices and protocols;

(4) Applicants' relevant safety data on derailments, accidents and hazardous materials spills;

(5) Contingency plans to address accidental spills;

(6) Probability of increased spills given railroad safety statistics and applicable Federal Railroad Administration requirements; and

(7) Location and types of hazardous substances at hazardous waste sites or hazardous materials spills on the right-of-way of any proposed connection or rail line abandonment site.

E. Address local truck traffic increases attributable to increased intermodal activities.

F. Address safety issues associated with the integration of differing rail operating systems and procedures.

2. Transportation Systems

The EIS will:

A. Describe system-wide effects of the proposed operational changes, constructions, and rail line abandonments, and evaluate potential impacts on commuter rail service and intercity passenger (Amtrak) service. Estimates will be made of the number of passengers who may be diverted from commuter rail to other modes of transportation due to constraints resulting from the proposed transaction that limit the number of passenger trains.

B. Evaluate those commuter rail line segments that would experience increased freight traffic as a result of the proposed transaction for the capability of the rail line segments to accommodate the reasonably foreseeable addition of commuter trains.

C. Discuss potential effects on proposed passenger rail service where such future rail operation inception or expansion is reasonably foreseeable (i.e., where capital improvements are planned, approved, and funded).

D. Discuss potential diversions of freight traffic from trucks to rail and from rail to trucks, as appropriate.

E. Address vehicular delays at rail crossings and intermodal facilities due to increases in rail-related operations as a result of the proposed transaction. Estimates of typical delays at grade crossings will be made for crossings that have vehicle traffic levels of 5,000 ADT or more and that exceed train traffic increases of three trains per day for non-attainment areas or eight trains per day for attainment areas.

F. Discuss potential effects of increased train traffic on railroad bridges that cross navigation channels to the extent that such bridges allow only one mode of transportation to pass at a time.

3. Land Use and Socioeconomics

The EIS will:

A. Describe whether the proposed rail line construction and abandonment activities are consistent with existing land use plans.

B. Describe environmental impacts associated with the proposed construction of new rail lines or expansion of facilities as to acres of prime farmland potentially removed from production.

C. Discuss consistency of proposed rail line construction and abandonment activities with applicable coastal zone requirements.

D. Address potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

E. Address socioeconomic issues shown to be related to changes in the physical environment as a result of the proposed transaction.

4. Energy

The EIS will:

A. Describe the potential environmental impact of the proposed transaction on transportation of energy resources and recyclable commodities to the extent that such information is available.

B. Discuss estimated changes in energy efficiency from truck-to-rail diversions.

C. Discuss the effect on energy efficiency (fuel use) from rail-to-truck diversions based on estimates of diversions which are subject to the Board's thresholds in 49 CFR 1105.7(e)(4)(iv).

5. Air Quality

The EIS will:

A. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), in an air quality attainment or maintenance area as designated under the Clean Air Act as it existed on the date the primary application was filed.[12] Thresholds are as follows:

(1) A 100 percent increase in rail traffic (measured in gross-ton miles annually) or an increase of eight trains a day on any segment of rail line affected by the proposal; or

(2) An increase in rail yard activity of at least 100 percent or more; or

(3) An increase in truck traffic at an intermodal facility of more than 10 percent of the average daily traffic or 50 vehicles a day.

B. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds for a non-attainment area as designated under the Clean Air Act as of the date the application was filed. Thresholds for non-attainment areas are as follows:

(1) An increase in rail traffic of at least 50 percent (measured in gross-ton miles annually) or an increase of three trains a day or more; or

(2) An increase in rail yard activity of at least 20 percent; or

(3) An increase in truck traffic at intermodal facilities of more than 10 percent of the average daily traffic or 50 vehicles a day.

C. Discuss the net increase in emissions from increased railroad operations associated with the proposed transaction. Net emissions changes will be calculated for counties with projected transaction-related emissions increases of:

(1) 100 tons per year or more of any pollutant in attainment areas;

(2) 50 tons per year or more of nitrogen oxides or volatile organic compounds in serious[13] ozone non-attainment areas; or

(3) 25 tons per year or more of nitrogen oxides or volatile organic compounds in severe[14] ozone non-attainment areas.

D. Evaluate potential air quality benefits of system-wide emission reductions that would result from projected truck-to-rail diversions. Net increases, less any estimated reductions due to truck-to-rail diversions, will be compared to the entire emission inventory for affected non-attainment areas. This evaluation will be based on emission inventory data provided by the appropriate state agency.

[12] Air quality attainment areas are areas that comply with national ambient air quality standards for particulate matter, sulfur dioxide, nitrogen oxides, ozone, carbon monoxide, and lead. Non-attainment areas are areas that do not comply with one or more ambient air quality standards. Maintenance areas are areas that were non-attainment in the past but have air quality that complies with standards at present. All of these areas are designated by EPA.

[13–14] Ozone non-attainment areas are further classified as Marginal, Moderate, Serious, Severe, or Extreme Areas. These classifications are based on the level, in parts per million (ppm), of ozone measured for each area. Serious Areas are defined as containing 0.160 to 0.180 ppm, and Severe Areas are defined as containing 0.180 to 0.280 ppm.

E. Discuss the following information regarding the anticipated transportation of ozone depleting materials (such as nitrogen oxide and freon):

(1) Materials and quantity;

(2) Applicants' safety practices;

(3) Applicants' safety record (to the extent available) on derailments, accidents, and spills;

(4) Contingency plans to address accidental spills; and

(5) Likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

F. Discuss potential air emissions increases from vehicle delays at rail crossings where the rail crossing is projected to experience an increase in rail traffic over the thresholds described above in Section 5(A) for attainment and maintenance areas, and in Section 5(B) for non-attainment areas, and which have an average daily vehicle traffic level above 5,000. Such increases will be factored into the net emissions estimates for the affected area.

6. Noise

The EIS will:

A. Describe potential noise impacts of the proposed transaction for those areas that exceed the Board's environmental thresholds identified in Section 5A of the Air Quality discussion.

B. Identify whether the proposed transaction-related increases in rail traffic will cause an increase to a noise level of 65 decibels L_{DN} or greater. If so, an estimate of the number of sensitive receptors (e.g., schools and residences) within such areas will be made.

C. Identify transaction-related activities that have the potential to result in an increase in noise level of 3 decibels L_{DN} or more.

7. Biological Resources

The EIS will:

A. Discuss the potential environmental impacts of proposed rail line construction and abandonment projects on federal endangered or threatened species or designated critical habitats.

B. Discuss the effects of proposed rail line construction and abandonment projects on wildlife sanctuaries or refuges, and national or state parks or forests.

8. Water Resources

The EIS will:

A. Discuss whether potential impacts from proposed rail line construction and abandonment projects may be inconsistent with applicable federal or state water quality standards.

B. Discuss whether permits may be required under Sections 404 or 402 of the Clean Water Act (33 U.S.C. 1344) for any proposed rail line construction and abandonment projects, and whether any such projects have the potential to encroach upon any designated wetlands or 100-year floodplains.

9. Environmental Justice

The EIS will:

A. Report on the demographics in the immediate vicinity of any area where major activity such as an abandonment or construction is proposed.

B. Report on the demographics in the vicinity of rail lines with projected rail traffic increases above eight trains per day.

C. Evaluate whether such activities potentially have a disproportionately high and adverse health effect or environmental impact on any minority or low-income group.

10. Cultural and Historic Resources

The EIS will address potential impacts from proposed rail line construction and abandonment projects on cultural and historic resources that are on, or immediately adjacent to, a railroad right-of-way.

11. Cumulative Effects

The EIS will:

A. Address cumulative effects of environmental impacts that have regional or system-wide ramifications. This analysis will be done for environmental impacts that warrant such analysis given the context and scope of the proposed transaction. The environmental effects to be analyzed include air quality and energy.

B. Evaluate cumulative effects, as appropriate, for other projects or activities that relate to the proposed transaction, where information is provided to the Board that describes (1) those other projects or activities, (2) their interrelationship with the proposed transaction, (3) the type and severity of the potential environmental impacts; and SEA determines that there is the likelihood of significant environmental impacts. This information must be provided to the Board within sufficient time to allow for review and analysis within the schedule for the preparation of the EIS.

C. Discuss the potential environmental impacts of construction or facility modification activities within railroad-owned property affected by the proposed merger, and additional environmental impacts related to the proposed transaction but not subject to Board approval, in order to identify cumulative impacts.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26039 Filed 9–30–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 19, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0007.

Form Number: SF 1199A.

Type of Review: Extension.

Title: Direct Deposit Sign-Up Form.

Description: The Direct Deposit Sign-Up Form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. This information is used to route the Direct Deposit payment to the correct account at the correct financial institution. It identifies persons who have executed the form.

Respondents: Individuals or households, Business or other for-profit, Federal Government.

Estimated Number of Respondents/Recordkeepers: 2,197,960.

Estimated Burden Hours Per Response/Recordkeeper: 10 minutes.

Frequency of Response: Other (one-time).

Estimated Total Reporting/Recordkeeping Burden: 373,653 hours.

Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–26024 Filed 9–30–97; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 22, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0155.
Form Number: IRS Form 3468.
Type of Review: Revision.
Title: Investment Credit.
Description: Taxpayers are allowed a credit against their income tax for certain expenses they incur for their trades or businesses. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to verify that the credit has been correctly computed.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.
Estimated Number of Respondents/Recordkeepers: 360,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—11 hr., 58 min.
Learning about the law or the form—2 hr., 59 min.
Preparing and sending the form to the IRS—3 hr., 18 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 6,566,400 hours.

OMB Number: 1545–1034.
Form Number: IRS Form 8582–CR.
Type of Review: Extension.
Title: Passive Activity Credit Limitations.
Description: Under section 469, credits from passive activities, to the extent they do not exceed the tax attributable to net passive income, are not allowed. Form 8582–CR is used to figure the passive activities credit allowed and the amount of credit to be reported on the tax return.
Respondents: Individuals or households, Business of other for-profit, Farms.
Estimated Number of Respondents/Recordkeepers: 900,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hr., 5 min.
Learning about the law or the form—4 hr., 22 min.
Preparing the form—3 hr., 25 min.
Copying, assembling, and sending the form to the IRS—2 hr., 18 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden:

OMB Number: 1545–1276.
Regulation Project Number: FI–88–86 Final.
Type of Review: Extension.
Title: Real Estate Mortgage Investment Conduits (TD 8458).
Description: Section 860E(e) imposes an excise tax on this transfer of a residual interest in a REMIC to a disqualified party. The tax must be paid by the transferor of a pass-thru entity of which the disqualified party is an interest holder.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,600.
Estimated Burden Hours Per Respondent: 20 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 525 hours.

OMB Number: 1545–1546.
Revenue Procedure Number: Revenue Procedure 97–33.
Type of Review: Extension.
Title: Electronic Federal Tax Payment System (EFTPS).
Description: Some taxpayers are required by regulations issued under § 6302(h) of the Internal Revenue Code to make Federal Tax Deposits (FTDs) using the Electronic Federal Tax Payment System (EFTPS). Other taxpayers may choose to voluntarily participate in EFTPS. EFTPS requires that a taxpayer complete an enrollment form to provide the information the IRS needs to properly credit the taxpayer's account. Revenue Procedure 97–33 provides procedures and information that will help taxpayers to electronically make FTDs and tax payments through EFTPS.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.
Estimated Number of Recordkeepers: 1,380,000.
Estimated Burden Hours Per Recordkeeper: 30 minutes.
Frequency of Response: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Annually, Biennially.
Estimated Total Recordkeeping Burden: 690,000 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 97–26025 Filed 9–30–97; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 23, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Offices/Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0003.
Form Number: IRS Form 8852.
Type of Review: Extension.
Title: Currency Transaction Report by Casinos-Nevada.
Description: Nevada casinos file Form 8852 for currency transactions in excess of $10,000 a day pursuant to Title 31. Form 8852 is used by criminal investigators and regulatory enforcement authorities, during the course of investigations involving financial crimes. Form 8852 was created because some of the transactions reportable on Form 8362 are deemed prohibited by Nevada Regulation 6A.
Respondents: Individuals or households.
Estimated Number of Respondents/Recordkeepers: 74.
Estimated Burden Hours Per Respondent/Recordkeeper:
Respondents—19 minutes
Recordkeepers—5 minutes
Frequency of Response: Other (as required).
Estimated Total Reporting/Recordkeeping Burden: 28,000 hours.
Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–26026 Filed 9–30–97; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 5434 and 5434–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5434, Application for Enrollment, and Form 5434–A, Application for Renewal of Enrollment.

DATES: Written comments should be received on or before December 1, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 5434, Application for Enrollment, and Form 5434–A, Application for Renewal of Enrollment.

OMB Number: 1545–0951.

Form Number: Forms 5434 and 5434–A.

Abstract: Form 5434 is used to apply for enrollment to perform actuarial services under the Employee Retirement Income Security Act of 1974 (ERISA). Form 5434–A is used to renew enrollment every three years to perform actuarial services under ERISA. The information is used by the Joint Board for the Enrollment of Actuaries to determine the eligibility of the applicant to perform actuarial services.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 38 minutes.

Estimated Total Annual Burden Hours: 3,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 24, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–26019 Filed 9–30–97; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Filippino Lippi and His Circle'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art, New York, New York, from approximately October 28, 1997 through January 11, 1998, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: September 24, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–25958 Filed 9–30–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol Epstein, Attorney Advisor, at 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547–0001.

Corrections

Federal Register

Vol. 62, No. 190

Wednesday, October 1, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 71-97]

Foreign-Trade Zone 149 -- Freeport, Texas; Application for Foreign-Trade Subzone Status; Amoco Chemical Company (Petrochemical Complex); Brazoria County, Texas

Correction

In notice document 97–25106 beginning on page, 49469 in the issue of Monday, September 22, 1997, make the following corrections:

1. On page 49469, in the third column, in the third full paragraph, in the sixth line down ''[60 days from date of publication]'' should read ''November 21, 1997.''

2. On the same page, in the same column, in the same paragraph, in the 10th line ''[75 days from date of publication]'' should read '' December 8, 1997.''

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-97-1430-01; AZA 25991]

Arizona: Notice of Realty Action; Bureau Motion Recreation and Public Purposes Classification; La Paz County, Arizona

Correction

In notice document 97–24794 beginning on page 49024, in the issue of Thursday, September 18, 1997, make the following correction:

On page 49025, in the first column, in ''Sec. 23'', at the end of the third line, insert a comma.

BILLING CODE 1505-01-D

federal register

Wednesday
October 1, 1997

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Chapter I

Code of Federal Regulations; Authority Citations; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. 97N–0365]

Code of Federal Regulations; Authority Citations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the authority citations for Title 21, Chapter I of the Code of Federal Regulations to conform with procedures of the Administrative Committee of the Federal Register. This action is intended to simplify FDA's authority citations. It does not represent a change in agency policy and does not increase any burdens on the public.

DATES: Effective October 1, 1997. Submit written comments by December 30, 1997.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: The Office of the Federal Register, in accordance with the procedures of the Administrative Committee of the Federal Register (1 CFR 21.52), has recommended that each citation of authority for Chapter I of Title 21 of the Code of Federal Regulations include only references to the United States Code. Therefore, FDA is revising the authority citations for 21 CFR parts 1 through 1270 to conform with these procedures. This action is intended to simplify FDA's authority citations.

FDA has determined that this final rule does not change the statutory authority applicable to the regulations issued by FDA. Because the changes that the agency is making are not substantive and are merely ministerial changes to the Code of Federal Regulations, the Commissioner of Food and Drugs finds that there is good cause not to engage in notice and public comment procedures or to delay the effective date of these amendments. FDA is merely conforming to the recommendation of the Office of the Federal Register under 1 CFR 21.51 and 21.52.

Although this rule is effective immediately, the agency is providing until December 30, 1997, to determine whether the regulation should be subsequently modified or revoked in accordance with 21 CFR 10.40(e)(1). Interested persons may submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

1. The authority citation for 21 CFR part 1 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 343, 352, 355, 360b, 362, 371; 42 U.S.C. 216.

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

2. The authority citation for 21 CFR part 2 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 335, 342, 346a, 348, 351, 352, 355, 357, 360b, 361, 371, 372, 374; 15 U.S.C. 402, 409.

PART 3—PRODUCT JURISDICTION

3. The authority citation for 21 CFR part 3 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 360gg–360ss, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262.

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

4. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1; 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR, 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223.

PART 7—ENFORCEMENT POLICY

5. The authority citation for 21 CFR part 7 is revised to read as follows:

Authority: 21 U.S.C. 321–393; 42 U.S.C. 241, 262, 263b–263n, 264.

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

6. The authority citation for 21 CFR part 10 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 551–558, 701–721; 28 U.S.C. 2112.

PART 11—ELECTRONIC RECORDS; ELECTRONIC SIGNATURES

7. The authority citation for 21 CFR part 11 is revised to read as follows:

Authority: 21 U.S.C. 321–393; 42 U.S.C. 262.

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

8. The authority citation for 21 CFR part 12 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–393, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b–263n, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 551–558, 701–721; 28 U.S.C. 2112.

PART 13—PUBLIC HEARING BEFORE A PUBLIC BOARD OF INQUIRY

9. The authority citation for 21 CFR part 13 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–393, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b–263n, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 551–558, 701–721; 28 U.S.C. 2112.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

10. The authority citation for 21 CFR part 14 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b, 264; 15 U.S.C. 1451–1461; 5 U.S.C. App. 2; 28 U.S.C. 2112.

PART 15—PUBLIC HEARING BEFORE THE COMMISSIONER

11. The authority citation for 21 CFR part 15 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–393, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b–263n, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 553; 28 U.S.C. 2112.

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

12. The authority citation for 21 CFR part 16 is revised to read as follows:

Authority: 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 264; 15 U.S.C. 1451–1461; 28 U.S.C. 2112.

PART 17—CIVIL MONEY PENALTIES HEARINGS

13. The authority citation for 21 CFR part 17 is revised to read as follows:

Authority: 21 U.S.C. 331, 333, 337, 351, 352, 355, 360, 360c, 360f, 360i, 360j, 371; 42 U.S.C. 262, 263b, 300aa–28; 5 U.S.C. 554, 555, 556, 557.

PART 19—STANDARDS OF CONDUCT AND CONFLICTS OF INTEREST

14. The authority citation for 21 CFR part 19 is revised to read as follows:

Authority: 21 U.S.C. 371.

PART 20—PUBLIC INFORMATION

15. The authority citation for 21 CFR part 20 is revised to read as follows:

Authority: 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300–5, 300aa–1; 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582.

PART 21—PROTECTION OF PRIVACY

16. The authority citation for 21 CFR part 21 is revised to read as follows:

Authority: 21 U.S.C. 371; 5 U.S.C. 552, 552a.

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

17. The authority citation for 21 CFR part 25 is revised to read as follows:

Authority: 21 U.S.C. 321–393; 42 U.S.C. 262, 263b–264; 42 U.S.C. 4321, 4332; 40 CFR parts 1500–1508; E.O. 11514, 35 FR 4247, 3 CFR, 1971 Comp., p. 531–533 as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1978 Comp., p. 123–124 and E.O. 12114, 44 FR 1957, 3 CFR, 1980 Comp., p. 356–360.

PART 50—PROTECTION OF HUMAN SUBJECTS

18. The authority citation for 21 CFR part 50 is revised to read as follows:

Authority: 21 U.S.C. 321, 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 241, 262, 263b–263n.

PART 56—INSTITUTIONAL REVIEW BOARDS

19. The authority citation for 21 CFR part 56 is revised to read as follows:

Authority: 21 U.S.C. 321, 346, 346a, 348, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 241, 262, 263b–263n.

PART 58—GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

20. The authority citation for 21 CFR part 58 is revised to read as follows:

Authority: 21 U.S.C. 342, 346, 346a, 348, 351, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 262, 263b–263n.

PART 60—PATENT TERM RESTORATION

21. The authority citation for 21 CFR part 60 is revised to read as follows:

Authority: 21 U.S.C. 348, 355, 357, 360e, 360j, 371, 379e; 35 U.S.C. 156; 42 U.S.C. 262.

PART 70—COLOR ADDITIVES

22. The authority citation for 21 CFR part 70 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 360b, 361, 371, 379e.

PART 71—COLOR ADDITIVE PETITIONS

23. The authority citation for 21 CFR part 71 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 351, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371, 379e, 381; 42 U.S.C. 216, 262.

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

24. The authority citation for 21 CFR part 73 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

25. The authority citation for 21 CFR part 74 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

PART 80—COLOR ADDITIVE CERTIFICATION

26. The authority citation for 21 CFR part 80 is revised to read as follows:

Authority: 21 U.S.C. 371, 379e.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

27. The authority citation for 21 CFR part 81 is revised to read as follows:

Authority: 21 U.S.C. 371, 379e, 379e note.

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

28. The authority citation for 21 CFR part 82 is revised to read as follows:

Authority: 21 U.S.C. 371, 379e, 379e note.

PART 100—GENERAL

29. The authority citation for 21 CFR part 100 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 337, 342, 343, 348, 371.

PART 101—FOOD LABELING

30. The authority citation for 21 CFR part 101 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371).

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

31. The authority citation for 21 CFR part 102 is revised to read as follows:

Authority: 21 U.S.C. 321, 343, 371.

PART 105—FOODS FOR SPECIAL DIETARY USE

32. The authority citation for 21 CFR part 105 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 350, 371, 379e.

PART 106—INFANT FORMULA QUALITY CONTROL PROCEDURES

33. The authority citation for 21 CFR part 106 is revised to read as follows:

Authority: 21 U.S.C. 321, 350a, 371.

PART 107—INFANT FORMULA

34. The authority citation for 21 CFR part 107 is revised to read as follows:

Authority: 21 U.S.C. 321, 343, 350a, 371.

PART 108—EMERGENCY PERMIT CONTROL

35. The authority citation for 21 CFR part 108 is revised to read as follows:

Authority: 21 U.S.C. 342, 344, 371.

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD–PACKAGING MATERIAL

36. The authority citation for 21 CFR part 109 is revised to read as follows:

Authority: 21 U.S.C. 321, 336, 342, 346, 346a, 348, 371.

PART 110—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING HUMAN FOOD

37. The authority citation for 21 CFR part 110 is revised to read as follows:

Authority: 21 U.S.C. 342, 371, 374; 42 U.S.C. 264.

PART 111—CURRENT GOOD MANUFACTURING PRACTICE FOR DIETARY SUPPLEMENTS

38. The authority citation for 21 CFR part 111 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 371.

PART 113—THERMALLY PROCESSED LOW–ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

39. The authority citation for 21 CFR part 113 is revised to read as follows:

Authority: 21 U.S.C. 342, 371, 374; 42 U.S.C. 264.

PART 114—ACIDIFIED FOODS

40. The authority citation for 21 CFR part 114 is revised to read as follows:

Authority: 21 U.S.C. 342, 371, 374; 42 U.S.C. 264.

PART 123—FISH AND FISHERY PRODUCTS

41. The authority citation for 21 CFR part 123 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 346, 348, 371, 374, 379e, 381, 393; 42 U.S.C. 241, 242l, 264.

PART 129—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

42. The authority citation for 21 CFR part 129 is revised to read as follows:

Authority: 21 U.S.C. 342, 348, 371, 374; 42 U.S.C. 264.

PART 130—FOOD STANDARDS: GENERAL

43. The authority citation for 21 CFR part 130 is revised to read as follows:

Authority: 21 U.S.C. 321, 336, 341, 343, 371.

PART 131—MILK AND CREAM

44. The authority citation for 21 CFR part 131 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

45. The authority citation for 21 CFR part 133 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 135—FROZEN DESSERTS

46. The authority citation for 21 CFR part 135 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 136—BAKERY PRODUCTS

47. The authority citation for 21 CFR part 136 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

48. The authority citation for 21 CFR part 137 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 139—MACARONI AND NOODLE PRODUCTS

49. The authority citation for 21 CFR part 139 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 145—CANNED FRUITS

50. The authority citation for 21 CFR part 145 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 146—CANNED FRUIT JUICES

51. The authority citation for 21 CFR part 146 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 150—FRUIT BUTTERS, JELLIES, PRESERVES, AND RELATED PRODUCTS

52. The authority citation for 21 CFR part 150 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 152—FRUIT PIES

53. The authority citation for 21 CFR part 152 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 155—CANNED VEGETABLES

54. The authority citation for 21 CFR part 155 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 156—VEGETABLE JUICES

55. The authority citation for 21 CFR part 156 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371.

PART 158—FROZEN VEGETABLES

56. The authority citation for 21 CFR part 158 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371.

PART 160—EGGS AND EGG PRODUCTS

57. The authority citation for 21 CFR part 160 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 161—FISH AND SHELLFISH

58. The authority citation for 21 CFR part 161 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 163—CACAO PRODUCTS

59. The authority citation for 21 CFR part 163 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 341, 343, 348, 371, 379e.

PART 164—TREE NUT AND PEANUT PRODUCTS

60. The authority citation for 21 CFR part 164 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 165—BEVERAGES

61. The authority citation for 21 CFR part 165 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 343–1, 348, 349, 371, 379e.

PART 166—MARGARINE

62. The authority citation for 21 CFR part 166 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 347, 348, 371, 379e.

PART 168—SWEETENERS AND TABLE SIRUPS

63. The authority citation for 21 CFR part 168 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 169—FOOD DRESSINGS AND FLAVORINGS

64. The authority citation for 21 CFR part 169 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

PART 170—FOOD ADDITIVES

65. The authority citation for 21 CFR part 170 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 346a, 348, 371.

PART 171—FOOD ADDITIVE PETITIONS

66. The authority citation for 21 CFR part 171 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

67. The authority citation for 21 CFR part 172 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

68. The authority citation for 21 CFR part 173 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

PART 174—INDIRECT FOOD ADDITIVES: GENERAL

69. The authority citation for 21 CFR part 174 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

70. The authority citation for 21 CFR part 175 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

71. The authority citation for 21 CFR part 176 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 346, 348, 379e.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

72. The authority citation for 21 CFR part 177 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

73. The authority citation for 21 CFR part 178 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

74. The authority citation for 21 CFR part 179 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

PART 180—FOOD ADDITIVES PERMITTED IN FOOD OR IN CONTACT WITH FOOD ON AN INTERIM BASIS PENDING ADDITIONAL STUDY

75. The authority citation for 21 CFR part 180 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 371; 42 U.S.C. 241.

PART 181—PRIOR–SANCTIONED FOOD INGREDIENTS

76. The authority citation for 21 CFR part 181 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

77. The authority citation for 21 CFR part 182 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

78. The authority citation for 21 CFR part 184 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

79. The authority citation for 21 CFR part 186 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

80. The authority citation for 21 CFR part 189 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 200—GENERAL

81. The authority citation for 21 CFR part 200 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360e, 371, 374, 375.

PART 201—LABELING

82. The authority citation for 21 CFR part 201 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

PART 202—PRESCRIPTION DRUG ADVERTISING

83. The authority citation for 21 CFR part 202 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 352, 355, 357, 360b, 371.

PART 205—GUIDELINES FOR STATE LICENSING OF WHOLESALE PRESCRIPTION DRUG DISTRIBUTORS

84. The authority citation for 21 CFR part 205 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 371, 374.

PART 206—IMPRINTING OF SOLID ORAL DOSAGE FROM DRUG PRODUCTS FOR HUMAN USE

85. The authority citation for 21 CFR part 206 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 355, 357, 371; 42 U.S.C. 262.

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

86. The authority citation for 21 CFR part 207 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 355, 356, 357, 360, 360b, 371, 374; 42 U.S.C. 262.

PART 210—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; GENERAL

87. The authority citation for 21 CFR part 210 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 356, 357, 360b, 371, 374.

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

88. The authority citation for 21 CFR part 211 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 356, 357, 360b, 371, 374.

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

89. The authority citation for 21 CFR part 225 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360b, 371, 374.

PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR TYPE A MEDICATED ARTICLES

90. The authority citation for 21 CFR part 226 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360b, 371, 374.

PART 250—SPECIAL REQUIREMENTS FOR SPECIFIC HUMAN DRUGS

91. The authority citation for 21 CFR part 250 is revised to read as follows:

Authority: 21 U.S.C. 321, 336, 342, 352, 353, 355, 361(a), 362(a) and (c), 371, 375(b).

PART 290—CONTROLLED DRUGS

92. The authority citation for 21 CFR part 290 is revised to read as follows:

Authority: 21 U.S.C. 352, 353, 355, 371.

PART 291—DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

93. The authority citation for 21 CFR part 291 is revised to read as follows:

Authority: 21 U.S.C. 355, 371, 823; 42 U.S.C. 241(d), 257a, 290ee–3, 300y–11.

PART 299—DRUGS; OFFICIAL NAMES AND ESTABLISHED NAMES

94. The authority citation for 21 CFR part 299 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 355, 358, 360b, 371.

PART 300—GENERAL

95. The authority citation for 21 CFR part 300 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 355, 357, 360b, 361, 371.

PART 310—NEW DRUGS

96. The authority citation for 21 CFR part 310 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

97. The authority citation for 21 CFR part 312 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371; 42 U.S.C. 262.

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

98. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 379e.

PART 316—ORPHAN DRUGS

99. The authority citation for 21 CFR part 316 is revised to read as follows:

Authority: 21 U.S.C. 360aa, 360bb, 360cc, 360dd, 371.

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

100. The authority citation for 21 CFR part 320 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 357, 371.

PART 329—HABIT–FORMING DRUGS

101. The authority citation for 21 CFR part 329 is revised to read as follows:

Authority: 21 U.S.C. 352, 353, 355, 371.

PART 330—OVER–THE–COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

102. The authority citation for 21 CFR part 330 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 331—ANTACID PRODUCTS FOR OVER–THE–COUNTER (OTC) HUMAN USE

103. The authority citation for 21 CFR part 331 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 332—ANTIFLATULENT PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

104. The authority citation for 21 CFR part 332 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

105. The authority citation for 21 CFR part 333 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371, unless otherwise noted.

PART 336—ANTIEMETIC DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

106. The authority citation for 21 CFR part 336 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 338—NIGHTTIME SLEEP–AID DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

107. The authority citation for 21 CFR part 338 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 340—STIMULANT DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

108. The authority citation for 21 CFR part 340 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

109. The authority citation for 21 CFR part 341 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 344—TOPICAL OTIC DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

110. The authority citation for 21 CFR part 344 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 346—ANORECTAL DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

111. The authority citation for 21 CFR part 346 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 347—SKIN PROTECTANT DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

112. The authority citation for 21 CFR part 347 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 348—EXTERNAL ANALGESIC DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

113. The authority citation for 21 CFR part 348 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 349—OPHTHALMIC DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

114. The authority citation for 21 CFR part 349 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 355—ANTICARIES DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

115. The authority citation for 21 CFR part 355 is revised to read as follows;

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

116. The authority citation for 21 CFR part 357 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

117. The authority citation for 21 CFR part 358 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

118. The authority citation for 21 CFR part 361 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 371; 42 U.S.C. 262.

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER–THE–COUNTER SALE

119. The authority citation for 21 CFR part 369 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371.

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

120. The authority citation for 21 CFR part 429 is revised to read as follows:

Authority: 21 U.S.C. 352, 356, 371.

PART 430—ANTIBIOTIC DRUGS; GENERAL

121. The authority citation for 21 CFR part 430 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 357, 371; 42 U.S.C. 216, 241, 262.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

122. The authority citation for 21 CFR part 431 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 355, 357, 379e; 42 U.S.C. 216, 241, 262; 5 U.S.C. 552.

PART 432—PACKAGING AND LABELING OF ANTIBIOTIC DRUGS

123. The authority citation for 21 CFR part 432 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 352, 353, 357, 371, 381.

PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

124. The authority citation for 21 CFR part 433 is revised to read as follows:

Authority: 21 U.S.C. 352, 355, 357.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC–CONTAINING DRUGS

125. The authority citation for 21 CFR part 436 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

126. The authority citation for 21 CFR part 440 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 441—PENEM ANTIBIOTIC DRUGS

127. The authority citation for 21 CFR part 441 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 442—CEPHA ANTIBIOTIC DRUGS

128. The authority citation for 21 CFR part 442 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 443—CARBACEPHEM ANTIBIOTIC DRUGS

129. The authority citation for 21 CFR part 443 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

130. The authority citation for 21 CFR part 444 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

131. The authority citation for 21 CFR part 446 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 448—PEPTIDE ANTIBIOTIC DRUGS

132. The authority citation for 21 CFR part 448 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

133. The authority citation for 21 CFR part 449 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

134. The authority citation for 21 CFR part 450 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

135. The authority citation for 21 CFR part 452 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 453—LINCOMYCIN ANTIBIOTIC DRUGS

136. The authority citation for 21 CFR part 453 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 455—CERTAIN OTHER ANTIBIOTICS DRUGS

137. The authority citation for 21 CFR part 455 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 460—ANTIBIOTICS DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

138. The authority citation for 21 CFR part 460 is revised to read as follows:

Authority: 21 U.S.C. 357.

PART 500—GENERAL

139. The authority citation for 21 CFR part 500 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371.

PART 501—ANIMAL FOOD LABELING

140. The authority citation for 21 CFR part 501 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

PART 502—COMMON OR USUAL NAMES FOR NONSTANDARDIZED ANIMAL FOODS

141. The authority citation for 21 CFR part 502 is revised to read as follows:

Authority: 21 U.S.C. 321, 343, 371.

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD–PACKAGING MATERIAL

142. The authority citation for 21 CFR part 509 is revised to read as follows:

Authority: 21 U.S.C. 336, 342, 346, 346a, 348, 371.

PART 510—NEW ANIMAL DRUGS

143. The authority citation for 21 CFR part 510 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

144. The authority citation for 21 CFR part 511 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 360b, 371.

PART 514—NEW ANIMAL DRUG APPLICATIONS

145. The authority citation for 21 CFR part 514 is revised to read as follows:

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

146. The authority citation for 21 CFR part 520 is revised to read as follows:

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

147. The authority citation for 21 CFR part 522 is revised to read as follows:

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

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

148. The authority citation for 21 CFR part 524 is revised to read as follows:

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

PART 526—INTRAMAMMARY DOSAGE FORMS

149. The authority citation for 21 CFR part 526 is revised to read as follows:

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

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

150. The authority citation for 21 CFR part 529 is revised to read as follows:

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

PART 530—EXTRALABEL DRUG USE IN ANIMALS

151. The authority citation for 21 CFR part 530 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 351, 352, 353, 355, 357, 360b, 371, 379e.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

152. The authority citation for 21 CFR part 556 is revised to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

153. The authority citation for 21 CFR part 558 is revised to read as follows:

Authority: 21 U.S.C. 360b, 371.

PART 564—DEFINITIONS AND STANDARDS FOR ANIMAL FOOD

154. The authority citation for 21 CFR part 564 is revised to read as follows:

Authority: 21 U.S.C. 341, 343, 371.

PART 570—FOOD ADDITIVES

155. The authority citation for 21 CFR part 570 is revised to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 346a, 348, 371.

PART 571—FOOD ADDITIVE PETITIONS

156. The authority citation for 21 CFR part 571 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371; 42 U.S.C. 241.

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

157. The authority citation for 21 CFR part 573 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

PART 579—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF ANIMAL FEED AND PET FOOD

158. The authority citation for 21 CFR part 579 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 371.

PART 582—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

159. The authority citation for 21 CFR part 582 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 584—FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE IN FEED AND DRINKING WATER OF ANIMALS

160. The authority citation for 21 CFR part 584 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 589—SUBSTANCES PROHIBITED FROM USE IN ANIMAL FOOD OR FEED

161. The authority citation for 21 CFR part 589 is revised to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 371.

PART 600—BIOLOGICAL PRODUCTS: GENERAL

162. The authority citation for 21 CFR part 600 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374; 42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25.

PART 601—LICENSING

163. The authority citation for 21 CFR part 601 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263; 15 U.S.C. 1451–1561.

PART 606—CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS

164. The authority citation for 21 CFR part 606 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 355, 360, 360j, 371, 374; 42 U.S.C. 216, 262, 263a, 264.

PART 607—ESTABLISHMENT REGISTRATION AND PRODUCT LISTING FOR MANUFACTURERS OF HUMAN BLOOD AND BLOOD PRODUCTS

165. The authority citation for 21 CFR part 607 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 355, 360, 371, 374; 42 U.S.C. 216, 262.

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

166. The authority citation for 21 CFR part 610 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371; 42 U.S.C. 216, 262, 263, 263a, 264.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

167. The authority citation for 21 CFR part 640 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371; 42 U.S.C. 216, 262, 263, 263a, 264.

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

168. The authority citation for 21 CFR part 660 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371; 42 U.S.C. 216, 262, 263, 263a, 264.

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

169. The authority citation for 21 CFR part 680 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371; 42 U.S.C. 216, 262, 263, 263a, 264.

PART 700—GENERAL

170. The authority citation for 21 CFR part 700 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 352, 355, 361, 362, 371, 374.

PART 701—COSMETIC LABELING

171. The authority citation for 21 CFR part 701 is revised to read as follows:

Authority: 21 U.S.C. 321, 352, 361, 362, 363, 371, 374; 15 U.S.C. 1454, 1455.

PART 710—VOLUNTARY REGISTRATION OF COSMETIC PRODUCT ESTABLISHMENTS

172. The authority citation for 21 CFR part 710 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 361, 362, 371, 374.

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT AND COSMETIC RAW MATERIAL COMPOSITION STATEMENTS

173. The authority citation for 21 CFR part 720 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 361, 362, 371, 374.

PART 730—VOLUNTARY FILING OF COSMETIC PRODUCT EXPERIENCES

174. The authority citation for 21 CFR part 730 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 361, 362, 371, 374.

PART 740—COSMETIC PRODUCT WARNING STATEMENTS

175. The authority citation for 21 CFR part 740 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 352, 355, 361, 362, 371, 374.

PART 800—GENERAL

176. The authority citation for 21 CFR part 800 is revised to read as follows:

Authority: 21 U.S.C. 321, 334, 351, 352, 355, 356, 357, 360e, 360i, 360k, 361, 362, 371.

PART 801—LABELING

177. The authority citation for 21 CFR part 801 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 357, 360i, 360j, 371, 374.

PART 803—MEDICAL DEVICE REPORTING

178. The authority citation for 21 CFR part 803 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

PART 804—MEDICAL DEVICE DISTRIBUTOR REPORTING

179. The authority citation for 21 CFR part 804 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

PART 805—CARDIAC PACEMAKER REGISTRY

180. The authority citation for 21 CFR part 805 is revised to read as follows:

Authority: 42 U.S.C. 1395y(h), 1395y note.

PART 806—MEDICAL DEVICE CORRECTIONS AND REMOVALS

181. The authority citation for 21 CFR part 806 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

PART 807—ESTABLISHMENT REGISTRATION AND DEVICE LISTING FOR MANUFACTURERS AND DISTRIBUTORS OF DEVICES

182. The authority citation for 21 CFR part 807 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 360, 360c, 360e, 360i, 360j, 371, 374.

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

183. The authority citation for 21 CFR part 808 is revised to read as follows:

Authority: 21 U.S.C. 360j, 360k, 371.

PART 809—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

184. The authority citation for 21 CFR part 809 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 355, 357, 360b, 360c, 360d, 360h, 360i, 360j, 371, 372, 374, 381.

PART 810—MEDICAL DEVICE RECALL AUTHORITY

185. The authority citation for 21 CFR part 810 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 332, 333, 334, 351, 352, 360h, 371, 374, 375.

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

186. The authority citation for 21 CFR part 812 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 372, 374, 379e, 381, 382, 383; 42 U.S.C. 216, 241, 262, 263b–263n.

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

187. The authority citation for 21 CFR part 814 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

PART 820—QUALITY SYSTEM REGULATION

188. The authority citation for 21 CFR part 820 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360c, 360d, 360e, 360h, 360i, 360j, 360l, 371, 374, 381, 383.

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

189. The authority citation for 21 CFR part 821 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 360, 360e, 360h, 360i, 371, 374.

PART 860—MEDICAL DEVICE CLASSIFICATION PROCEDURES

190. The authority citation for 21 CFR part 860 is revised to read as follows:

Authority: 21 U.S.C. 360c, 360d, 360e, 360i, 360j, 371, 374.

PART 861—PROCEDURES FOR PERFORMANCE STANDARDS DEVELOPMENT

191. The authority citation for 21 CFR part 861 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360c, 360d, 360gg–360ss, 371, 374; 42 U.S.C. 262, 264.

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

192. The authority citation for 21 CFR part 862 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

193. The authority citation for 21 CFR part 864 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

194. The authority citation for 21 CFR part 866 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 868—ANESTHESIOLOGY DEVICES

195. The authority citation for 21 CFR part 868 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 870—CARDIOVASCULAR DEVICES

196. The authority citation for 21 CFR part 870 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 872—DENTAL DEVICES

197. The authority citation for 21 CFR part 872 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 874—EAR, NOSE, AND THROAT DEVICES

198. The authority citation for 21 CFR part 874 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

199. The authority citation for 21 CFR part 876 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

200. The authority citation for 21 CFR part 878 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

201. The authority citation for 21 CFR part 880 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 882—NEUROLOGICAL DEVICES

202. The authority citation for 21 CFR part 882 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

203. The authority citation for 21 CFR part 884 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 886—OPHTHALMIC DEVICES

204. The authority citation for 21 CFR part 886 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 888—ORTHOPEDIC DEVICES

205. The authority citation for 21 CFR part 888 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 890—PHYSICAL MEDICINE DEVICES

206. The authority citation for 21 CFR part 890 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 892—RADIOLOGY DEVICES

207. The authority citation for 21 CFR part 892 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

PART 895—BANNED DEVICES

208. The authority citation for 21 CFR part 895 is revised to read as follows:

Authority: 21 U.S.C. 352, 360f, 360h, 360i, 371.

PART 897—CIGARETTES AND SMOKELESS TOBACCO

209. The authority citation for 21 CFR part 897 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360h, 360i, 360j, 371, 374, 393.

PART 898—PERFORMANCE STANDARD FOR ELECTRODE LEAD WIRES AND PATIENT CABLES

210. The authority citation for 21 CFR part 898 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360c, 360d, 360gg–360ss, 371, 374; 42 U.S.C. 262, 264.

PART 900—MAMMOGRAPHY

211. The authority citation for 21 CFR part 900 is revised to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

PART 1000—GENERAL

212. The authority citation for 21 CFR part 1000 is revised to read as follows:

Authority: 21 U.S.C. 360hh–360ss.

PART 1002—RECORDS AND REPORTS

213. The authority citation for 21 CFR part 1002 is revised to read as follows:

Authority: 21 U.S.C. 352, 360, 360i, 360j, 360hh–360ss, 371, 374.

PART 1003—NOTIFICATION OF DEFECTS OR FAILURE TO COMPLY

214. The authority citation for 21 CFR part 1003 is revised to read as follows:

Authority: 42 U.S.C. 263b–263n.

PART 1004—REPURCHASE, REPAIRS, OR REPLACEMENT OF ELECTRONIC PRODUCTS

215. The authority citation for 21 CFR part 1004 is revised to read as follows:

Authority: 42 U.S.C. 263b–263n.

PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS

216. The authority citation for 21 CFR part 1005 is revised to read as follows:

Authority: 42 U.S.C. 263d, 263h.

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

217. The authority citation for 21 CFR part 1010 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

218. The authority citation for 21 CFR part 1020 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360e–360j, 360gg–360ss, 371, 381.

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

219. The authority citation for 21 CFR part 1030 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

PART 1040 —PERFORMANCE STANDARDS FOR LIGHT–EMITTING PRODUCTS

220. The authority citation for 21 CFR part 1040 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

PART 1050—PERFORMANCE STANDARDS FOR SONIC, INFRASONIC, AND ULTRASONIC RADIATION–EMITTING PRODUCTS

221. The authority citation for 21 CFR part 1050 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

PART 1210—REGULATIONS UNDER THE FEDERAL IMPORT MILK ACT

222. The authority citation for 21 CFR part 1210 is revised to read as follows:

Authority: 21 U.S.C. 141–149.

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

223. The authority citation for 21 CFR part 1220 is revised to read as follows:

Authority: 21 U.S.C. 41–50; 19 U.S.C. 1311.

PART 1230—REGULATIONS UNDER THE FEDERAL CAUSTIC POISON ACT

224. The authority citation for 21 CFR part 1230 is revised to read as follows:

Authority: 15 U.S.C. 1261–1276.

PART 1240—CONTROL OF COMMUNICABLE DISEASES

225. The authority citation for 21 CFR part 1240 is revised to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

PART 1250—INTERSTATE CONVEYANCE SANITATION

226. The authority citation for 21 CFR part 1250 is revised to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

PART 1270—HUMAN TISSUE INTENDED FOR TRANSPLANTATION

227. The authority citation for 21 CFR part 1270 is revised to read as follows:

Authority: 42 U.S.C. 216, 243, 264, 271.

Dated: September 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–25668 Filed 9–25–97; 8:45 am]

BILLING CODE 4160–01–F

federal register

Wednesday
October 1, 1997

Part III

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51867; FRL–5742–3]

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 July 20, 1997 to July 25, 1997.

ADDRESSES: Written comments, identified by the docket control number ''[OPPTS–51867]'' and the specific PMN number, if appropriate, should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

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.

The official record for this notice, as well as the public version, has been established under docket control number ''[OPPTS–51867]'' (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, Rm. NE–B607, 401 M St., SW., Washington, DC. The official record is located at the address in ''ADDRESSES''.

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. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''[OPPTS–51867]''. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

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. 30 Premanufacture Notices Received From: 07/20/97 to 07/25/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0883	07/17/97	10/14/97	Essex Specialty Products, Inc.	(G) Polymer used in sealent manufacture	(S) Poly(oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-ether with 2,2-bis(hydroxymethyl)-1,3-propanediol cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-
P–97–0884	07/17/97	10/14/97	Aluminium Company of America Inc.	(S) Flame retardant in polymers	(S) (μ)-(Ethanedioato(2) O,O,O,O′, 11 tetrehydroxy dialuminium
P–97–0885	07/18/97	10.15/97	CBI	(S) Momomer used polymerization	(G) Methacrylate acid ester
P–97–0886	07/17/97	10/14/97	Croada, Inc	(S) Fabric softener concentrate	(S) 1-Propanminum, 2-hydroxy-*N*-*N* bis(2-hydroxyethyl)-*N*-diester with-C_{12-13}-fatty acids me sulfated (salt)
P–97–0887	07/21/97	10/18/97	Dow Corning Corporation	(G) Synthesis industrial lubricant for contained use	(G) Dipentaerythritol, mixed ester with fatty acids, C_{5-9} straight and branched
P–97–0888	07/21/97	10/18/97	CBI	(G) Antistat for latex	(G) Phosphorylated alcohol potassium salt
P–97–0889	07/21/97	10/18/97	Dow Corning Corporation	(S) Silicone latex coating	(G) Crosslinking polydimethyl silicone
P–97–0890	07/22/97	10/20/97	CBI	(S) Cobinder in paper coating	(G) Acrylate copolymer with acrylonitrile
P–97–0891	07/22/97	10/20/97	CBI	(G) Moisture curing polyurethane adhesive	(G) Isocyanate terminated urethane polymer
P–97–0892	07/22/97	10/20/97	CBI	(S) Fabric coating; fabric finish; adhesive	(G) Polyurethane dispersion based on a polyether, polyester and 5-isocyanato-1-(isocyantomethyl)-1,3,3-trimethylcycohexane
P–97–0893	07/21/97	10/19/97	Ciba-Geigy Corporation, Textile Products Division	(S) Paper dye	(S) 1*H*-imidazolium, 2,2 ′-[[6-dimethylamino)-1,3,5-triazine-2,4-diyl]bis(imino-4,1-phenyleneimino-4,1-phenyleneazo)bis[1,3-dimethyl-dichloride
P–97–0894	07/22/97	10/20/97	CBI	(G) Open, non-dispersive use	(G) Benzene sulphonic acid, 4[[1-[2(*r*) phenyl)amino carbonyl] 2-oxy prpyl]azo]-nitro
P–97–0895	07/23/97	10/21/97	CBI	(G) Make liminiscent materials	(S) Aluminium europium borate oxicide
P–97–0896	07/23/97	10/21/97	CBI	(S) Contact and laminating adhesive	(G) Polyurethane dispersion
P–97–0897	07/23/97	10/21/97	CBI	(G) Coating of metal substrates	(G) Hydroxy functional aromatic acid polyester
P–97–0898	07/23/97	10/21/97	CBI	(G) Coating of metal substrates	(G) Methacrylate ester polymer
P–97–0899	07/23/97	10/21/97	CBI	(G) Coating of metal substrates	(G) Methacrylate ester polymer
P–97–0900	07/24/97	10/22/97	3M Company	(G) Resin	(G) Copolymer of aromatic diester and alkyl polyols
P–97–0905	07/21/97	10/19/97	CBI	(G) Intermediate for coatings	(G) Polyurethane resin
P–97–0906	07/21/97	10/19/97	CBI	(G) Intermediate for coatings	(G) Polyurethane resin
P–97–0907	07/21/97	10/19/97	CBI	(G) Intermediate for coatings	(G) Polyurethane resin
P–97–0908	07/21/97	10/19/97	CBI	(G) Intermediate for coatings	(G) Polyurethane resin
P–97–0909	07/21/97	10/19/97	CBI	(G) Intermediate for coatings	(G) Polyurethane resin
P–97–0913	07/24/97	10/22/97	DowElanco	(G) Process intermediate	(G) Substituted triazolo pyrimidine
P–97–0914	07/24/97	10/22/97	DowElanco	(G) Process intermediate	(G) Substituted triazolo pyrimidine
P–97–0915	07/24/97	10/22/97	CBI	(G) Open, non-dispesive use	(G) Acetoacetate oligomer
P–97–0916	07/25/97	10/23/97	Ciba-Geigy Corporation, Polymers Division	(S) Cure agent for epoxy floor coating; cure agent for epoxy tank lining; cure agent for maintenance coatings	(G) 4,4′–(1-methylethylidene) bisphenol, polymer with (chloromethyl) oxirane and a diamine
P–97–0917	07/25/97	10/23/97	CBI	(G) Release coating	(G) Perfluoroalkylfunctional silicone silsesquioxane copolymer
P–97–0920	07/25/97	10/23/97	CBI	(G) Component of a formulated adhesive	(G) Isocyanate terminated polyester polyurethane
P–97–0921	07/25/97	10/23/97	CBI	(G) Destructive use as a chemical reactant	(G) Alkanediol alkanedioic acid polyester

II. 10 Notices of Commencement/Import Date 07/20/97 to 07/25/97

Case No.	Received Date	Commencement/ Import Date	Chemical
P–91–1464	07/24/97	06/26/97	(G) Substituted diacrylate
P–95–1380	07/24/97	07/12/97	(G) Aliphatic polyimine
P–96–0657	07/21/97	07/11/97	(S) 2-Propenoic acid, 2-methyl, methy ester, polymer with aziridine, butyl 2-propenoate, ethenylbenzene and 2-propenoic acid, graft
P–96–0728	07/25/97	05/14/97	(S) Polymer of: 1,2-ethanediol; ethanol,2,2′-oxybis; 2-butenedioic acid; 1-butanol, 2,2-bis[(2-propenyoloxy)menthy]-
P–96–1492	07/21/97	06/26/97	(G) Alkyl substituted alkenyl acid derivative, polymer with substituted alkyl sulfonic acid salt
P–97–0119	07/25/97	07/08/97	(S) *D*-glucopyranose, oligomeric, 6-(hydrogen 2,3-dihydroxy butanedioate),[*r*-(*r,r*)]-, 1-(coco alkyl)ethers, sodium salts
P–97–0368	07/22/97	06/25/97	(G) Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkenoic acids
P–97–0377	07/22/97	06/13/97	(G) Alkyl benzene sulfonic acid
P–97–0379	07/22/97	06/17/97	(G) Alkyl benzene sulfonic acid, calcium salt
P–97–0405	07/21/97	06/22/97	(G) Epoxy acrylate polymer, amine salt

List of Subjects

Environmental protection, Premanufacture notices.

Dated: September 23, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–25892 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

federal register

Wednesday
October 1, 1997

Part IV

Environmental Protection Agency

Certain Chemicals; Premanufacture; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51868; FRL–5743–1]

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 July 26, 1997 to July 31, 1997.

ADDRESSES: Written comments, identified by the docket control number ''[OPPTS–51868]'' and the specific PMN number, if appropriate, should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

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.

The official record for this notice, as well as the public version, has been established under docket control number ''[OPPTS–51868]'' (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, Rm. NE–B607, 401 M St., SW., Washington, DC. The official record is located at the address in ''ADDRESSES''.

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. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''[OPPTS–51868]''. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

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; (II) TME application, and (III)

Notices of Commencement to manufacture/import.

I. 25 Premanufacture Notices Received From: 07/26/97 to 07/31/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0901	07/29/97	10/27/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0902	07/29/97	10/27/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0903	07/29/97	10/27/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0904	07/29/97	10/27/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0909	07/28/97	10/26/97	CBI	(G) Protective coatings for steel components	(G) Generic mdi/alkanolamine polymer
P–97–0910	07/28/97	10/26/97	CBI	(G) Protective coatings for steel components	(G) Generic mdi/alkanolamine polymer
P–97–0911	07/28/97	10/26/97	CBI	(G) Ink component	(G) Cyclozliphatic olefin distillate stream polymerized with unsaturated fatty acids
P–97–0912	07/28/97	10/26/97	CBI	(G) Ink component	(G) Cyclozliphatic olefin distillate stream polymers with unsaturated fatty acids, phenolic-modified rosin
P–97–0916	07/25/97	10/23/97	Ciba-Geigy Corporation, Polymers Division	(S) Cure agent for epoxy floor coating; cure agent for epoxy tank lining; cure agent for maintenance coatings	(G) 4,4′-(1-methylethylidene)bisphenol, polymer with (chloromethyl)oxirane and a diamine
P–97–0917	07/25/97	10/23/97	CBI	(G) Release coating	(G) Perfluoroalkylfunctional silicone silsesquioxane copolymer
P–97–0918	07/28/97	10/26/97	CBI	(S) Raw material for paint and coating	(G) Reaction product of 1,6-hexanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 1,4-cyclohexanedimethanol, 1,3-isobenzofurandione, hexahydro-1,3-isobenzofurnadione
P–97–0919	07/28/97	10/26/97	CBI	(S) Lubricating oil additive	(G) Polyisobutylene succinimide molybdenum inhibitor
P–97–0920	07/25/97	10/23/97	CBI	(G) Component of a formulated adhesive	(G) Isocyanate terminated polyester polyurethane
P–97–0921	07/25/97	10/23/97	CBI	(G) Destructive use as a chemical reactant	(G) Alkanediol alkanedioic acid polyester
P–97–0922	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0923	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0924	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0925	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0926	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0927	07/28/97	10/26/97	CBI	(S) Coatings	(G) Polyurethane/ acrylic graft copolymer
P–97–0928	07/29/97	10/27/97	CBI	(G) Fluorescent tracer dye	(G) Napthalimide diesters
P–97–0929	07/29/97	10/27/97	CBI	(G) Highly dispersive use	(G) Disubstituted acetonitrile
P–97–0931	07/31/97	10/29/97	Ranbar Electrical Materials, Inc.	(S) Insulating coating for electrical apparatus	(G) Ether-ester polymer
P–97–0932	07/31/97	10/29/97	Ranbar Electrical Materials, Inc.	(S) Insulating coating for electrical apparatus	(G) Ether-ester polymer
P–97–0934	07/31/97	10/29/97	CBI	(S) Organic synthesis intermediate	(G) 3-Cyano-4-[3-substituted-phenylazo]-1-phenyl-5-pyrazolone

II. 1 Test Marketing Exemption Application Received From: 07/26/97 to 07/31/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–97–0010	07/29/97	09/12/97	Reichhold Chemicals Inc	(S) See test marking plan attached	(G) Polyurethane adhesive

III. 11 Notices of Commencement Received From: 07/26/97 to 07/31/97

Case No.	Received Date	Commencement/Import Date	Chemical
P–91–0097	07/30/97	07/14/97	(G) Castor oil modified alkyd resin
P–91–0098	07/30/97	07/14/97	(G) Vegitable oil modified alkyd resin
P–96–0728	07/25/97	05/14/97	(S) Polymer of: 1,2-ethanediol; ethanol,2,2′-oxybis; 2-butenedioic acid; 1-butanol, 2,2-bis[(2-propenyoloxy)menthy)-
P–96–0904	07/29/97	07/14/97	(S) Silane, chlorobis(1-methylethyl)

III. 11 Notices of Commencement Received From: 07/26/97 to 07/31/97—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–97–0076	07/29/97	06/27/97	(G) Reaction product of formaldehyde and ethyl acetoacetate
P–97–0119	07/25/97	07/08/97	(S) *D*-glucopyranose, oligomeric, 6-(hydrogen 2,3-dihydroxy butanedioate), [r-(r*,r*)]-, 1-(coco alkyl)ethers, sodium salts
P–97–0222	07/29/97	07/15/97	(S) Formamide, *N*-ethenyl-, homopolymer, hydrolyzed, hydrochloride
P–97–0289	07/29/97	07/02/97	(G) Diester diacid of aromatid dianhydride
P–97–0294	07/28/97	07/01/97	(S) Propanoic acid, 2-hydroxy-iron (2+) salt (2:1)
P–97–0400	07/28/97	06/30/97	(G) Polycyclic acrylic copolymer
P–97–0549	07/28/97	07/22/97	(G) Cresylic novolak resin

List of Subjects

Environmental protection, Premanufacture notices.

Dated: September 23, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–25927 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

federal register

Wednesday
October 1, 1997

Part V

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51869; FRL–5743–2]

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 August 1, 1997 to August 8, 1997.

ADDRESSES: Written comments, identified by the docket control number ''[OPPTS–51869]'' and the specific PMN number, if appropriate, should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

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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.

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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. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''[OPPTS–51869]''. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

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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. 37 Premanufacture Notices Received From: 08/1/97 to 08/8/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0930	08/01/97	10/30/97	CBI	(S) Industrial products: belts, timing belts wheels, small rollers	(G) PPDI polyester prepolymer
P–97–0933	08/01/97	10/30/97	CBI	(G) Coating binder component	(G) Carbonate-amine adduct
P–97–0935	08/04/97	11/02/97	Reichhold Chemicals Inc	(G) Polyurethane ho melt reactive adhesive	(G) Polyurethane adhesive
P–97–0936	08/01/97	10/30/97	3M Company	(G) Polymer additive	(G) Fluorochemical polymer
P–97–0937	08/01/97	10/30/97	CBI	(G) Adhesive component	(G) Polymer of methylenebis[isocyanatobenzene] and mixed polyether polyols
P–97–0938	08/01/97	10/30/97	CBI	(G) Adhesive component	(G) Polymer of methylenebis[isocyanatobenzene], disubstituted alkane and mixed polyether polyols
P–97–0939	08/05/97	11/03/97	CBI	(G) A metal estractant	(G) Dithiophosphoramide
P–97–0940	08/05/97	11/03/97	CBI	(G) A metal estractant	(G) Dithiophosphoramide
P–97–0941	08/04/97	11/02/97	CBI	(G) Moisture curing polyurethane adhesive	(G) Isocyanate terminated urethane polymer
P–97–0942	08/06/97	11/04/97	CBI	(G) Viscosity control agent (thickerner)	(G) Polycarbamate resin
P–97–0943	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0944	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0945	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0946	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0947	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0948	08/05/97	11/03/97	CBI	(G) Destructive and dispersive use	(G) Mixed trialkylamines
P–97–0949	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0950	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0951	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0952	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0953	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0954	08/01/97	10/30/97	CBI	(G) Crosslinker for a coating with open use	(G) Polyurethane
P–97–0955	08/06/97	11/04/97	CBI	(G) Open, non-dispersive (urethane resin)	(G) Crosslinking stoving urethane resin
P–97–0956	08/04/97	11/02/97	EM Industries, Inc.	(G) Pearlescent pigment for decorative finishes	(G) Mixed metal oside
P–97–0957	08/06/97	11/04/97	CBI	(G) Raw material for can coatings	(G) Non-etherified phenolic resin
P–97–0958	08/05/97	11/03/97	Owens Corning Science & Technology Center	(S) Molding resin	(S) 2,5-furandione, polymer with 1,2-ethanediol, 2-methyl-1,3-propanediol, 2,2′-oxybis(ethanol) and 3a, 4,7,7a-tetrahydro-4,7-methano-1h-indene*
P–97–0959	08/04/97	11/02/97	Dover Chemical Corporation	(S) Extreme pressure lubricant add	(S) Amdiosulfurous acid, compound, with 2-aminoethanol (1:1)
P–97–0961	08/07/97	11/05/97	Reichhold Chemicals Inc	(G) Polyurethane hot melt reactive adhesive	(G) Polyurethane adhesive
P–97–0962	08/08/97	11/06/97	Reichhold Chemicals Inc	(G) Polyurethane hot melt reactive adhesive	(G) Polyurethane adhesive
P–97–0963	08/08/97	11/06/97	CBI	(G) Processing aid	(G) Mixed metal salts of substituted polyalkylene polyether and carbomonocyclic carbocylic acids
P–97–0965	08/08/97	11/06/97	Dianal America Inc	(G) Binder resin	(G) Saturated co-polyester resin
P–97–0966	08/06/97	11/04/97	CBI	(S) UV or e-beam curing resin for coatings onto wood, paper, plastics and printing inks	(G) Polyester acrylate
P–97–0967	08/06/97	11/04/97	CBI	(S) UV or e-beam curing resin for coatings onto wood, paper, plastics and printing inks	(G) Polyester acrylate
P–97–0973	08/08/97	11/06/97	CBI	(G) Polishes	(G) Alkyl functional silicone
P–97–0974	08/08/97	11/06/97	CBI	(G) Polishes	(G) Alkyl functional silicone
P–97–0975	08/08/97	11/06/97	CBI	(G) Polishes	(G) Alkyl functional silicone

I. 37 Premanufacture Notices Received From: 08/1/97 to 08/8/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0976	08/08/97	11/06/97	CBI	(G) Polishes	(G) Alkyl functional silicone

II. 13 Notices of Commencement Received From: 08/01/97 to 08/08/97

Case No.	Received Date	Commence-ment/Import Date	Chemical
P–96–0943	08/08/97	07/23/97	(G) Caprolactone polyurethane
P–96–1000	08/08/97	07/24/97	(G) Caprolactone polyurethane
P–96–1125	08/08/97	08/04/97	(G) Fluorochemical acrylate copolymer
P–96–1262	08/05/97	07/02/97	(G) Substituted polyoxyethyleneamine sulfonate
P–96–1324	08/04/97	07/24/97	(G) Polyester amide
P–96–1429	08/04/97	07/03/97	(G) Alcohol alkoxylate
P–97–0264	08/01/97	07/21/97	(S) Silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10- heptadecafluorodecyl) trimethoxy-
P–97–0302	08/01/97	06/26/97	(S) Hexadecanoic acid, ethenyl ester
P–97–0312	08/04/97	07/17/97	(G) 1,5-naphthalenedisulfonic acid, 2-[(amino-hydroxy-sulfo-naphthalenyl)azo]-, reaction products with 2-[(-amino-hydroxy-sulfo-naphthalenyl)azo]-1,4-benzenedisulfonic acid, 1,2-propanediamine and 2,4,6-triazine, sodium salts
P–97–0425	08/05/97	07/08/97	(G) Substituted styrene acrylate imine polymer
P–97–0525	08/04/97	07/17/97	(G) 2-anthracenesulfonic acid, 1-amino-9,10-dihydro-4-[[3-[[(2-hydroxyethyl)amino]sulfonyl]-4,5-dimethylphenyl]amino]-9, 10-dioxo-, compound with substituted amine] (1:1)
P–97–0526	08/04/97	07/17/97	(G) 2-anthracenesulfonic acid, 1-amino-9,10-dihydro-9, 10-dioxo-4-[[3-substituted phenyl]amino]-
P–97–0530	08/04/97	07/17/97	(G) 2-anthracenesulfonic acid, 1-amino-9,10-dihydro-9, 10-dioxo-4-[[3-substituted phenyl]amino]-,compd. with substituted amine] (1:1)

List of Subjects

Environmental protection, Premanufacture notices.

Dated: September 23, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–25928 Filed 9–30–97; 8:45 am]

BILLING CODE 6560–50–F

federal register

Wednesday
October 1, 1997

Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Adjustments to Cost Limits for Skilled Nursing Facility Inpatient Routine Service Costs; Notice

Medicare Program; Schedules of Limits and Prospectively Determined Payment Rates for Skilled Nursing Facility Inpatient Routine Service Costs; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–895–FNC]

RIN 0938–AL15

Medicare Program; Schedules of Limits and Prospectively Determined Payment Rates for Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This final notice with comment period sets forth an updated schedule of limits on skilled nursing facility (SNF) routine service costs for which payment may be made under the Medicare program and sets forth an updated schedule of payment rates for low Medicare volume SNFs that elect to receive prospectively determined payment rates for routine service costs. Section 1888(a) of the Social Security Act (the Act) requires that the Secretary update the per diem cost limits for SNF routine service costs for cost reporting periods beginning on or after October 1, 1995, and every 2 years thereafter. In addition, section 1888(d)(4) of the Act requires the Secretary to establish and publish prospectively determined payment rates at least 90 days prior to the beginning of the Federal fiscal year (FY) to which such rates are to be applied.

DATES: *Effective date:* The schedule of cost limits and the schedule of prospectively determined payment rates are effective for cost reporting periods beginning on or after October 1, 1997.

Comment date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on December 1, 1997.

ADDRESSES: Mail written comments (an original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–895–NC, P.O. Box 7517, Baltimore, MD 21244–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following E-mail address: BPD–895–NC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the E-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address, below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–895–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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FOR FURTHER INFORMATION CONTACT: Robert Kuhl, (410) 786–4597.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority for Establishing Cost Limits and Prospectively Determined Payment Rates

1. Cost Limits

Sections 1861(v)(1)(A) and 1888 of the Act authorize the Secretary to set limits on allowable costs incurred by a provider of services for which payment may be made under Medicare. These limits are based on estimates of the costs necessary for the efficient delivery of needed health services. Section 1888(a) of the Act directs the Secretary to set limits on per diem inpatient routine service costs for hospital-based and freestanding SNFs by urban or rural area. Implementing regulations appear at 42 CFR 413.30.

2. Prospectively Determined Payment Rates

Most SNFs are paid on a reasonable cost basis up to the routine service per diem cost limits described in the previous paragraph. However, under section 1888(d) of the Act, for cost reporting periods beginning on or after October 1, 1986, a SNF with fewer than 1,500 Medicare covered days in a given cost reporting period may choose to receive payment based on a prospectively determined payment rate in the subsequent cost reporting period. Implementing regulations appear at 42 CFR Part 413, Subpart I.

The rates for the low Medicare volume SNFs are established on a per diem basis and include payment for the cost of furnishing general inpatient routine services and capital-related costs associated with routine services. We are required to publish annual revisions to the rates at least 90 days before the beginning of the Federal FY to which the revised rates apply. In addition, under § 413.312(a)(1)(i), we are required to base the revised rates on the same cost data used to develop the cost limits that are in effect for that Federal FY.

B. Previously Published Schedules of and Updates to Cost Limits and Rates

1. Effective for FY 1993

We published a final notice with comment period on October 7, 1992 (57 FR 46177) announcing a schedule of limits for freestanding and hospital-based SNFs effective for cost reporting periods beginning in FY 1993. In December 1992, we published section 2828 of the Medicare Provider Reimbursement Manual (HCFA Pub. 15–1), Transmittal Number 370, establishing rates effective for cost reporting periods beginning in FY 1993. The same cost report, wage, and inflation data were used to develop these cost limits and rates. The cost reports used to develop the FY 1993 cost limits and rates covered cost reporting periods ending on or after June 30, 1989, through May 31, 1990, for freestanding SNFs and on or after October 31, 1988, through September 30, 1989, for hospital-based SNFs. The 1988 hospital wage data and Metropolitan Statistical Area (MSA) designations, based on pre-1990 census data as described in the April 1, 1991, notice (56 FR 13319), were used to develop the wage index that was applicable to the FY 1993 cost limits and rates. It has been our longstanding

policy not to make changes in the cost report data or recognize changes in the wage and MSA data until we publish a **Federal Register** notice announcing an update to the SNF cost limits.

2. Effective for FY 1994 and FY 1995

Sections 13503(a)(1) and 13503(b) of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103–66) required that there be no changes in the FY 1993 SNF routine cost limits and rates (including adjustments for changes in the wage index or applicable MSAs) established under section 1888 of the Act for cost reporting periods beginning during Federal FY 1994 and FY 1995. This 2-year freeze on the cost limits and rates resulted in a savings to the Medicare program. These provisions of OBRA '93 were implemented, for cost limits, in a final notice with comment period on January 6, 1994 (59 FR 762) and, for rates, in section 2828 L of the Provider Reimbursement Manual (Transmittal 374, December 1993).

3. Effective for FY 1996

Section 13503(a)(2) of OBRA '93 amended section 1888(a) of the Act and required that an update to the cost limits be provided for cost reporting periods beginning on or after October 1, 1995 (FY 1996), and every 2 years thereafter. However, during the FY 1996 legislative period, reconciliation legislation contained a provision to preserve the savings from the 2-year freeze by inflating the FY 1993 cost limits and rates to cost reporting periods beginning in FY 1996, except that inflation for FY 1994 and FY 1995 would not have been recognized. We did not believe that it would be appropriate to issue the required update to the cost limits and rates for cost reporting periods beginning in FY 1996 until the prospect of this provision becoming law was known. We determined in April 1996 (7 months into FY 1996) that the FY 1996 legislative period would not produce a law that included this provision.

On May 3, 1996, we expedited the issuance of the required update to the FY 1996 cost limits and rates through a memorandum to all Associate Regional Administrators (ARAs) for Medicare. We instructed the ARAs to notify the intermediaries to implement this update. (This memorandum also included corrections to erroneous projected rates of inflation used to develop the FY 1990 and FY 1993 cost limits.) This memorandum contained the monthly inflation factors that were needed to extend the FY 1993 cost limits and rates to cost reporting periods beginning in FY 1996.

Our policy regarding the methodology used to provide the required update to the limits and rates for FY 1996 conformed with the update methodology described below Table IV of the October 7, 1992 notice, which extends the cost reporting periods affected by the FY 1993 limits by computing monthly inflation factors beyond those shown in Table IV. Intermediaries were using this methodology to compute limits and rates between October 1, 1995, and the issuance of the aforementioned memorandum. We explained that this update methodology would be used until a new schedule of limits or other provision is issued.

4. Effective for FY 1997

Section 1888(a) of the Act did not require us to provide an update to the cost limits for FY 1997. Therefore, we trended the FY 1996 cost limits and rates to cost reporting periods beginning in FY 1997 using the latest available rates of inflation.

On August 22, 1996, we issued a memorandum to all ARAs for Medicare to notify the intermediaries of the cost limits and monthly inflation factors for cost reporting periods beginning in FY 1997.

On September 3, 1996, we published a final notice with comment period (61 FR 46466) announcing the schedule of rates effective for cost reporting periods beginning in FY 1997. That notice represented the first schedule of rates published in the **Federal Register** after the regulations implementing section 1888(d) were issued on July 21, 1995 (60 FR 37590).

C. Cost Limits and Rates Effective for FY 1998

This notice with comment period announces the schedule of cost limits and rates effective for cost reporting periods beginning in FY 1998, as required under section 1888(a) of the Act. To meet the update requirement under section 1888(a), we trended the FY 1997 cost limits and rates to cost reporting periods beginning in FY 1998 using the latest rates of inflation.

There is, however, increasing concern that post-1990 census data have not been used in determining MSA designations and wage index values since our last **Federal Register** notice was published on October 7, 1992. We believe that the numerous changes to the MSA designations since we published the FY 1993 cost limits and rates should be recognized in determining the appropriate wage index values used in this notice. This notice presents the opportunity to implement these changes to the wage data and to the MSA designations and conforms with our longstanding policy to make such changes only in a **Federal Register** notice.

This is the first time we have published a combined schedule of cost limits and rates. Combining the cost limits and rates in one notice is more economical in that they both utilize the same cost report data, wage index values, and rates of inflation. In addition, under section 1888(d) of the Act, an individual provider's prospectively determined rate may not exceed its applicable cost limit (see Section III.D. of this notice). This notice, containing cost limits and rates for cost reporting periods beginning in FY 1998, allows a provider to more conveniently determine its individual rate than in previous years.

II. Update of the SNF Schedule of Limits and the Schedule of Prospectively Determined Rates

Under the authority cited in section I. of this notice, this final notice with comment period sets forth for cost reporting periods beginning in FY 1998: (1) an updated schedule of limits on SNF routine service costs for which payment may be made under the Medicare program; and (2) an updated schedule of prospectively determined payment rates for low Medicare volume SNFs that have elected to receive prospective payments for routine service costs.

The cost limits set forth in Table I and the rates set forth in Tables II and III of this notice are based on the FY 1997 cost limits and rates, respectively, trended to cost reporting periods beginning in FY 1998, using the most recent projections of the rates of inflation or increase in the costs included in the SNF market basket.

We are continuing to use the HCFA hospital wage data to account for area wage differences. This is necessary because industry-specific data needed to calculate a wage index for SNFs are not available. Under section 106 of the Social Security Act Amendments of 1994 (Public Law 103–432), the Secretary was required to begin collecting data no later than October 31, 1995, on employee compensation and paid hours of employment in SNFs for the purpose of constructing a SNF wage index adjustment to the routine service cost limits. Until this data collection effort is completed and the data are analyzed, we believe that hospital wage data provide the best measure of comparable wages that would also be paid by SNFs, since hospitals and SNFs generally compete in the same labor

market for employees. We believe that the use of the hospital wage data results in an appropriate adjustment to the labor-portion of the costs based on an appropriate wage index as required under section 1888(a) of the Act.

For the schedule of cost limits and rates effective with this notice, we are using wage index values that are based on hospital wage data from cost reporting periods beginning in FY 1993—the most recent hospital wage data in effect before the effective date of this notice and the most recent MSA designations. Accordingly, with the exception of those wage index values that may be affected by recent corrections to the 1993 wage data, the wage index values used in this notice are based on the same wage data as are used to compute the wage index values for the hospital prospective payment system for discharges occurring on or after October 1, 1996. (A detailed description of the methodology used to compute the hospital prospective payment wage index is set forth in the final rule published in the **Federal Register** on August 30, 1996 (61 FR 46166).) While these wage index values are based on the MSA designations in effect prior to the effective date of this notice, they do not, however, reflect changes in geographic classification for certain rural hospitals required under section 1886(d)(8)(B) of the Act or geographic reclassifications based on decisions of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) of the Act. Section 1886 of the Act applies to hospitals only. Accordingly, as in the past, it would not be appropriate to recognize changes in the geographic classification of hospitals for purposes of computing the SNF cost limits even though an SNF may be part of a medical complex that includes a reclassified hospital.

III. Provisions of the SNF Schedule of Cost Limits and Prospectively Determined Payment Rates

The schedule of cost limits set forth below applies to all SNFs, including those low Medicare volume SNFs that are eligible to receive the optional prospectively determined payment rate for routine services. Under § 413.314(d), the operational portion of an SNF's prospectively determined payment rate, excluding capital-related costs, cannot exceed its actual routine service cost limit (without regard to exceptions, exemptions, or retroactive adjustments) in effect at the time of the election to be paid a prospectively determined payment rate. The eligibility requirements for receiving prospectively determined payment rates are specified in subpart I of part 413.

These schedules of cost limits and rates provide for the following:

A. Separate Groupings for Labor-Related and Nonlabor-Related Components of Per Diem Routine Service Costs

We are retaining the same groupings for the labor-related and nonlabor-related components of per diem routine service costs as follows:

1. As described in the October 7, 1992 notice for the FY 1993 cost limits, separate group means were computed for the labor-related and nonlabor-related components for hospital-based and freestanding SNFs in accordance with the MSA or non-MSA designation in effect with that notice. Each group mean was then multiplied by 112 percent.

2. As described in the September 3, 1996 notice for the FY 1997 rates, separate group means were computed for labor-related, nonlabor-related, and capital-related components in accordance with the SNF's census region and MSA or non-MSA designation in effect with that notice. Each group mean was then multiplied by 105 percent.

B. Adjustment of SNF Labor-Related Data by the Wage Index

We are using a wage index based on 1993 hospital wage data and post-1990 MSA designations, as discussed in section II of this notice, to adjust the labor-related portion of the cost limits and rates contained in this notice for area wage differences.

C. Use of SNF Market Basket

We are trending the FY 1997 cost limits and rates to FY 1998 using projected cost increases by applying the SNF market basket index. This market basket index is used to adjust the SNF cost data to reflect cost increases occurring between the cost reporting periods represented in the data collection and the midpoints of the cost reporting periods to which the cost limits and rates apply.

The market basket index is comprised of the most commonly used categories of SNF routine service expenses. The categories are based primarily on those used by the National Center for Health Statistics in its National Nursing Home Surveys.

The categories of expenses are weighted according to the estimated proportion of SNF routine service costs attributable to each category. A detailed description of the market basket index is described in the October 7, 1992 notice for cost limits and the September 3, 1996 notice for the rates.

In developing the market basket index, we obtained historical and projected (estimated) rates of change in the price of goods and services in each category. For cost limit purposes only, estimated rates of change may be revised, retroactively, based on actual (final) rates of change. As described in all previous schedules of cost limits, if the final rate of change in the market basket index for a calendar year differs from the estimated rate of change by at least 0.3 percentage points, we will adjust the limits. Elsewhere in this issue of the **Federal Register**, we are proposing in a separate notice to eliminate this provision to adjust the limits.

D. Application of the Adjusted Hospital Wage Index to the Labor-Related Costs

In developing the FY 1997 cost limits and rates, we applied the wage index to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and miscellaneous costs. We continue to use this methodology in computing the FY 1998 cost limits and rates.

For purposes of applying the wage index, employee benefits include such items as FICA tax, health insurance, life insurance, facility contributions to employee retirement funds, and all other compensation that the SNF records in the ''employee health and welfare'' cost center on its Medicare cost report. Health service costs include the costs of physician services that are purchased under arrangement from outside sources. Business service costs include costs of banking, contract laundry, telephone, and other services that SNFs purchase at retail from outside suppliers. Miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket.

E. Per Diem Add-On to the Cost Limits and Prospective Rates Effective for Cost Reporting Periods Beginning in FY 1998

In the October 7, 1992 notice and the September 3, 1996 notice, we described a per diem add-on to the limits and rates, respectively. This per diem add-on was developed to take into account the costs associated with the additional requirements placed on SNFs by the nursing home reform provisions in section 1819 of the Act, including conducting nurse aide training and competency evaluation programs, and to recognize the additional costs due to the universal precaution requirements of the Occupational Safety and Health Administration (OSHA).

The per diem add-on effective for FY 1997 will be trended to cost reporting periods beginning in FY 1998, using the latest market basket index. For cost limit purposes, the per diem add-on is $2.27 for cost reporting periods beginning on or after October 1, 1997. For rate purposes, the per diem add-on is $2.13 for cost reporting periods beginning on or after October 1, 1997.

When HCFA updates the SNF cost limits and prospective rates using a later data base that includes the costs of complying with these additional requirements, a per diem add-on will no longer be needed because those updated limits and rates would include these costs.

The following applies to the schedule of cost limits only:

F. Setting of Freestanding SNF Limits

The FY 1997 cost limits for freestanding SNFs were set at 112 percent of the average labor-related and average nonlabor-related costs of each group, as described in the October 7, 1992 notice. This methodology is prescribed by section 1888(a) of the Act. We continue to use this methodology to set the freestanding SNF cost limits contained in this notice.

G. Setting of Hospital-Based SNF Limits

The FY 1997 cost limits for hospital-based SNFs were set at the freestanding SNF limit plus 50 percent of the difference between the freestanding SNF limit and 112 percent of the mean per diem routine service costs of hospital-based SNFs. This methodology for setting hospital-based SNF cost limits was described in the October 7, 1992 notice and the January 6, 1994 notice. This methodology is prescribed by sections 1888(a) and (b) of the Act. We continue to use this methodology to set the hospital-based SNF cost limits contained in this notice.

H. Cost-of-Living Adjustments to the Limits for Alaska, Hawaii, Puerto Rico, and the Virgin Islands

To avoid disadvantaging SNFs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, we will continue to provide a cost-of-living adjustment to the limits for these areas. This is an adjustment of the nonlabor-related component of the limit that applies to these areas, based on the amount of the most recently determined cost-of-living differentials developed by the Office of Personnel Management. Since we adjust the labor-related component by the applicable wage index as discussed in section III.D. of this notice, this cost-of-living adjustment will apply only to the nonlabor-related component.

I. Exception to Cost Limits

A SNF may request an exception to the cost limits under the provisions of § 413.30(f). The SNF must make the request to the appropriate Medicare fiscal intermediary in accordance with section 2530 of the Provider Reimbursement Manual (HCFA Pub. 15–1). An adjustment may be granted if the costs in excess of the limit are reasonable, attributable to the circumstances specified in § 413.30(f)(1) through (f)(8), separately identified by the SNF, and verified by the intermediary.

J. Use of Classification System for the Limits

The classification system we use is based on whether a SNF is located within a MSA or in a New England County Metropolitan Area (NECMA) based on standards published in the **Federal Register** on March 30, 1990 (55 FR 12154), using Bureau of the Census data or Bureau of Census estimates made after 1990. The latest standards for developing MSAs are the ones contained in the March 30, 1990 **Federal Register**.

The following applies to the schedule of rates only:

K. Use of Classification System for the Rates

We will retain the classification system based on grouping SNFs by census regions and by urban or rural area designation within the region. As required by sections 1883(d)(3) and 1886(d)(2)(D) of the Act, the term ''region'' means one of the 9 census divisions, comprising the 50 States and the District of Columbus, established by the Bureau of Census for Statistical and reporting purposes. The term ''urban rate'' means an area within a MSA (as defined by the Office of Management and Budget (OMB), with exceptions for certain NECMAs, as described in a notice published in the **Federal Register** on April 1, 1991 (56 FR 13319)). The term ''rural area'' means an area outside such an area (MSA).

IV. Methodology for Determining Per Diem Routine Service Cost Limits and Low Volume Prospective Payment Rates

A. Development of Base Cost Limits and Rates

As discussed in section I of this notice, we trended the FY 1997 cost limits and rates using the latest market basket index, as discussed in section III.C. of this notice. The annual percentage increases in the market basket over the previous year that we used for this projection in this notice are:

1993	3.7
1994	3.4
1995	2.9
1996	[1] 2.7
1997	[1] 3.2
1998	[1] 3.4
1999	[1] 3.6

[1] Forecasted increase.

B. Calculation of SNF Limit

1. Components of Limit

For each freestanding group, the freestanding limits for FY 1998 are shown in Table I of this notice. We used the computation below to determine the hospital-based cost limits shown in Table I.

COST LIMIT DATA—HOSPITAL-BASED SNFS FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1997

112 percent of hospital-based mean cost	Urban (MSA)	Rural (non-MSA)
Labor	$166.13	$143.18
Nonlabor	34.97	23.58
Total	201.10	166.76

CALCULATION OF 50 PERCENT OF DIFFERENCE BETWEEN 112 PERCENT OF HOSPITAL-BASED MEAN COST AND FREESTANDING LIMIT

	Labor	Nonlabor
Urban (MSA)		
112 Percent of Hospital-Based Mean Cost	$166.13	$34.97
Freestanding Limit (Table I)	−91.23	−19.59
Difference	74.90	15.38
50 Percent of Difference	37.45	7.69
Plus Freestanding Limit	+91.23	+19.59
Hospital-Based Limit (MSA)	128.68	27.28
Rural (Non-MSA)		
112 Percent of Hospital-Based Mean Cost	$143.18	$23.58
Freestanding Limit (Table I)	−92.64	−15.64
Difference	50.54	7.94
50 Percent of Difference	25.27	3.97
Plus Freestanding Limit	+92.64	+15.64
Hospital-Based Limit (Non-MSA)	117.91	19.61

2. Adjustment of Labor-Related Component by Wage Index

To arrive at a labor-adjusted limit for each SNF, we multiply the labor-related component of the limit for the SNF's group by the wage index developed from wage levels for hospital workers in the area in which the SNF is located (see Tables IV and V of this notice). The adjusted limit that applies to a SNF is the sum of the nonlabor-related component, plus the adjusted labor-related component, plus the OBRA/OSHA per diem add-on discussed in section III.E. of this notice.

Example—Calculation of Adjusted Limit for a Freestanding SNF Located in Dallas, Texas:

Labor-Related Component	$ 91.23	(Table I).
Wage Index	×0.9729	(Table IV).
Adjusted Labor Component	88.76	
Nonlabor-Related Component	+19.59	(Table I).
OBRA/OSHA Per Diem Add-On	+2.27	(Sec. III.E.).
Adjusted Limit	110.62	

3. Adjustment for Cost Reporting Period

If a facility has a cost reporting period beginning in a month after October 1, 1997, the intermediary increases the limit that otherwise would apply to the SNF by the factor from Table VI of this notice that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded monthly increase derived from the projected annual increase in the market basket index and is used to account for inflation in costs that occur after the date on which the limits are effective.

Example: The following is a computation of a revised limit for the previously cited SNF that has a cost reporting period that begins January 1, 1998. The base adjusted limit for the SNF is $110.62. The revised limit applicable to its cost reporting period $111.56, is computed as follows:

Individual SNF Adjusted Base Limit	$110.62
Adjustment Factor from Table V	×1.00846
Revised Limit	111.56

If a facility uses a cost reporting period that is not 12 months in duration, a special adjustment factor will be calculated. This is necessary because projections are computed to the midpoint of a cost reporting period and the adjustment factors in Table VI of this notice are based on an assumed 12-month reporting period. For cost reporting periods of other than 12 months, the calculation is done for the midpoint of the specific cost reporting period. The SNF's intermediary will obtain this adjustment factor from HCFA Central Office.

C. Calculation of the Routine Operating Portion of the Rates.

1. Adjustment of Labor-Related Component by Wage Index

a. *Urban SNFs.* To arrive at a labor adjusted component for the rates, we multiply the labor-related component of the rate for the SNF's region (Table II of this notice) by the wage index developed from wage levels for hospital workers in the area in which the SNF is located (Table IV of this notice).

b. *Rural SNFs.* To arrive at a labor adjusted component for the rates, we multiply the labor-related rate for the SNF's region (Table III of this notice) by the wage index developed from wage levels for hospital workers in the state in which the SNF is located (Table V of this notice).

2. Non-Labor-Related and OBRA/OSHA Per Diem Add-on

The adjusted routine operating portion of the rate that applies to a SNF is the sum of the nonlabor-related component, plus the labor adjusted component, plus the OBRA/OSHA per diem add-on discussed in section III.E. of this notice.

3. Adjustment for Cost Reporting Period

If a facility has a cost reporting period beginning in a month after October 1, 1997, the intermediary increases the adjusted routine operating portion of the rate that otherwise apply to the SNF by the factor from Table VI of this notice that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded monthly increase derived from the annual increase in the market basket index and is used to account for inflation in costs that occur after the date on which the prospective payment rates are effective.

If a facility uses a cost reporting period that is not 12 months in duration, a special adjustment factor is calculated. This is necessary because market basket increases are computed to the midpoint of a cost reporting period and the adjustment factors in Table VI of this notice are based on an assumed 12-month cost reporting period. For cost reporting periods of other than 12 months, the calculation is done for the midpoint of the specific cost reporting period. The SNF's intermediary obtains this adjustment factor from the HCFA Central Office.

D. Comparison of Provider's Prospective Payment Rate With Provider's Cost Limit

Below is an example of the calculation of the prospectively determined payment rate for a provider, including a comparison of the adjusted routine operating portion of the rate with the applicable routine operating cost limit applicable to the specific provider. The capital-related component of the rate is added to the lower of the SNF's specific cost limit or its adjusted routine operating portion of the rate to arrive at the provider's actual prospectively determined payment rate.

Example: In this case, the adjusted cost limit is less than the adjusted rate for a freestanding SNF located in Providence, Rhode Island (MSA Region 1), with a cost reporting period beginning January 1, 1998. Therefore, the prospectively determined payment rate for this SNF is the adjusted limit plus the capital-related component of the rate ($134.93).

	Labor-related component	Non-labor related component	Capital-related component
Limit (Table I)	$91.23	$19.59	.....
Rate (Table II)	120.13	22.91	$10.00

CALCULATION OF PROSPECTIVE PAYMENT RATE

	Limit	Rate	Rate source
Labor-Related Component	$91.23	$120.13	(Chart above).
Wage Index	×1.1092	×1.1092	(Table IV).
Adjusted Labor Component	101.19	133.25	
Non-Labor Component	19.59	22.91	(Chart above).
OBRA/OSHA Add-on	+2.27	+2.13	(Sec III.E.).
Adjusted Limit/Rate	123.05	$158.29	
Cost Reporting Year Adjustment Factor	×1.00846	×1.00846	(Table VI).
Revised Limit/Rate	124.09	159.63	
Capital-Related Component	+10.00		(Chart above).
Prospectively Determined Payment Rate	134.09		

V. Schedule of Limits

Under the authority of sections 1861(v)(1)(A) and 1888 of the Act, the following group per diem limits will apply to the adjusted SNF inpatient routine service costs paid for under Medicare for cost reporting periods beginning on or after October 1, 1997. Medicare fiscal intermediaries will compute the adjusted limits for SNFs using the methodology set forth in this notice and will notify each SNF of its applicable limit. These limits, as adjusted by the applicable wage indexes, cost reporting year adjustments, and adjusted by the OBRA/OSHA per diem add-on, will remain in effect for cost reporting periods beginning on or after October 1, 1997, until a new schedule of cost limits or other provision is issued.

TABLE I.—SNF GROUP LIMITS

[Cost Reporting Periods Beginning On or After 10/1/97]

Location	Labor-related component	Non-labor* related component
Freestanding:		
MSA Limit	$91.23	$19.59
Non-MSA Limit	92.64	15.64
Hospital-Based:		
MSA Limit	128.68	27.28
Non-MSA Limit	117.91	19.61

*The nonlabor portion of the limits for SNFs located in the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands will be increased by the following cost-of-living adjustments:

Area	Adjustment factor
Alaska	1.250
Hawaii:	
Oahu	1.225
Kauai	1.175
Maui, Lanai and Molokai	1.200
Hawaii (island)	1.150
Puerto Rico	1.100
Virgin Islands	1.125

TABLE II.—PROSPECTIVE RATES—MSA LOCATIONS EFFECTIVE OCTOBER 1, 1997

Region [1]	Labor-related	Nonlabor-related	Capital-related
1. New England (CT, ME, MA, NH, RI, VT)	$120.13	$22.91	$10.00
2. Middle Atlantic (PA, NJ, NY)	115.86	20.94	9.79
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	103.86	16.70	9.81
4. East North Central (IL, IN, MI, OH, WI)	98.70	16.40	9.18
5. East South Central (AL, KY, MS, TN)	99.28	14.61	7.32
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	105.87	17.59	10.23
7. West South Central (AR, LA, OK, TX)	92.64	14.47	10.06
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	110.22	18.83	13.04
9. Pacific (AK, CA, HI, OR, WA)	100.30	20.56	8.40

[1] There are 17 MSAs that have counties in two or more regions. For each of these MSAs, the region in which a majority of the SNFs are located determines the regional rate that is paid as shown below. This is the same methodology as that used to implement the requirements of section 1886(d)(2)(D) of the Act as they apply to the hospital prospective payment system.

The MSAs are as follows:

MSA	Region
Chattanooga, TN–GA	5
Cincinnati, OH–KY–IN	4
Columbus, GA–AL	3
Davenport-Rock Island-Moline, IA–IL	4
Duluth-Superior, MN–WI	6
Evansville-Henderson, IN–KY	4
Huntington-Ashland, WV–KY–OH	3
Johnson City-Kingsport-Bristol, TN–VA	5
La Crosse, WI–MN	4
Louisville, KY–IN	5
Memphis, TN–AR–MS	5
Minneapolis-St. Paul, MN–WI	6
Parkersburg-Marietta, WV–OH	3
St. Louis, MO–IL	6
Steubenville-Weirton, OH–WV	4
Wheeling, WV–OH	3
Wilmington-Newark, DE–NJ–MD	3

TABLE III.—PROSPECTIVE RATES—NON-MSA LOCATIONS EFFECTIVE OCTOBER 1, 1997

Region	Labor-related	Nonlabor-related	Capital-related
1. New England (CT, ME, MA, NH, RI, VT)	$129.68	$21.62	$10.58
2. Middle Atlantic (PA, NJ, NY)	121.14	17.40	7.94
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	114.52	15.56	9.19
4. East North Central (IL, IN, MI, OH, WI)	108.02	15.08	8.28
5. East South Central (AL, KY, MS, TN)	108.81	13.70	6.77
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	111.41	14.83	6.66
7. West South Central (AR, LA, OK, TX)	105.74	13.44	9.22
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	110.40	16.18	8.36
9. Pacific (AK, CA, HI, OR, WA)	123.54	20.74	10.16

TABLE IV.—WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
0040 Abilene, TX	0.8048
Taylor, TX	
0060 Aguadilla, PR	0.4237
Aguada, PR	
Aguadilla, PR	
Moca, PR	
0080 Akron, OH	0.9853
Portage, OH	
Summit, OH	
0120 Albany, GA	0.8597
Dougherty, GA	
Lee, GA	
0160 Albany-Schenectady-Troy, NY	0.8624
Albany, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Schoharie, NY	
0200 Albuquerque, NM	0.9344
Bernalillo, NM	
Sandoval, NM	
Valencia, NM	
0220 Alexandria, LA	0.8119
Rapides, LA	
0240 Allentown-Bethlehem-Easton, PA	0.9992
Carbon, PA	
Lehigh, PA	
Northampton, PA	
0280 Altoona, PA	0.9510
Blair, PA	
0320 Amarillo, TX	0.8730
Potter, TX	
Randall, TX	
0380 AK Anchorage, AK	1.3224
Anchorage,	
0440 Ann Arbor, MI	1.1662
Lenawee, MI	
Livingston, MI	
Washtenaw, MI	
0450 Anniston, AL	0.8023
Calhoun, AL	
0460 Appleton-Oshkosh-Neenah, WI	0.8890
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
0470 Arecibo, PR	0.4397
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
0480 Asheville, NC	0.9334
Buncombe, NC	
Madison, NC	
0500 Athens, GA	0.9408
Clarke, GA	
Madison, GA	
Oconee, GA	
0520 Atlanta, GA	1.0033
Barrow, GA	
Bartow, GA	
Carroll, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
DeKalb, GA	
Douglas, GA	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Pickens, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
0560 Atlantic City-Cape May, NJ	1.1077
Atlantic City, NJ	
Cape May, NJ	
0600 Augusta-Aiken, GA–SC	0.8836
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Edgefield, SC	
0640 Austin-San Marcos, TX	0.9254
Bastrop, TX	
Caldwell, TX	
Hays, TX	
Travis, TX Williamson, TX	
0680 Bakersfield, CA	1.0189
Kern, CA	
0720 Baltimore, MD	0.9798
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
0733 Bangor, ME	0.9391
Penobscot, ME	
0743 Barnstable-Yarmouth, MA	1.3651
Barnstable, MA	
0760 Baton Rouge, LA	0.8433
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
0840 Beaumont-Port Arthur, TX	0.8576
Hardin, TX	
Jefferson, TX	
Orange, TX	
0860 Bellingham, WA	1.1317
Whatcom, WA	
0870 Benton Harbor, MI	0.8506
Berrien, MI	
0875 Bergen-Passaic, NJ	1.1785
Bergen, NJ	
Passaic, NJ	
0880 Billings, MT	0.9086
Yellowstone, MT	
0920 Biloxi-Gulfport-Pascagoula, MS	0.8554
Hancock, MS	
Harrison, MS	
Jackson, MS	
0960 Binghamton, NY	0.8822
Broome, NY	
Tioga, NY	
1000 Birmingham, AL	0.9036
Blount, AL	
Jefferson, AL	
St. Clair, AL	
Shelby, AL	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
1010 Bismarck, ND	0.7923
Burleigh, ND	
Morton, ND	
1020 Bloomington, IN	0.8652
Monroe, IN	
1040 Bloomington-Normal, IL	0.8990
McLean, IL	
1080 Boise City, ID	0.9383
Ada, ID	
Canyon, ID	
1123 Boston-Worcester Lawrence-Lowell-	1.1613
Brockton,MA–NH	
Bristol, MA	
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Worcester, MA	
Hillsborough, NH	
Merrimack, NH	
Rockingham, NH	
Strafford, NH	
1125 Boulder-Longmont, CO	0.9522
Boulder, CO	
1145 Brazoria, TX	0.9201
Brazoria, TX	
1150 Bremerton, WA	1.0901
Kitsap, WA	
1240 Brownsville-Harlingen-San Benito, TX	0.8542
Cameron, TX	
1260 Bryan-College Station, TX	0.8851
Brazos, TX	
1280 Buffalo-Niagara Falls, NY	0.9107
Erie, NY	
Niagara, NY	
1303 Burlington, VT	1.0068
Chittenden, VT	
Franklin, VT	
Grand Isle, VT	
1310 Caguas, PR	0.4573
Caguas, PR	
Cayey, PR	
Cidra, PR	
Gurabo, PR	
San Lorenzo, PR	
1320 Canton-Massillon, OH	0.8648
Carroll, OH	
Stark, OH	
1350 Casper, WY	0.8821
Natrona, WY	
1360 Cedar Rapids, IA	0.8458
Linn, IA	
1400 Champaign-Urbana, IL	0.9391
Champaign, IL	
1440 Charleston-North Charleston, SC	0.8963
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
1480 Charleston, WV	0.9526
Kanawha, WV	
Putnam, WV	
1520 Charlotte-Gastonia-Rock Hill, NC–SC	0.9620
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
1540 Charlottesville, VA	0.9155
Albemarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
1560 Chattanooga, TN–GA	0.8847
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
1580 Cheyenne, WY	0.7678
Laramie, WY	
1600 Chicago, IL	1.0760
Cook, IL	
DeKalb, IL	
DuPage, IL	
Grundy, IL	
Kane, IL	
Kendall, IL	
Lake, IL	
McHenry, IL	
Will, IL	
1620 Chico-Paradise, CA	1.0417
Butte, CA	
1640 Cincinnati, OH–KY–IN	0.9570
Dearborn, IN	
Ohio, IN	
Boone, KY	
Campbell, KY	
Gallatin, KY	
Grant, KY	
Kenton, KY	
Pendleton, KY	
Brown, OH	
Clermont, OH	
Hamilton, OH	
Warren, OH	
1660 Clarksville-Hopkinsville, TN–KY	0.7716
Christian, KY	
Montgomery, TN	
1680 Cleveland-Lorain-Elyria, OH	0.9886
Ashtabula, OH	
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Lorain, OH	
Medina, OH	
1720 Colorado Springs, CO	0.9341
El Paso, CO	
1740 Columbia, MO	0.8899
Boone, MO	
1760 Columbia, SC	0.9160
Lexington, SC	
Richland, SC	
1800 Columbus, GA–AL Russell, AL	0.7779
Chattanoochee, GA	
Harris, GA	
Muscogee, GA	
1840 Columbus, OH	0.9681
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
1880 Corpus Christi, TX	0.8881
Nueces, TX	
San Patricio, TX	
1900 Cumberland, MD–WV	0.8671
Allegany, MD	
Mineral, WV	
1920 Dallas, TX	0.9729
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Henderson, TX	
Hunt, TX	
Kaufman, TX	
Rockwall, TX	
1950 Danville, VA	0.8497
Danville City, VA	
Pittsylvania, VA	
1960 Davenport-Rock Island-Moline, IA–IL	0.8388
Scott, IA	
Henry, IL	
Rock Island, IL	
2000 Dayton-Springfield, OH	0.9559
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
2020 Daytona Beach, FL	0.8871
Flagler, FL	
Volusia, FL	
2030 Decatur, AL	0.8384
Lawrence, AL	
Morgan, AL	
2040 Decatur, IL	0.7848
Macon, IL	
2080 Denver, CO	1.0166
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
2120 Des Moines, IA	0.8815
Dallas, IA	
Polk, IA	
Warren, IA	
2160 Detroit, MI	1.0724
Lapeer, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
St. Clair, MI	
Wayne, MI	
2180 Dothan, AL	0.7740
Dale, AL	
Houston, AL	
2190 Dover, DE	0.8997
Kent, DE	
2200 Dubuque, IA	0.8112
Dubuque, IA	
2240 Duluth-Superior, MN–WI	0.9416
St. Louis, MN	
Douglas, WI	
2281 Dutchess County, NY	1.0589
Dutchess, NY	
2290 Eau Claire, WI	0.8678
Chippewa, WI	
Eau Claire, WI	
2320 El Paso, TX	0.9464
El Paso, TX	
2330 Elkhart-Goshen, IN	0.8801
Elkhart, IN	
2335 Elmira, NY	0.8417
Chemung, NY	
2340 Enid, OK	0.7862
Garfield, OK	
2360 Erie, PA	0.9159
Erie, PA	
2400 Eugene-Springfield, OR	1.1271
Lane, OR	
2440 Evansville-Henderson, IN–KY	0.8983
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
2520 Fargo-Moorhead, ND–MN	0.9045
Clay, MN	
Cass, ND	
2560 Fayetteville, NC	0.9007
Cumberland, NC	
2580 Fayetteville-Springdale-Rogers, AR	0.7220
Benton, AR	
Washington, AR	
2620 Flagstaff, AZ–UT	0.9019
Coconino, AZ	
Kane, UT	
2640 Flint, MI	1.1248
Genesee, MI	
2650 Florence, AL	0.7938
Colbert, AL	
Lauderdale, AL	
2655 Florence, SC	0.8594
Florence, SC	
2670 Fort Collins-Loveland, CO	1.0562
Larimer, CO	
2680 Ft. Lauderdale, FL	1.0548
Broward, FL	
2700 Fort Myers-Cape Coral, FL	0.9032
Lee, FL	
2710 Fort Pierce-Port St. Lucie, FL	1.0169
Martin, FL	
St. Lucie, FL	
2720 Fort Smith, AR–OK	0.7864
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
2750 Fort Walton Beach, FL	0.9192
Okaloosa, FL	
2760 Fort Wayne, IN	0.8800
Adams, IN	
Allen, IN	
DeKalb, IN	
Huntington, IN	
Wells, IN	
Whitley, IN	
2800 Forth Worth-Arlington, TX	1.0153
Hood, TX	
Johnson, TX	
Parker, TX	
Tarrant, TX	
2840 Fresno, CA	1.1183
Fresno, CA	
Madera, CA	
2880 Gadsden, AL	0.8881

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Etowah, AL	
2900 Gainesville, FL	0.9434
Alachua, FL	
2920 Galveston-Texas City, TX	1.0997
Galveston, TX	
2960 Gary, IN	0.9641
Lake, IN	
Porter, IN	
2975 Glens Falls, NY	0.8562
Warren, NY	
Washington, NY	
2980 Goldsboro, NC	0.8393
Wayne, NC	
2985 Grand Forks, ND–MN	0.9011
Polk, MN	
Grand Forks, ND	
2995 Grand Junction, CO	0.8336
Mesa, CO	
3000 Grand Rapids-Muskegon-Holland, MI	1.0119
Allegan, MI	
Kent, MI	
Muskegon, MI	
Ottawa, MI	
3040 Great Falls, MT	0.8681
Cascade, MT	
3060 Greeley, CO	0.9690
Weld, CO	
3080 Green Bay, WI	0.9038
Brown, WI	
3120 Greensboro-Winston-Salem-High Point, NC	0.9332
Alamance, NC	
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
3150 Greenville, NC	0.9078
Pitt, NC	
3160 Greenville-Spartanburg-Anderson, SC	0.8927
Anderson, SC	
Cherokee, SC	
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
3180 Hagerstown, MD	0.9175
Washington, MD	
3200 Hamilton-Middletown, OH	0.9490
Butler, OH	
3240 Harrisburg-Lebanon-Carlisle, PA	1.0158
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
3283 Hartford, CT	1.2367
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
3285 Hattiesburg, MS	0.7252
Forrest, MS	
Lamar, MS	
3290 Hickory-Morganton-Lenoir, NC	0.8626
Alexander, NC	
Burke, NC	
Caldwell, NC	
Catawba, NC	
3320 Honolulu, HI	1.1461
Honolulu, HI	
3350 Houma, LA	0.7853
Lafourche, LA	
Terrebonne, LA	
3360 Houston, TX	1.0000
Chambers, TX	
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
3400 Huntington-Ashland, WV–KY–OH	0.9174
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
3440 Huntsville, AL	0.8206
Limestone, AL	
Madison, AL	
3480 Indianapolis, IN	0.9903
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Madison, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
3500 Iowa City, IA	0.9361
Johnson, IA	
3520 Jackson, MI	0.9045
Jackson, MI	
3560 Jackson, MS	0.7884
Hinds, MS	
Madison, MS	
Rankin, MS	
3580 Jackson, TN	0.8288
Chester, TN	
Madison, TN	
3600 Jacksonville, FL	0.9086
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
3605 Jacksonville, NC	0.7055
Onslow, NC	
3610 Jamestown, NY	0.7670
Chautaqua, NY	
3620 Janesville-Beloit, WI	0.8645
Rock, WI	
3640 Jersey City, NJ	1.1382
Hudson, NJ	
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8884
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
3680 Johnstown, PA	0.8398
Cambria, PA	
Somerset, PA	
3700 Jonesboro, AR	0.7220
Craighead, AR	
3710 Joplin, MO	0.7638
Jasper, MO	
Newton, MO	
3720 Kalamazoo-Battlecreek, MI	1.0542
Calhoun, MI	
Kalamazoo, MI	
Van Buren, MI	
3740 Kankakee, IL	0.9115
Kankakee, IL	
3760 Kansas City, KS–MO	0.9478
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Clinton, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
3800 Kenosha, WI	0.9145
Kenosha, WI	
3810 Killeen-Temple, TX	1.0392
Bell, TX	
Coryell, TX	
3840 Knoxville, TN	0.8502
Anderson, TN	
Blount, TN	
Knox, TN	
Loudon, TN	
Sevier, TN	
Union, TN	
3850 Kokomo, IN	0.8590
Howard, IN	
Tipton, IN	
3870 La Crosse, WI–MN	0.8618
Houston, MN	
La Crosse, WI	
3880 Lafayette, LA	0.8163
Acadia, LA	
Lafayette, LA	
St. Landry, LA	
St. Martin, LA	
3920 Lafayette, IN	0.8781
Clinton, IN	
Tippecanoe, IN	
3960 Lake Charles, LA	0.8034
Calcasieu, LA	
3980 Lakeland-Winter Haven, FL	0.8774
Polk, FL	
4000 Lancaster, PA	0.9583
Lancaster, PA	
4040 Lansing-East Lansing, MI	1.0010
Clinton, MI	
Eaton, MI	
Ingham, MI	
4080 Laredo, TX	0.7073
Webb, TX	
4100 Las Cruces, NM	0.8497
Dona Ana, NM	
4120 Las Vegas, NV–AZ	1.0870
Mohave, AZ	
Clark, NV	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Nye, NV	
4150 Lawrence, KS	0.8597
Douglas, KS	
4200 Lawton, OK	0.8365
Comanche, OK	
4243 Lewiston-Auburn, ME	0.9410
Androscoggin, ME	
4280 Lexington, KY	0.8293
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Madison, KY	
Scott, KY	
Woodford, KY	
4320 Lima, OH	0.8732
Allen, OH	
Auglaize, OH	
4360 Lincoln, NE	0.9161
Lancaster, NE	
4400 Little Rock-North Little Rock, AR	0.8597
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
4420 Longview-Marshall, TX	0.8645
Gregg, TX	
Harrison, TX	
Upshur, TX	
4480 Los Angeles-Long Beach, CA	1.2343
Los Angeles, CA	
4520 Louisville, KY–IN	0.9447
Clark, IN	
Floyd, IN	
Harrison, IN	
Scott, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
4600 Lubbock, TX	0.8510
Lubbock, TX	
4640 Lynchburg, VA	0.8052
Amherst, VA	
Bedford City, VA	
Bedford, VA	
Campbell, VA	
Lynchburg City, VA	
4680 Macon, GA	0.8824
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Twiggs, GA	
4720 Madison, WI	1.0021
Dane, WI	
4800 Mansfield, OH	0.8524
Crawford, OH	
Richland, OH	
4840 Mayaguez, PR	0.4215
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
Sabana Grande, PR	
San German, PR	
4880 McAllen-Edinburg-Mission, TX	0.8485
Hidalgo, TX	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
4890 Medford-Ashland, OR	1.0068
Jackson, OR	
4900 Melbourne-Titusville-Palm Bay, FL	0.9068
Brevard, Fl	
4920 Memphis, TN–AR–MS	0.8166
Crittenden, AR	
DeSoto, MS	
Fayette, TN	
Shelby, TN	
Tipton, TN	
4940 Merced, CA	1.0660
Merced, CA	
5000 Miami, FL	0.9938
Dade, FL	
5015 Middlesex-Somerset-Hunterdon, NJ	1.0883
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
5080 Milwaukee-Waukesha, WI	0.9645
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
5120 Minneapolis-St. Paul, MN–WI	1.0777
Anoka, MN	
Carver, MN	
Chicago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Sherburne, MN	
Washington, MN	
Wright, MN	
Pierce, WI	
St. Croix, WI	
5160 Mobile, AL	0.7981
Baldwin, AL	
Mobile, AL	
5170 Modesto, CA	1.0600
Stanislaus, CA	
5190 Monmouth-Ocean, NJ	1.0833
Monmouth, NJ	
Ocean, NJ	
5200 Monroe, LA	0.8211
Ouachita, LA	
5240 Montgomery, AL	0.7876
Autauga, AL	
Elmore, AL	
Montgomery, AL	
5280 Muncie, IN	0.9714
Delaware, IN	
5330 Myrtle Beach, SC	0.7790
Horry, SC	
5345 Naples, FL	1.0199
Collier, FL	
5360 Nashville, TN	0.9081
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
5380 Nassau-Suffolk, NY	1.3547

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Nassau, NY	
Suffolk, NY	
5483 New Haven-Bridgeport-Stamford-Danbury-Waterbury,CT	1.2704
Fairfield, CT	
New Haven, CT	
5523 New London-Norwich, CT	1.2262
New London, CT	
5560 New Orleans, LA	0.9294
Jefferson, LA	
Orleans, LA	
Plaquemines, LA	
St. Bernard, LA	
St. Charles, LA	
St. James, LA	
St. John Baptist, LA	
St. Tammany, LA	
5600 New York, NY	1.4154
Bronx, NY	
Kings, NY	
New York, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
5640 Newark, NJ	1.1762
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Warren, NJ	
5660 Newburgh, NY–PA	1.0803
Orange, NY	
Pike, PA	
5720 Norfolk-Virginia Beach-Newport News, VA–NC	0.8348
Currituck, NC	
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
Isle of Wight, VA	
James City, VA	
Mathews, VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson City, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
5775 Oakland, CA	1.4991
Alameda, CA	
Contra Costa, CA	
5790 Ocala, FL	0.9105
Marion, FL	
5800 Odessa-Midland, TX	0.8482
Ector, TX	
Midland, TX	
5880 Oklahoma City, OK	0.8371
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
5910 Olympia, WA	1.0689
Thurston, WA	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
5920 Omaha, NE–IA	0.9480
Pottawattamie, IA	
Cass, NE	
Douglas, NE	
Sarpy, NE	
Washington, NE	
5945 Orange County, CA	1.1966
Orange, CA	
5960 Orlando, FL	0.9470
Lake, FL	
Orange, FL	
Osceola, FL	
Seminole, FL	
5990 Owensboro, KY	0.7575
Daviess, KY	
6015 Panama City, FL	0.8061
Bay, FL	
6020 Parkersburg-Marietta, WV–OH	0.7877
Washington, OH	
Wood, WV	
6080 Pensacola, FL	0.8202
Escambia, FL	
Santa Rosa, FL	
6120 Peoria-Pekin, IL	0.8905
Peoria, IL	
Tazewell, IL	
Woodford, IL	
6160 Philadelphia, PA–NJ	1.1237
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Salem, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
6200 Phoenix-Mesa, AZ	0.9810
Maricopa, AZ	
Pinal, AZ	
6240 Pine Bluff, AR	0.7886
Jefferson, AR	
6280 Pittsburgh, PA	0.9701
Allegheny, PA	
Beaver, PA	
Butler, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
6323 Pittsfield, MA	1.0552
Berkshire, MA	
6340 Pocatelo, ID	0.8784
Bannock ID	
6360 Ponce, PR	0.4685
Guayanilla, PR	
Juana Diaz, PR	
Penuelas, PR	
Ponce, PR	
Villalba, PR	
Yauco, PR	
6403 Portland, ME	0.9619
Cumberland, ME	
Sagadahoc, ME	
York, ME	
6440 Portland-Vancouver, OR–WA	1.1235
Clackamas, OR	
Columbia, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Clark, WA	
6483 Providence-Warwick-Pawtucket, RI	1.1092
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
6520 Provo-Orem, UT	1.0116
Utah, UT	
6560 Pueblo, CO	0.8284
Pueblo, CO	
6580 Punta Gorda, FL	0.8999
Charlotte, FL	
6600 Racine, WI	0.8835
Racine, WI	
6640 Raleigh-Durham-Chapel Hill, NC	0.9728
Chatham, NC	
Durham, NC	
Franklin, NC	
Johnston, NC	
Orange, NC	
Wake, NC	
6660 Rapid City, SD	0.8455
Pennington, SD	
6680 Reading, PA	0.9445
Berks, PA	
6690 Redding, CA	1.1605
Shasta, CA	
6720 Reno, NV	1.1018
Washoe, NV	
6740 Richland-Kennewick-Pasco, WA	0.9970
Benton, WA	
Franklin, WA	
6760 Richmond-Petersburg, VA	0.9194
Charles City County, VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
6780 Riverside-San Bernardino, CA	1.1379
Riverside, CA	
San Bernardino, CA	
6800 Roanoke, VA	0.8702
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
6820 Rochester, MN	1.0428
Olmsted, MN	
6840 Rochester, NY	0.9649
Genesee, NY	
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
6880 Rockford, IL	0.8994
Boone, IL	
Ogle, IL	
Winnebago, IL	
6895 Rocky Mount, NC	0.8955
Edgecombe, NC	
Nash, NC	
6920 Sacramento, CA	1.2351
El Dorado, CA	
Placer, CA	
Sacramento, CA	
6960 Saginaw-Bay City-Midland, MI	0.9612
Bay, MI	
Midland, MI	
Saginaw, MI	
6980 St. Cloud, MN	0.9457
Benton, MN	
Stearns, MN	
7000 St. Joseph, MO	0.8551
Andrews, MO	
Buchanan, MO	
7040 St. Louis, MO–IL	0.9022
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
Lincoln, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Warren, MO	
7080 Salem, OR	0.9728
Marion, OR	
Polk, OR	
7120 Salinas, CA	1.3803
Monterey, CA	
7160 Salt Lake City-Ogden, UT	0.9677
Davis, UT	
Salt Lake, UT	
Weber, UT	
7200 San Angelo, TX	0.7577
Tom Green, TX	
7240 San Antonio, TX	0.8390
Bexar, TX	
Comal, TX	
Guadalupe, TX	
Wilson, TX	
7320 San Diego, CA	1.2134
San Diego, CA	
7360 San Francisco, CA	1.4260
Marin, CA	
San Francisco, CA	
San Mateo, CA	
7400 San Jose, CA	1.4519
Santa Clara, CA	
7440 San Juan-Bayamon, PR	0.4506
Aguas Buenas, PR	
Barceloneta, PR	
Bayamon, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Ceiba, PR	
Comerio, PR	
Corozal, PR	
Dorado, PR	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Morovis, PR	
Naguabo, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trujillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Yabucoa, PR	
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.1561
San Luis Obispo, CA	
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.1242
Santa Barbara, CA	
7485 Santa Cruz-Watsonville, CA	1.3520
Santa Cruz, CA	
7490 Santa Fe, NM	1.0823
Los Alamos, NM	
Santa Fe, NM	
7500 Santa Rosa, CA	1.2526
Sonoma, CA	
7510 Sarasota-Bradenton, FL	0.9789
Manatee, FL	
Sarasota, FL	
7520 Savannah, GA	0.9649
Bryan, GA	
Chatham, GA	
Effingham, GA	
7560 Scranton—Wilkes-Barre—Hazleton, PA	0.8752
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Wyoming, PA	
7600 Seattle-Bellevue-Everett, WA	1.1384
Island, WA	
King, WA	
Snohomish, WA	
7610 Sharon, PA	0.8885
Mercer, PA	
7620 Sheboygan, WI	0.7764
Sheboygan, WI	
7640 Sherman-Denison, TX	0.8614
Grayson, TX	
7680 Shreveport-Bossier City, LA	0.9359
Bossier, LA	
Caddo, LA	
Webster, LA	
7720 Sioux City, IA–NE	0.8313
Woodbury, IA	
Dakota, NE	
7760 Sioux Falls, SD	0.8620
Lincoln, SD	
Minnehaha, SD	
7800 South Bend, IN	0.9934
St. Joseph, IN	
7840 Spokane, WA	1.0524
Spokane, WA	
7880 Springfield, IL	0.8671
Menard, IL	
Sangamon, IL	
7920 Springfield, MO	0.7823
Christian, MO	
Greene, MO	
Webster, MO	
8003 Springfield, MA	1.0586
Hampden, MA	
Hampshire, MA	
8050 State College, PA	0.9538
Centre, PA	
8080 Steubenville-Weirton, OH–WV	0.8266
Jefferson, OH	
Brooke, WV	
Hancock, WV	
8120 Stockton-Lodi, CA	1.1330
San Joaquin, CA	
8140 Sumter, SC	0.7699
Sumter, SC	
8160 Syracuse, NY	0.9395
Cayuga, NY	
Madison, NY	
Onondaga, NY	
Oswego, NY	
8200 Tacoma, WA	1.0860
Pierce, WA	
8240 Tallahassee, FL	0.8313
Gadsden, FL	
Leon, FL	
8280 Tampa-St. Petersburg-Clearwater, FL	0.9250
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
8320 Terre Haute, IN	0.8591
Clay, IN	
Vermillion, IN	
Vigo, IN	
8360 Texarkana, AR-Texarkana, TX	0.8503
Miller, AR	
Bowie, TX	
8400 Toledo, OH	1.0361
Fulton, OH	
Lucas, OH	
Wood, OH	
8440 Topeka, KS	1.0086
Shawnee, KS	
8480 Trenton, NJ	1.0549
Mercer, NJ	
8520 Tucson, AZ	0.9068
Pima, AZ	
8560 Tulsa, OK	0.8095
Creek, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
8600 Tuscaloosa, AL	0.7784
Tuscaloosa, AL	
8640 Tyler, TX	0.9996
Smith, TX	
8680 Utica-Rome, NY	0.8413
Herkimer, NY	
Oneida, NY	
8720 Vallejo-Fairfield-Napa, CA	1.3947
Napa, CA	
Solano, CA	
8735 Ventura, CA	1.1454
Ventura, CA	
8750 Victoria, TX	0.8393
Victoria, TX	
8760 Vineland-Millville-Bridgeton, NJ	0.9993
Cumberland, NJ	
8780 Visalia-Tulare-Porterville, CA	1.0151
Tulare, CA	
8800 Waco, TX	0.7772
McLennan, TX	
8840 Washington, DC–MD–VA–WV	1.0823
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Clarke, VA	
Culpepper, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Fauquier, VA	
Fredericksburg City, VA	
King George, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Spotsylvania, VA	
Stafford, VA	
Warren, VA	
Berkeley, WV	
Jefferson, WV	
8920 Waterloo-Cedar Falls, IA	0.8705
Black Hawk, IA	
8940 Wausau, WI	1.0323
Marathon, WI	
8960 West Palm Beach-Boca Raton, FL	1.0202
Palm Beach, FL	
9000 Wheeling, OH–WV	0.7563
Belmont, OH	
Marshall, WV	
Ohio, WV	
9040 Wichita, KS	0.9369
Butler, KS	
Harvey, KS	
Sedgwick, KS	
9080 Wichita Falls, TX	0.8041
Archer, TX	
Wichita, TX	
9140 Williamsport, PA	0.8467
Lycoming, PA	
9160 Wilmington-Newark, DE–MD	1.1315
New Castle, DE	
Cecil, MD	
9200 Wilmington, NC	0.9046
New Hanover, NC	
Brunswick, NC	

TABLE IV.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
9260 Yakima, WA	1.0026
Yakima, WA	
9270 Yolo, CA	1.1444
Yolo, CA	
9280 York, PA	0.9104
York, PA	
9320 Youngstown-Warren, OH	0.9742
Columbiana, OH	
Mahoning, OH	
Trumbull, OH	
9340 Yuba City, CA	1.0414
Sutter, CA	
Yuba, CA	
9360 Yuma, AZ	0.9497
Yuma, AZ	

TABLE V.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	0.7122
Alaska	1.2444
Arizona	0.7928
Arkansas	0.6954
California	1.0002
Colorado	0.8092
Connecticut	1.2759
Delaware	0.9447
Florida	0.8668
Georgia	0.7653
Hawaii	1.0245
Idaho	0.8277
Illinois	0.7553
Indiana	0.8124
Iowa	0.7373
Kansas	0.7107
Kentucky	0.7753
Louisiana	0.7232
Maine	0.8317
Maryland	0.8427
Massachusetts	1.0070
Michigan	0.8830
Minnesota	0.8144
Mississippi	0.6793
Missouri	0.7261
Montana	0.8128
Nebraska	0.7214
Nevada	0.8775
New Hampshire	0.9745
New Jersey [1]	.....
New Mexico	0.8000
New York	0.8558
North Carolina	0.7950
North Dakota	0.7358
Ohio	0.8332
Oklahoma	0.6942
Oregon	0.9664
Pennsylvania	0.8453
Puerto Rico	0.4026
Rhode Island[1]	.....
South Carolina	0.7668
South Dakota	0.7063
Tennessee	0.7341
Texas	0.7462
Utah	0.8848
Vermont	0.8921

TABLE V.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index
Virginia	0.7713
Virgin Islands	0.5660
Washington	0.9933
West Virginia	0.7904
Wisconsin	0.8430
Wyoming	0.8177

[1] All counties within the State are classified urban.

TABLE VI.—COST REPORTING YEAR ADJUSTMENT FACTORS [1]

[Effective October 1, 1997]

If a SNF cost reporting period begins:	The adjustment factor is:
Nov. 1, 1997	1.00285
Dec. 1, 1997	1.00560
Jan. 1, 1998	1.00846
Feb. 1, 1998	1.01149
Mar. 1, 1998	1.01424
Apr. 1, 1998	1.01729
May 1, 1998	1.02025
June 1, 1998	1.02332
July 1, 1998	1.02630
Aug. 1, 1998	1.02939
Sept. 1, 1998	1.03249

[1] Based on compounded projected market basket inflation rates of 3.4 percent for 1998 and 3.6 percent for 1999.

VI. Impact Statement

For notices such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all SNFs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

This final notice with comment period sets forth an updated schedule of limits on SNF routine service costs for which payment may be made under the Medicare program and sets forth an updated schedule of payment rates for low Medicare volume skilled nursing facilities that elect to receive prospectively determined payment rates for routine service costs. Section 1888(a) of the Act requires that the Secretary update the per diem cost limits for SNF routine service costs for cost reporting periods beginning on or after October 1, 1995, and every 2 years thereafter. In addition, section 1888(d)(4) of the Act requires the Secretary to establish and publish prospectively determined payment rates at least 90 days prior to the beginning of the Federal fiscal year to which such rates are to be applied.

This final notice with comment period is the first time we are publishing a combined schedule of cost limits and rates. Combining the cost limits and rates in one notice is more economical in that they both utilize the same cost report data, wage index values, and rates of inflation. In addition, under section 1888(d) of the Act, an individual provider's prospectively determined rate may not exceed its applicable cost limit (see Section III.D. of this notice). This final notice with comment period, by containing both cost limits and rates for cost reporting periods beginning FY 1998, allows a provider to more conveniently determine its individual rate than in previous years.

As required under section 1888(a) and 1888(d) of the Act respectively, this final notice with comment period sets forth a revised schedule of SNF per diem cost limits and prospectively determined payment rates for freestanding and hospital-based SNFs for cost reporting periods beginning in FY 1998. As explained in this notice, we have retained the same basic methodology used to compute the limits and rates effective for cost reporting periods beginning in FY 1997, but we are revising the schedule of limits and rates to reflect more recent wage data, MSA designations, and inflation data.

The estimated effects of this notice are that (1) the updated cost limits will result in a loss of savings to the Medicare program of $20 million in FY 1998, and (2) the updated rates will have a negligible effect. These estimates are the effect of the updating the cost limits and rates to reflect more recent wage data, MSA designations, and inflation data compared to just updating the previous (FY 1997) cost limits or rates only for inflation.

The table below shows the effect of updating the cost limits contained in this notice in comparison with updating the cost limits effective for FY 1997 by inflation (the market basket). Specifically, column (A) of the table shows the estimated total number of SNFs to which the cost limits effective for FY 1998 will apply. Column (B) shows the number of SNFs that would exceed the cost limits effective for FY 1997 updated only for inflation. Column (C) shows the number of SNFs that would exceed the cost limits contained in this notice. Implementing the cost limits contained in this notice, as

compared with maintaining the FY 1997 cost limits updated for inflation, will result in a small decrease in the number of SNFs with costs in excess of the limits.

	Total SNFs to which limits effective for FY 1998 will apply (column A)	Number of SNFs over FY 1997 limits updated for inflation (column B)	Number of SNFs over FY 1998 limits contained in this notice (column C)
Freestanding SNFs:			
Urban (MSA)	4873	2353	2331
Rural (non-MSA)	1638	900	878
Hospital-Based SNFs:	.....	.....	.....
Urban (MSA)	367	301	283
Rural (non-MSA)	348	224	217

We are unable to identify the effects of these provisions on individual SNFs, but we expect that decreases in the number of SNFs exceeding the limits generally would result in increases in payments to those SNFs whose costs would previously have exceeded the limits but now fall under the limits. The effects of the increase in the limits on the total revenues of individual SNFs will depend on the SNF's ability to operate within the cost limits and on the proportion of its revenues that come from the Medicare program.

For purposes of the RFA, it is our practice not to consider an economic impact to be significant unless the annual total costs or revenues of a substantial number of entities will be increased or decreased by at least 3 percent. Because Medicare payments generally do not account for a high proportion of SNF revenue, we believe that the updated SNF limits and rates will not result in a substantial number of SNFs experiencing significant increases in their total revenues. Therefore, we have determined, and we certify, that a regulatory flexibility analysis under the RFA is not required.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice such as this may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We have not prepared a rural impact statement since we have determined that this final notice with comment period will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

VII. Waiver of Proposed Notice

In adopting notices such as this, we ordinarily publish a proposed notice in the **Federal Register** with a 60-day period for public comment as required under section 1871(b)(1) of the Act. However, we may waive these procedures if we find good cause that prior notice and comment is impractical, unnecessary, or contrary to the public interest.

As discussed in section II. of this notice, we have used the same methodology to develop this schedule of limits that was used in setting the limits published for public comment on October 7, 1992. As discussed above, section 13503(a)(2) of OBRA' 93 delayed the update to the schedule of limits until October 1, 1995 and then every 2 years. We have also used the same methodology to develop this schedule of rates that was used in setting the rates published for public comment on September 3, 1996. Section 13503(b) of OBRA' 93 delayed the update to the schedule of prospectively determined payment rates until October 1, 1995. Thus, in conformance with the clear direction provided in sections 1861(v)(1) and 1888 of the Act and regulations at §§ 413.30 and 413.320, this notice announces the update to the schedule of limits for SNF routine service costs and the update to the schedule of prospectively determined payment rates for SNF inpatient cost, for cost reporting periods beginning on or after October 1, 1997. Because the statute directs that this schedule of limits and this schedule of rates are effective for cost reporting periods beginning October 1, 1997, and given that we are making no changes in the methodology used to develop these limits, we believe it is unnecessary to publish a proposed notice. Therefore, we find good cause to waive publication of a proposed notice. However, we are providing a 60-day period for public comment, as indicated at the beginning of this notice.

VIII. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

Authority: (Secs. 1102, 1814(b), 1861(v)(1), 1866(a), 1871, and 1888 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), 1395hh, and 1395yy); section 13503 of Pub. L. 103–66 (42 U.S.C. 1395x(v)(1)(B) and 1395yy (note)) and 42 CFR 413.1, 413.24, 413.300 through 413.321).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 25, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: September 25, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–25983 Filed 9–30–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–896–PN]

RIN 0938–AL14

Medicare Program; Adjustments to Cost Limits for Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice proposes to eliminate an adjustment that we make to the Medicare cost limits for skilled nursing facility (SNF) routine services if the final rate of change in the market basket index for a calendar year that we use to set the limits differs from the estimated rate of change in the index by at least 0.3 percentage points. Elsewhere in this issue of the **Federal Register** is a separate final notice with comment period that explains the methodology we use to develop the cost limits and sets forth the cost limits applicable to cost reporting periods occurring on or after October 1, 1997.

COMMENT PERIOD: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on December 1, 1997.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–896–PN, P.O. Box 7517, Baltimore, MD 21244–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following E-mail address: BPD–896–PN@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the E-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address, below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–896–PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Kuhl, (410) 786–4597.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1861(v)(1)(A) and 1888 of the Act authorize the Secretary to set limits on allowable costs incurred by a provider of services for which payment may be made under Medicare. These limits are based on estimates of the costs necessary for the efficient delivery of needed health services. Section 1888(a) of the Act directs the Secretary to set limits on per diem inpatient routine service costs for hospital-based and freestanding SNFs by urban or rural area. Implementing regulations appear at 42 CFR 413.30.

Elsewhere is this issue of the **Federal Register**, we are issuing a final notice with comment period that announces, for cost reporting periods beginning in FY 1998 (1) an updated schedule of limits on SNF routine service costs for which payment may be made under the Medicare program; and (2) an updated schedule of prospectively determined payment rates for low Medicare volume SNFs that have elected to receive prospective payments for routine service costs, as required under section 1888(a) of the Act. The cost limits have been updated to reflect changes to the wage data, the Metropolitan Statistical Area (MSA) designations, and inflation data since the limits were last issued.

The cost limits set forth in the separate notice are based on the FY 1997 cost limits, trended to cost reporting periods beginning in FY 1998, using the most recent projections of the rates of inflation or increase in the costs included in the SNF market basket index. The market basket index is used to adjust the SNF cost data to reflect cost increases occurring between the cost reporting periods represented in the data collection and the midpoints of the cost reporting periods to which the cost limits and rates apply. The market basket index is comprised of the most commonly used categories of SNF routine service expenses. The categories are based primarily on those used by the National Center for Health Statistics in its National Nursing Home Surveys.

The categories of expenses are weighted according to the estimated proportion of SNF routine service costs attributable to each category. A detailed description of the market basket index is described in the October 7, 1992 **Federal Register** notice for cost limits (57 FR 46177).

II. Provisions of the Proposed Notice

In developing the market basket index, we obtain historical and projected (estimated) rates of change in the price of goods and services in each category. For cost limit purposes only, estimated rates of change may be revised, retroactively, based on actual (final) rates of change.

As described in all previous schedules of cost limits, if the final rate of change in the market basket index for a calendar year differs from the estimated rate of change by at least 0.3 percentage points, we adjust the limits. We are proposing to eliminate this provision to adjust the limits based on the following justification:

In the past, our determination to make this adjustment was made 6 months after the end of last calendar year where an estimate of change was used. Since 1984, we have made several adjustments to the cost limits because our estimates differed from the actual rates of change by at least 0.3 percentage points. In some cases, the retroactive adjustment was made to cost reports that had been settled for Medicare reimbursement purposes for more than 2 years. We believe that the original intent behind setting cost limits was to help providers determine their cost limits prior to the beginning of the affected cost reporting period. In addition, for the most part, these adjustments have not been significant in relation to the financial insecurity placed on providers and the administrative burden placed on the Medicare fiscal intermediaries to

implement the adjustments. We believe that this retroactive adjustment has not served a useful purpose based on past experience. Accordingly, we believe it is administratively feasible to propose the elimination of this provision. If, based on our analysis of public comments we receive, we finalize the elimination of the adjustment, the effect of that elimination will be made on a prospective basis.

III. Impact Statement

For proposed notices such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all SNFs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

We have determined, and we certify, that a regulatory flexibility analysis under the RFA is not required. As stated earlier in this notice, we believe it is administratively feasible to propose elimination of the adjustment provision to the cost limits. For the most part, these adjustments have not been significant in relation to the financial insecurity placed on providers and the administrative burden placed on the Medicare fiscal intermediaries to implement the adjustments. In addition, based on past experience, the retroactive adjustments have not served a useful purpose.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice such as this may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We have not prepared a rural impact statement since we have determined that this proposed notice would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

Authority: (Secs. 1102, 1814(b), 1861(v)(1), 1866(a), 1871, and 1888 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), 1395hh, and 1395yy); section 13503 of Pub. L. 103–66 (42 U.S.C. 1395x(v)(1)(B) and 1395yy (note)) and 42 CFR 413.1, 413.24, 413.300 through 413.321).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 25, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: September 25, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–25986 Filed 9–30–97; 8:45 am]

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Wednesday
October 1, 1997

Part VII

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107, et al.

Hazardous Materials Regulations; Editorial Corrections and Clarifications; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 175, 176, 177, 178, 179, and 180

[Docket No. RSPA–97–2910 (HM–189N)]

RIN 2137–AD09

Hazardous Materials Regulations; Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes, and in response to requests for clarification, improves the clarity of certain provisions to the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the HMR. The amendments contained in this rule are minor editorial changes and do not impose new requirements.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Charles E. Betts, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

RSPA annually reviews the Hazardous Materials Regulations (HMR) to identify errors which may confuse readers. Inaccuracies corrected in this final rule include typographical errors, incorrect references to other rules and regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In response to inquiries RSPA received concerning the clarity of particular requirements specified in the HMR, certain other changes are made to reduce uncertainties.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. In addition, making these amendments effective without the customary 30-day delay following publication will allow the changes to appear in the next revision of 49 CFR.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss editorial corrections (e.g., typographical, capitalization and punctuation errors), changes to legal citations and certain other minor adjustments to enhance the clarity of the HMR.

Section-by-Section Review

Part 107

Section 107.105

Paragraph (a) is revised to add in clarification that the exemption must be written in English.

Section 107.117

Paragraph (d)(5) is revised to correct the name of the office within the United States Coast Guard designated to receive applications for emergency exemptions.

Appendix A to Subpart D

Appendix A to Subpart D of Part 107—Guidelines For Civil Penalties is revised to correct section or cite references that were incorrectly published under Docket HM–207F published on January 21, 1997.

Part 171

Section 171.6

In § 171.6, in paragraphs (a) and (b), the references to the ''Paperwork Reduction Act of 1980'' are removed and replaced with the ''Paperwork Reduction Act of 1995'' to incorporate the 1995 amendments to the Paperwork Reduction Act. In paragraph (b)(2), the table is revised to incorporate numerous changes to the information collections. The changes are due to rulemaking actions and information collection activities under the Paperwork Reduction Act of 1995.

Section 171.7

In the paragraph (a)(3) table of material incorporated by reference, the address for the American Society for Testing and Materials is updated. In paragraph (b), reference to the standard ''Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials [51 FR 5968 February 18, 1986] Effective March 20, 1986, HMT–166T'' which was incorporated by reference in § 177.825 is removed. Section 177.825 was removed under a previous rulemaking, HM–222A.

Sections 171.8, 171.12 and 171.15

Editorial revisions are made to remove obsolete section references.

Part 172

Section 172.101

The Hazardous Materials Table (the Table) is amended as follows:

For the entry ''Accumulators, pressurized, pneumatic or hydraulic (*containing non-flammable gas*)'', the label code ''2.1'' is removed and a label code ''2.2'' is added to correct a typographical error.

For the entry ''Hydrogen chloride anhydrous,'' column (7) is corrected by removing Special Provision ''B43'' and adding Special Provision ''3''.

For the entry ''Jet perforating guns charged oil well, with detonator, 1.1D, NA0124'' column (7), is corrected by removing the reference to ''D55'' and replacing it with ''55''.

For the entry ''Mercury (*contained in manufactured articles*)'', in column (5) packing group ''I'' is removed and packing group ''III'' is added to correct a typographical error.

For the entries ''Propellant, liquid, 1.3C, UN0495'', ''Propellant, liquid, 1.1C, UN0497'', ''Propellant, solid, 1.1C, UN0498'' and ''Propellant, solid, 1.3C, UN0499'' packing group ''II'' is added in column (5).

A new entry ''Radioactive material, excepted package-empty package *or* empty packaging'' is added in appropriate alphabetical order. This entry was deleted in error under a previous rulemaking.

Appendix A to § 172.101

Paragraph 4 corrects two column references.

Section 172.203

In paragraph (k)(3), RSPA is correcting the proper shipping name ''Hydrogen gases mixtures compressed, n.o.s.'' to read ''Hydrocarbon gases mixtures compressed, n.o.s.'' due to a printing error. Under Docket HM–215B (62 FR 24720) published on May 6, 1997, the entry was added to the list of generic proper shipping names which require a technical name.

Section 172. 204

A grammatical error is corrected in paragraph (b)(1).

Part 173

Section 173.6

Paragraph (c)(3) is revised to provide the correct section reference.

Section 173.9

Paragraph (e) is revised to provide the correct section reference.

Section 173.32

In § 173.32, in paragraph (e)(2)(i), a provision on pressure testing certain portable tanks is added. This sentence was inadvertently omitted under another rulelmaking action.

Section 173.56

This section is revised by replacing the references to the Bureau of Explosives (BOE) of the Association of American Railroads (AAR) and the Bureau of Mines (BOM) of the U.S. Department of the Interior with the words ''a person approved by the Associate Administrator for Hazardous Materials Safety (AAHMS).'' Currently, this section specifies BOE of the AAR and BOM of the U.S. Department of the Interior to examine and make recommendations on the classification of explosives. The AAR no longer performs this service, and the BOM is no longer an agency within the Department of the Interior. The National Institute of Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services and the Explosives Bureau, a private company, are currently authorized to examine and make recommendations on the classification of explosives.

Section 173.62

In paragraph (b), the revised Explosives Table printed in HM–215B [62 FR 24722 May 6, 1997] inadvertently omitted NA0331 with its associated Packing Instructions 116 or 117.

Section 173.125

In paragraph (a), the wording ''on the basis of test results following test methods given in appendix E of this part and by applying the appropriate criteria given in this section.'' is revised to read ''on the basis of test results following test methods given in the UN Manual of Tests and Criteria and by applying the appropriate criteria given in this section.''

Section 173.166

Paragraphs (b)(1) and (b)(3)(i) are revised by deleting the references to BOE and BOM (see preamble discussion under § 173.56).

Section 173.202

In paragraph (b), the authorized packaging ''Aluminum box: 4A'' is corrected to read ''Aluminum box: 4B''.

Section 173.221

In the heading and first sentence, the word ''Polystyrene'' is revised to read ''Polymeric'' for consistency with a change to the Hazardous Material Table issued on December 29, 1994 under HM–215A.

Section 173.225

In paragraph (e)(4) the melt index for low density polyethylene saddles is corrected.

Section 173.242

In paragraph (b)(1), reference to ''§ 178.346–10 or § 178.347–10'' is corrected to read ''§ 178.346–3 or § 178.347–4''.

Section 173.243

In paragraph (b)(1), reference to ''§ 178.346–10 or § 178.347–10'' is corrected to read ''§ 178.346–3 or § 178.347–4''.

Section 173.247

In paragraph (g)(1)(iii), reference to ''§ 179–200–18'' is corrected to read § 179.15''.

Section 173.320

Paragraph (a)(3) is updated to provide the correct section references.

Section 173.422

Paragraph (b)(2) is updated to provide the correct section references.

Part 175

Section 175.700

In paragraph (b), in the first sentence, the reference ''§ 175.45'' is corrected to read ''§ 171.15''.

Part 176

Section 176.340

In paragraph (c) the wording ''Commandant USCG (G–MTH)'' is updated to read ''Commandant USCG (G–MSO)''.

Part 177

Section 177.810

The last sentence, in § 177.810, which makes reference to § 177.825 is removed. Section 177.825 was removed from the Hazardous Materials Regulations under HM–222A.

Section 177.840

Paragraph (e) is revised to remove the reference to the Bureau of Mines (BOM) and to reflect that the National Institute of Occupational Safety and Health (NIOSH) Pittsburgh Research Center, U.S. Department of Health and Human Services is authorized to approve gas masks for chlorine cargo tanks.

Part 178

Section 178.36

In paragraph (a)(2)(iii), the wording ''l=moment of inertia—0.04909 (D^4–d^4) inches fourth'' is corrected to read ''I=moment of inertia—0.04909 (D^4–d^4) inches fourth''.

Section 178.44

In paragraph (b), in Table 1.—Authorized Materials, for specification 3HT seamless steel cylinders for aircraft use, RSPA is correcting a printing error for the entry ''Molybdenum,'' by revising the specification ''0.18/0.25'' to read ''0.15/.025.''

Section 178.50

Paragraph (i) is corrected the read ''Cylinders must withstand a hydrostatic test as follows:''.

Section 178.68

In paragraph (f)(1)(ii), a paragraph reference is updated to read ''One-half of the minimum tensile strength of the material as required in paragraph (j) of this section.''

Section 178.270–14

Paragraph (b)(13) is revised to read ''Metallurgical design temperature range, in °C or °F.''

Section 178.338–19

A grammatical error is corrected in paragraph (b).

Section 178.503

Paragraph (a)(1) is corrected by removing the reference to ''paragraph (d)'' and replacing it with ''paragraph (e)(1)''.

Part 179

Section 179.15

a. In paragraph (b), the wording ''Settings for pressure relief devices'' is corrected to read ''*Settings for reclosing pressure relief devices*''.

b. In paragraph (e), the wording ''reclosing'' is corrected to read ''nonreclosing''.

c. Paragraph (f) is revised to clarify that a nonreclosing pressure relief device incorporating a rupture disc must be designed to rupture at a pressure equal to the greater of 100 percent of the tank test pressure, or 33 percent of the tank burst pressure.

Section 179.100–19

Paragraph (a) is updated to reflect the correct section reference.

Section 179.200–23

Paragraph (a) is updated to reflect the correct section reference.

Section 179.220–24

The reference ''§ 179.221–1'' is corrected to read ''§ 179.15''.

Section 179.221–1

The table is revised by removing ''footnote 1'' in its entirety.

Part 180

Section 180.509

On September 21, 1995, RSPA published a final rule in docket HM–

175A (60 FR 40048). The final rule required, in § 180.509 testing requirements for valves and fittings, paragraph (j)(1), and interior heater systems, paragraph (j)(2). To clarify the requirements for ''leak testing,'' RSPA published a correctional docket on June 26, 1996 (61 FR 33250). In the June 26 correctional docket, RSPA amended paragraph (j)(1), and in the amendment inadvertently removed paragraph (j)(2), with respect to testing interior heater systems. This final rule corrects that error by reinstating paragraph (j)(2).

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism'') and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

D. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

E. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

2. In § 107.105, the introductory text of paragraph (a) is revised to read as follows:

§ 107.105 Application for exemption.

(a) *General.* Each application for an exemption or modification of an exemption must be written in English and must—

* * * * *

§ 107.117 [Amended]

3. In § 107.117, in paragraph (d)(5), the wording ''Chief, Hazardous Materials Standards Branch, Operating and Environmental Standards Division,'' is removed and the wording ''Chief, Hazardous Materials Standards Division, Office of Operating and Environmental Standards,'' is added in its place.

Appendix A to Subpart D of Part 107—[Amended]

3a. In Appendix A to subpart D of part 107, in Part II of the appendix, as revised at 62 FR 2972, under the headings ''Part 173—Requirements'' and ''Part 178—Requirements'' for each entry indicated in the left column of the table below, remove the Section or cite reference in the middle column and add the Section or cite reference in the right column:

Column 1 entry	Remove column 2 section or cite	Add column 2 section or cite
Part 173—Requirements		
* * * *	* *	*
Cylinder Retesters (§§ 173.23, 173.34, and 173.302):		
* * * *	* *	*
Failure to maintain legible markings on a cylinder	173.34(e)	173.34(c).
* * * *	* *	*
Failure to conduct a complete visual external and internal examination	173.34(e)(1)	173.34(e)(3).
Failure to have a retester's identification number (RIN)	173.34(e)(1)(i)	173.34(e)(2)(i).
Failure to have current authority due to failure to renew a retester's identification number.	173.34(e)(1)(i)	173.34(e)(2)(i).
Failure to have a retester's identification number and marking another RIN on a cylinder.	173.34(e)(1)(i)	173.34(e)(2)(i).
* * * *	* *	*
Performing hydrostatic retesting without demonstrating the accuracy of the testing equipment.	173.34(e)(3)	173.34(e)(4).
Failure to hold hydrostatic test pressure for 30 seconds or sufficiently longer to allow for complete expansion.	173.34(e)(3)	173.34(e)(4).
Failure to perform a second retest, after equipment failure, at a pressure of 10% more or 100 psi more, whichever is less (includes exceeding 90% of test pressure prior to conducting a retest).	173.34(e)(3)	173.34(e)(4).
Failure to condemn a cylinder with permanent expansion of 10% or greater (5% for certain exemption cylinders); failure to condemn cylinders with evidence of internal or external corrosion, denting, bulging, or rough usage.	173.34(e)(4)	173.34(e)(6).
* * * *	* *	*
Failure to keep complete and accurate records of cylinder reinspection and retest.		
* * * *	* *	*
Incomplete or inaccurate records	173.34(e)(5)	173.34(e)(8).
Improper marking of the RIN or retest date on a cylinder	173.34(e)(5)	173.34(e)(7).
Marking a DOT 3HT cylinder with a steel stamp other than a low-stress steel stamp	173.34(e)(13)(iv)	173.34(e)(15)
* * * *	* *	*
Offeror Requirements (Class 7—Radioactive Materials):		
* * * *	* *	*
Offering a Type B packaging without holding a valid NRC approval certificate	173.416(b),173.471(d)	173.471(a).
* * * *	* *	*
Offering low specific activity (LSA) radioactive materials consigned as exclusive use without providing instructions for maintenance of exclusive use shipment controls.	173.425(b)(9) & (c)(7)	173.427(a)(6).
Part 178—Requirements		
* * * *	* *	*
Manufacturing Requirements—Cylinders:		
* * * *	* *	*
Failure to mark the date of manufacture or lot number on a DOT–39 cylinder	178.65–14	178.65

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

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

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

5. In § 171.6, the paragraph (b)(2) table is revised to read as follows:

§ 171.6 Control numbers under the Paperwork Reduction Act.

* * * * *

(b) * * *

(2) Table.

Current OMB control No.	Title	Title 49 CFR part or section where identified and described
2137–0014	Cargo Tank Specification Requirements	§§ 107.503, 107.504, 178.320, 178.337, 178.338, 178.345, 178.346, 178.347, 178.348, 180.409, 180.417.
2137–0018	Inspection and Testing of Portable Tank and IBC's.	§§ 173.24, 173.32, 173.32a, 173.32b, 173.32 (b)(e), 173.32c, 178.3, 178.270, 178.271, 178.272, 178.245, 178.255, 178.245–1 (a), 178.255–1, 178.245–6, 178.702, 178.801, 178.810, 180.352, 178.813, 178.703.
2137–0022	Recordkeeping and information Collection for Cylinders.	§§ 173.34, 173.302(e), 173.303(d).
2137–0034	Hazardous Materials Shipping Papers	Part 172, §§ 173.7(a)(1), 173.22(a)(1), 173.56 (b)(1), (d)(1), (e)(2), 173.150(f)(3)(i), 174.24, 174.26(b) 174.114, 175.30, 175.35, 175.703, 176.9, 176.24, 176.27, 176.30, 176.31, 176.36, 176.89, 176.90, 176.95, 177.817.

Current OMB control No.	Title	Title 49 CFR part or section where identified and described
2137–0039	Hazardous Materials Incident Report	§§ 171.15, 171.16.
2137–0051	Rulemaking and Exemption Petitions	Part 107, Subpart B, §§ 106. 31, 106.33, 107.3, 107.5, 107.7, 107.103, 107.105, 107.107, 107.109, 107.113, 107.117, 107.121, 107.123, 107.125, 107.201, 107.202, 107.203, 107.205, 107.209, 107.211, 107.215, 107.217, 107.219, 107.221, 107.223.
2137–0510	RAM Transportation Requirements	§§ 173.22(c), (d), 173.411, 173.415(a), 173.416(b), 173.417(a)(5), (b)(3), (4), 173.457(b), 173.471 (a), (d), (f), 173.472, 173.473 (a), (d), 173.476 (a), (b), (e), 173.477, 173.478(a).
2137–0542	Cryogenic Liquids Requirements	§§ 173.33(d)(1)(ii), 177.816, 177.840.
2137–0557	Approvals for Hazardous Materials	§§ 107.401, 107.402, 107.403, 107.404, 107.405, 172.101(l)(2), 172.102(c)(B69), 173.2a(c)(4), 173.4(a)(11), 173.7(a)(1), 173.21(f)(3)(h)(2)(i), 173.24(e)(3)(iii), 173.51(a), (b), 173.56(a)(2), (b)(1), (2), (4), (c), (f), (g), (i), (j)(3), 173.124(a)(1)(iii)(B), (a)(2)(iii)(D), 173.128(d), 173.159(f), 173.166, 173.171(a), (c), 173.185(d)(9), (ii), (iii), i, 173.214, 173.224(d) 173.225(b)(4), (c), 173.245(a)(b), 173.300a, 173.300b, 173.305(c)(1), 173.315(i)(12), 173.334(d), 173.340(a), (b), (c)(4), 176.340(c), 177.806(a)(1), 178.36–3, 178.37–3, 178.38–3, 178.39–3, 178.42–3, 178.44–3, 178.45–3, 178.46–3, 178.50–3, 178.51–3, 178.53–3, 178.55–3, 178.56–3, 178.57–3, 178.58–3, 178.59–3, 178.60–3, 178.61–3(a), 178.65–3, 178.68–3, 178.270–3(f), 178.270–13(d), 178.601(e)(g)(7), (h), (k), 178.603(b), 178.604(b)2), 178.605(b), 178.606(b), (c), 178.608(b)(5), 178.801(e)(2), (h), (i), 178.813(c).
2137–0559	Rail Carriers and Tank Car Tank Requirements.	§§ 173.10(b)(1), 173.31(a)(2), 173.247(a), 173.31(b)(6)(ii) 174.9, 174.20(b), 174.50, 174.61, 172.102: *SP*: B–45, B–46, B–55, B–61, B–69, B–77, B–78, B–81, 174.63(d), §§ 174.81, Table Note b, 174.104(c), (e), (f), 174.114, 174.204(a)(1), 179.3, 179.5 179.7(b)(2), (5)(d), 179.22, 180.505, 180.509, 180.515, 180.517(a)(b), 180.519(d).
2137–0572	Testing Requirements for Packaging	§§ 178.2(c), 178.601(1).
2137–0575	Bulk Packaging Marking Requirements ...	§§ 172.302, 172.332, 172.336.
2137–0582	Container Certification Statement	§§ 176.172, 176.27(c).
2137–0586	Hazardous Materials Public Sector Training and Planning Grants.	Part 110
2137–0595	Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.	§§ 178.337–11(a)(1)(i).

§ 171.6 [Amended]

6. In § 171.6, in paragraphs (a) and (b) introductory text, the wording ''Paperwork Reduction Act of 1980'' is removed and ''Paperwork Reduction Act of 1995'' is added each place it appears.

§ 171.7 [Amended]

7. In § 171.7, the following changes are made:

a. In paragraph (a)(3) table, under American Society for Testing and Materials, the wording ''1916 Race Street, Philadelphia, PA 19103'' is removed and ''100 Barr Harbor Drive, West Conshohocken, PA 19428'' is added in its place.

b. In the paragraph (b) table, under *Department of Transportation (USDOT)*, in the first column, the entry ''Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials [51 FR 5968 February 18, 1986] Effective March 20, 1986, HMT–166T.'' is removed and in the second column, the entry ''177.825'' is removed.

§ 171.8 [Amended]

8. In § 171.8, the definition ''State routing agency'' is removed.

§ 171.12 [Amended]

9. In § 171.12, in paragraph (d)(1), the wording ''172.507, 173.22(c), and 177.825'' is removed and ''172.507 and 173.22(c)'' is added in its place.

§ 171.15 [Amended]

10. In § 171.15, in paragraph (a)(2), the reference ''175.45,'' is removed.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

11. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

11a. In § 172.101, the Hazardous Material Table is amended by adding the following entry, in appropriate alphabetical order, as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging authorizations (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*	*		*	*	*		*		*			
	Radioactive material, excepted package-empty package *or* empty packaging.	7	UN2910	.....	EMPTY	.....	428	428	428	.....	.....	A	
	*	*		*	*	*		*		*			

§ 172.101 [Amended]

12. In addition, in § 172.101, in the Hazardous Materials Table, the following changes are made:

a. For the entry ''Accumulators, pressurized, pneumatic *or* hydraulic (*containing non-flammable gas*).'', in column (6), ''2.1'' is removed and ''2.2'' is added in its place.

b. For the entry ''Hydrogen chloride, anhydrous'', in column (7), ''B43'', is removed and ''3'' is added.

c. For the entry ''Jet perforating guns, charged oil well, with detonator, 1.1D, NA0124'', in column (7), ''D55'' is removed and ''55'' is added in its place.

d. For the entry ''Mercury *contained in manufactured articles''*, in column (5), ''I'' is removed and ''III'' is added in its place.

e. For each of the following entries, in column (5), ''II'' is added: ''Propellant, liquid, 1.3C, UN0495'', ''Propellant, liquid, 1.1C, UN0497'', ''Propellant, solid, 1.1C, UN0498'', ''Propellant, solid, 1.3C, UN0499''.

12a. In Appendix A to § 172.101, paragraph 4 is revised to read as follows:

Appendix A—to § 172.101—List of Hazardous Substances and Reportable Quantities

* * * * *

4. Column 1 of TABLE 1, entitled *''Hazardous substance''*, contains the names of those elements and compounds that are hazardous substances. Following the listing of elements and compounds is a listing of waste streams. These waste streams appear on the list in numerical sequence and are referenced by the appropriate ''D'', ''F'', or ''K'' numbers. Column 2 of TABLE 1, entitled *''Reportable quantity (RQ)''*, contains the reportable quantity (RQ), in pounds and kilograms, for each hazardous substance listed in Column 1 of TABLE 1.

* * * * *

§ 172.203 [Amended]

13. In § 172.203, in paragraph (k)(3), as amended at 62 FR 24719 on May 6, 1997 the entry ''Hydrogen gases mixtures, compressed, n.o.s.'' is removed and the entry ''Hydrocarbon gases mixtures, compressed, n.o.s.'' is added in alphabetical order.

§ 172.204 [Amended]

14. In § 172.204, in paragraph (b)(1) introductory text, the wording ''for a hazardous materials offered for'' is removed and the wording ''for a hazardous material offered for'' is added in its place.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

15. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.45 and 1.53.

§ 173.6 [Amended]

16. In § 173.6, as added at 62 FR 1216, in paragraph (c)(3), the reference ''§ 178.65–14'' is revised to read ''178.65(i)''.

§ 173.9 [Amended]

17. In § 173.9, as currently in effect, in paragraph (e), the reference ''§ 176.76(i)'' is revised to read ''§ 176.76(h)''.

§ 173.32 [Amended]

18. In § 173.32, in paragraph (e)(2)(i), a sentence is added immediately following the second sentence ending with the wording ''entire tank'' to read: ''Any other tank must be tested by a minimum pressure (air or hydrostatic) of at least 2 pounds per square inch gage or at least one and one-half times the design pressure (maximum allowable working pressure, or re-rated pressure) of the tank, whichever is greater.''.

§ 173.56 [Amended]

19. In § 173.56, the following changes are made:

a. In paragraph (b)(1), in the first sentence, the wording ''the Bureau of Explosives (BOE) or the Bureau of Mines, U.S. Department of Interior (BOM)'' is removed and ''a person approved by the Associate Administrator for Hazardous Materials Safety'' is added in its place.

b. In paragraph (f), the wording ''the Bureau of Explosives or the Bureau of Mines'' is removed and ''a person approved by the Associate Administrator for Hazardous Materials Safety'' is added in its place.

c. Also in paragraph (f), the wording ''examination by the BOE, the BOM, or other government agency'' is removed and ''examination by a person approved by the Associate Administrator for Hazardous Materials Safety'' is added in its place.

§ 173.62 [Amended]

20. In § 173.62, in the paragraph (b) Explosives Table, as revised at 62 FR 24720, immediately following the entry NA0323, a new entry ''NA0331'' is entered in the first column and ''116 or 117'' is added as the corresponding entry in the second column.

§ 173.125 [Amended]

21. In § 173.125, the second sentence of paragraph (a) is amended by removing, the wording ''on the basis of test results following test methods given in appendix E of this part and by applying the appropriate criteria given in this section'' and ''on the basis of test results following test methods given in the UN Manual of Tests and Criteria and by applying the appropriate criteria given in this section'' is added in its place.

§ 173.166 [Amended]

22. In § 173.166, the following changes are made:

a. In paragraph (b)(1), the wording ''the Bureau of Explosives (BOE) or the Bureau of Mines (BOM)'' is removed and ''a person approved by the Associate Administrator for Hazardous Materials Safety'' is added in its place.

b. In paragraph (b)(3)(i), the wording ''BOE or BOM'' is removed.

§ 173.202 [Amended]

23. In § 173.202, in paragraph (b), the authorized packaging ''Aluminum box: 4A'' is revised to read ''Aluminum box: 4B''.

§ 173.221 [Amended]

24. In § 173.221, in the heading and in the first sentence, the word ''Polystyrene'' is revised to read ''Polymeric'' each place it appears.

§ 173.225 [Amended]

25. In § 173.225, in paragraph (e)(4) in the first sentence, the wording ''between 0.2 and 10.0 g/min'' is removed and the wording ''at least 0.2 grams per 10 minutes'' is added in its place.

§ 173.242 [Amended]

26. In § 173.242, in paragraph (b)(1), in the first sentence, the wording ''§ 178.346–10 or § 178.347–10'' is revised to read ''§ 178.346–3 or § 178.347–4''.

§ 173.243 [Amended]

27. In § 173.243, in paragraph (b)(1), in the first sentence, the wording ''§ 178.346–10 or § 178.347–10'' is revised to read ''§ 178.346–3 or § 178.347–4''.

§ 173.247 [Amended]

28. In § 173.247, in paragraph (g)(1)(iii)(C), the reference ''§ 179.200–18'' is revised to read ''§ 179.15''.

29. In § 173.320, paragraph (a)(3) is revised to read as follows:

§ 173.320 Cryogenic liquids; exceptions.

(a) * * *

(3) Subparts A and B of part 173, and §§ 174.1, 177.800, 177.804, and 177.823 of this subchapter.

* * * * *

§ 173.422 [Amended]

30. In § 173.422, in paragraph (b)(2), the reference ''175.45,'' is removed.

PART 175—CARRIAGE BY AIRCRAFT

31. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 175.700 [Amended]

32. In § 175.700, in paragraph (b), in the first sentence, the reference ''§ 175.45'' is revised to read ''§ 171.15''.

PART 176—CARRIAGE BY VESSEL

33. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 176.340 [Amended]

34. In § 176.340, in paragraph (c), the wording ''Commandant, USCG (G–MTH)'' is removed and the wording ''Commandant, USCG (G–MSO)'' is added in its place.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

35. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 177.810 [Amended]

36. In § 177.810, the last sentence, ''For Class 7 (radioactive) materials, see § 177.825 of this part.'' is removed.

§ 177.840 [Amended]

37. In § 177.840, in paragraph (e), the wording ''the U.S. Bureau of Mines'' is removed and ''The National Institute of Occupational Safety and Health (NIOSH) Pittsburgh Research Center, U.S. Department of Health and Human Services'' is added in its place.

PART 178—SPECIFICATIONS FOR PACKAGINGS

38. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.36 [Amended]

39. In § 178.36, in paragraph (a)(2)(iii), the wording, ''l=moment of inertia—0.04909 (D^4–d^4) inches fourth'' is revised to read ''I=moment of inertia—0.04909 (D^4–d^4) inches fourth''.

§ 178.44 [Amended]

40. In § 178.44, in paragraph (b), in Table 1.—Authorized Materials, in the second column for the entry ''Molybdenum,'' the specification ''0.18/0.25'' is removed and ''0.15/.025'' is added in its place.

§ 178. 50 [Amended]

41. In § 178.50, in paragraph (i) introductory text, the wording ''Each cylinder must'' is removed and the wording ''Cylinders must'' is added in its place.

42. In § 178.68, paragraph (f)(1)(ii) is revised to read as follows:

§ 178.68 Specification 4E welded aluminum cylinders.

* * * * *

(f) * * *

(1) * * *

(ii) One-half of the minimum tensile strength of the material as required in paragraph (j) of this section.

* * * * *

43. In § 178.270–14, paragraph (b)(13) is revised to read as follows:

§ 178.270–14 Marking of tanks.

* * * * *

(b)* * *

(13) Metallurgical design temperature range, in °C or °F.

* * * * *

§ 178.338–19 [Amended]

44. In § 178.338–19, in paragraph (b), in the last sentence, the wording ''of the section'' is removed and ''of this section'' is added in its place.

§ 178.503 [Amended]

45. In § 178.503, in paragraph (a)(1), the wording ''paragraph (d)'' is removed and ''paragraph (e)(1)'' is added in its place.

PART 179—SPECIFICATIONS FOR TANK CARS

46. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 179.15 [Amended]

47. In § 179.15, the following changes are made:

a. In paragraph (b), the heading is revised to read as set forth below.

b. In the introductory text of paragraph (e), in the second sentence, the word ''reclosing'' is revised to read ''nonreclosing''.

c. Paragraph (f)(1) is revised to read as follows:

§ 179.15 Pressure relief devices.

* * * * *

(b) *Settings for reclosing pressure relief devices.** * *

* * * * *

(f) * * *

(1) Until October 1, 1998, a nonreclosing pressure relief device must incorporate a rupture disc designed to burst at a pressure equal to 100% of the tank test pressure, or 33% of the tank burst pressure. After that date, a nonreclosing pressure relief device must incorporate a rupture disc designed to burst at a pressure equal to the greater of 100% of the tank pressure, or 33% of the tank burst pressure.

* * * * *

§ 179.100–19 [Amended]

48. In § 179.100–19, in paragraph (a), the reference ''§ 179.101'' is revised to read ''§ 179.15''.

§ 179.200–23 [Amended]

49. In § 179.200–23, in paragraph (a), the reference ''§ 179.201–1'' is revised to read ''§ 179.15''.

§ 179.220–24 [Amended]

50. In § 179.220–24, the reference ''§ 179.221–1'' is revised to read ''§ 179.15''.

§ 179.221–1 [Amended]

51. In the § 179.221–1 table, the first column heading ''DOT specification [1]'' is revised to read ''DOT specification'' and immediately following the table, footnote 1 is removed.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

52. The authority citation for part 180 is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

53. In § 180.509, the text of paragraph (j) is designated as paragraph (j)(1) and paragraph (j)(2) is added to read as follows:

§ 180.509 Requirements for inspection and test of specification tank cars.

* * * * *

(j) *Leakage pressure test.* (1) * * *

(2) Interior heater systems must be tested hydrostatically at 13.87 Bar (200 psi) and must show no signs of leakage.

* * * * *

Issued in Washington, DC, on September 24, 1997, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97–25821 Filed 9–30–97; 8:45 am]

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October 1, 1997

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Anchorage, Alaska, Terminal Area; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 29029; Notice No. 97–14]

RIN 2120–AG45

Anchorage, Alaska, Terminal Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the regulations regarding the Anchorage, Alaska, Terminal Area by revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area; adding a new segment with communication requirements east of Anchorage International Airport; changing several altitude requirements; modifying the vertical limits of certain segments; updating the communications requirements for operations in several segments due to the decommissioning of certain air traffic control facilities; and making minor editorial changes. The FAA is proposing this action to enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

DATES: Comments must be received on or before November 17, 1997.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. [29029], 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: 9–NPRM–CMTS@FAA.DOT.gov. Comments delivered must be marked Docket No. [29029]. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916G, weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. White, 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 persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments 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. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received 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 substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comment to Docket No. [29029].'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this NPRM. Persons interested in being place on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661).

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.gov/su__docs for access to recently published rulemaking documents.

Background

On December 17, 1991, the FAA published, in the **Federal Register**, the Airspace Reclassification Final Rule (56 FR 65638). The purpose of this rule was to change various airspace designations. Among other changes, airport traffic areas were changed to encompass ''Classes'' of airspace and to include Class A, B, C, D, E, and G airspace areas. While these changes were designed to apply to all similarly designated airspace areas, subpart D of part 93 was not amended to reclassify the Anchorage, Alaska, Terminal Area.

Additionally, the Bryant Airport Traffic Control Tower (ATCT) and the Anchorage Flight Service Station (FSS) were decommissioned. However, no corresponding changes were initiated to amend part 93, subpart D to reflect the closure of the facilities.

In this action, the FAA proposes to replace the term ''Airport Traffic Area'' with the new term of ''Terminal Area.'' Also, this action would delete references in part 93 to the Bryant ATCT and the Anchorage FSS, and establish a new Seward Highway segment and communication requirements for aircraft operating in this new Seward Highway segment. These changes would update part 93 to reflect airspace designations as they exist today in the vicinity of Anchorage, Alaska. In addition, several changes would be made to the following part 93 sections.

Analysis of the Proposed Changes

Part 93, subpart D prescribes rules governing the operation of aircraft in the vicinity of those airports in the Anchorage, Alaska, Terminal Area (28 FR 6715, June 29, 1963).

Currently, there are aeronautical charts that graphically depict the Anchorage, Alaska, Terminal Area. These aeronautical charts are updated frequently without the requirement of any rulemaking action. Consolidated updates of chart changes are available every 56 days in the Alaska Supplement of the flight information publication. The purpose of this supplement, among others, is to provide major changes in aeronautical information that have occurred since the last publication date of each Sectional Aeronautical Chart, World Aeronautical Chart, or Terminal Area Chart. Further, current information can be gained by consulting appropriate Notices to Airmen, and other Flight Information Publications. Conversely, appendix A to part 93—Anchorage Airport Traffic Area: Traffic Patterns, requires rulemaking action to change, thus delaying essential aeronautical information required for the safety of

flight. Therefore, the FAA is proposing to remove appendix A of part 93—Anchorage Airport Traffic Area: Traffic Patterns.

Section 93.51—Applicability

The FAA is proposing to replace the term ''Airport Traffic Area'' with the new term ''Terminal Area.'' This proposed change would incorporate changes implemented by the Airspace Reclassification Final Rule.

Section 93.53—Description of Area

The FAA is proposing to change the description and boundaries of the Anchorage, Alaska, Airport Traffic Area (hereafter referred to as Terminal Area). Currently, § 93.53 describes the Anchorage, Alaska, Terminal Area both in terms of its geographical boundaries and vertical dimensions. The FAA proposes to limit the description of the Anchorage, Alaska, Terminal Area, in this section, to geographical boundaries and delete reference to any vertical dimension. Additionally, the FAA is proposing to change to replace the term ''Airport Traffic Area'' with the new term ''Terminal Area.''

Section 93.55—Subdivision of Area

The FAA proposes to modify the description of the Anchorage, Alaska, Terminal Area segment areas described in § 93.55. Currently, the segment areas of the Anchorage Terminal Area are described by reference to geographical boundaries. The vertical dimensions of the segment areas, as defined in the current § 93.53 provided a uniform altitude of up to 3,000 feet mean sea level (MSL). This action proposes to describe the segment areas geographically and vertically to conform with other proposed operational changes within each segment. This action also proposes to add the geographical boundaries and vertical dimension of the proposed Seward Highway segment by designating a new paragraph (f). Additionally, the FAA is proposing to delete any references to term ''airport traffic area.''

Section 93.57—General Rules: All Segments

This section describes general rules for operations conducted in all segments of the Anchorage, Alaska, Terminal Area. The FAA proposes to add the new Seward Highway segment in § 93.57(a) and § 93.57(e). The FAA is also proposing to add the Bryant segment operational requirements to the exception listed in § 93.57(d) and § 93.57(e). Additionally, the FAA is proposing to delete any references to the term ''airport traffic area.''

Section 93.61—General Rules: Lake Hood Segment

The FAA proposes to raise the minimum operating altitude provided in § 93.61 for noise mitigation purposes. This section currently states: each person operating an airplane within the segment (except that part described in paragraph (a) of this section) shall operate it at an altitude of at least 600 feet MSL until maneuvering for a safe landing requires further descent. The FAA is proposing to raise the minimum operating altitude from 600 to 1,000 feet MSL.

Section 93.63—General Rules: Merrill Segment

The FAA proposes to amend § 93.63(d), which currently requires anyone operating an aircraft in the Merrill segment of the Anchorage Terminal Area to maintain two-way radio communication with the Anchorage Flight Service Station (FSS). The Anchorage FSS was decommissioned in June of 1993; but § 93.63(d) was not amended to reflect this closure. This action proposes to require pilots operating in the described area to contact the Anchorage ATCT when the Merrill ATCT is not operating. This change would update § 93.63(d) by reflecting current operating practices.

Section 93.65—General Rules: Elmendorf Segment

The FAA proposes to amend § 93.65 as follows: (1) amend the required minimum operating altitude; and (2) add a new paragraph (f).

The FAA is proposing to raise the minimum operating altitude provided in § 93.65(b). This section currently requires each person operating an airplane at a speed of 105 knots or less within the Elmendorf segment shall operate it at an altitude of at least 700 feet MSL until maneuvering for a safe landing requires further descent. The FAA proposes to amend § 93.65(b) by raising the minimum operating altitude, for other than turbine-powered airplanes, from 700 to 800 feet MSL. This change would enhance safety by requiring airplanes to operate at a higher altitude and accommodate tree growth in the area.

In addition, the FAA proposes to add a new paragraph (f) to § 93.65. Section 93.65(f) would permit pilots operating to and from Sixmile Lake, within a defined portion of the Elmendorf segment and in accordance with visual flight rules (VFR), to operate without establishing two-way radio communication with air traffic control (ATC).

Section 93.67—General Rules: Bryant Segment

The FAA proposes to amend the rules for operating in the Bryant segment of the Anchorage, Alaska, Terminal Area prescribed under § 93.67. The Bryant ATCT was decommissioned on September 30, 1995, but the regulations were never amended to reflect that change. This action proposes to change the language in § 93.67(b) to state: (1) Aircraft operating to or from the Bryant Airport shall conform to the flow of traffic shown on the appropriate aeronautical charts; and (2) when operating within the Bryant segment, pilots should self-announce on Bryant Airport Common Traffic Advisory Frequency (CTAF). This change will also enhance air traffic efficiency in the area.

Section 93.68

The FAA is proposing to add a new section, § 93.68, to part 93. This new section will prescribe rules for operating in the proposed Seward Highway segment of the Anchorage, Alaska, Terminal Area. This segment and corresponding operating rules are being proposed to efficiently manage air traffic due to an increase in aircraft operations in the area.

The Proposal

This action proposes to amend the regulations regarding the Anchorage, Alaska, Terminal Area by revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area; adding a new segment with communication requirements east of Anchorage International Airport; changing several altitude requirements; modifying the vertical limits of certain segments; updating the communications requirements for operations in several segments due to the decommissioning of certain air traffic control facilities; and removing appendix A of part 93. The FAA is proposing this action to enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act 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 small entities changes on international trade. In conducting these analyses, the FAA has determined that this NPRM: (1) Would generate benefits that justify its minimal costs and is not ''a significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble and the full Regulatory Evaluation is in the docket.

Background

The FAA is proposing to amend part 93 of the Federal Aviation Regulations (14 CFR part 93) by modifying the description of the Anchorage, Alaska Terminal Area; revising communication equipment requirements for operators within the airspace area; adding a new segment with communication requirements east of Anchorage International Airport; altering several existing altitude requirements; modifying vertical limits of certain segments; and making editorial changes to ensure consistency between previous modifications. Section 93.55(f) proposes the addition of the new Seward Highway segment. Section 93.61(b) proposes to raise the minimum operation altitude in the Lake Hood Segment to 1,000 feet MSL from 600 feet MSL, for the purpose of noise abatement. Section 93.65(c) proposes to raise the minimum operation altitude, for other than turbine powered aircraft, in the Merrill Segment from at least 700 feet MSL to 800 feet MSL, due to the growth of trees in the area. It is believed these increases in altitude requirements would not have a significant cost impact. However, the FAA is soliciting public comments on the effects of these proposed increases in altitude.

Benefits

For many years, the predominant direction for aircraft departures was to the west. However, in recent years, transport category aircraft have been departing eastbound from Anchorage International Airport with increasing frequency. These eastbound departures increase the number of aircraft operations and operational complexity in the airspace east of Anchorage International Airport. In order to reduce the potential risk of a midair collision in that airspace, the FAA is proposing to establish the Seward Highway segment east of the Anchorage International Airport. This proposed change would require general aviation (GA) aircraft operating in that airspace segment to establish and maintain radio contact with ATC. This proposed change would assist in the management of aircraft operations and would impose minimal, if any, additional costs on aircraft operating in the area.

In addition, this NPRM would generate benefits in terms of clarity of existing regulations. The FAA contends that the establishment of the proposed rule would simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Costs

Cost Impact on Aircraft Operators

This determination is based on data contained in the most recent General Aviation and Avionics Survey Report. The report indicates an estimated 92 percent of all Alaskan GA aircraft operators are already equipped with two-way radios. The FAA has also determined that operators without two-way radios would not have to circumnavigate the airspace area, but would instead fly above the 4,100 feet MSL ceiling of the Seward Highway segment without significantly deviating from their regular flight paths. Proposed changes to §§ 93.57(d), 93.61(b), and 93.65(c) are descriptive of altitude changes that would impose negligible or no additional cost on operators. Therefore, the FAA has determined that this proposed amendment would impose minimal, if any, cost on aircraft operators.

Cost Impact on the FAA

Currently, Part 93, Subpart D, makes reference to Anchorage FSS and Bryant ATCT. However, the FAA decommissioned the Anchorage FSS in June of 1993. Further, on September 30, 1995, the FAA decommissioned the Bryant ATCT and established the Bryant Airport Common Traffic Advisory Frequency (CTAF). These proposed changes correct these references and do not impose any cost on the agency. The agency has also determined that it could handle the current and projected aviation activity in the Seward Highway segment without needing any additional staff or equipment at Anchorage International Airport ATC Facility. Therefore, the FAA has determined there would be no additional cost as a result of the proposed editorial and description modifications to 14 CFR part 93.

In view of the minimal cost of compliance, enhanced clarity of FAA regulations covering the Anchorage, AK, Terminal Area, the FAA has determined that this NPRM would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA), as amended, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have ''significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA.

The small entities that may potentially incur minimal, if any, cost with the implementation of this proposed rule are operators of aircraft who do not meet Class D airspace navigational equipment standards (primarily part 135 aircraft without two-way radios). The small entities potentially impacted by the NPRM would not incur any cost for additional navigational equipment or complying with more rigorous operating procedures because they routinely fly into airspace where such equipment requirements are already in place. Also, those operators that do not have two-way radios can easily fly above the airspace where two-way radios are required. Therefore, the FAA has initially determined that this NPRM would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The NPRM would not constitute a barrier to international trade, including the export of American goods and services to foreign countries and the import of foreign goods and services into the United States. This assessment is based on the fact that the proposed rule would neither impose costs on aircraft operators nor aircraft manufacturers (U.S. or foreign).

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the ACT), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more adjusted annually for inflation in any one year by State, local, and tribal

governments, in the aggregate, or by the private sector. Section 204(a) of the ACT, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, and tribal governments, in the aggregate, (of $100 million adjusted annually for inflation) in any one year. Section 203 of the ACT, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This NPRM does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform ACT of 1995 do not apply.

Federalism Implications

The regulation 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 (52 FR 41695, October 30, 1987), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

There are no requirements for information collection associated with this proposed rule that would require approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with the U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Practices to the maximum extent practicable. For this notice, the FAA has determined that this proposal, if adopted, would not present any differences.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this proposed regulation is not a ''significant regulatory action'' under Executive Order 12866. In addition, the FAA certifies that this proposed regulation 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. This proposal is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An Initial Regulatory Flexibility Determination and International Impact Assessment have been placed 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 93

Air traffic control, Airports, Alaska, Navigation (air), and Reporting and recordkeeping requirements.

The Proposed Amendment

The Federal Aviation Administration proposes to amend Title 14 of the Code of Federal Regulations, part 93, subpart D, Anchorage, Alaska, Terminal Area as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.51 is revised to read as follows:

§ 93.51 Applicability.

This subpart prescribes special air traffic rules and traffic patterns for aircraft operating in the Anchorage, Alaska, Terminal Area.

3. Section 93.53 is revised to read as follows:

§ 93.53 Description of area.

The Anchorage, Alaska, Terminal Area is designated as that airspace extending upward from the surface to the upper limit of each of the segments described in § 93.55. It is bounded by a line beginning at Point MacKenzie, extending westerly along the bank of Knik Arm to a point intersecting the 350° bearing from the Anchorage International ATCT; thence north to intercept the 5.2-mile arc centered on the geographical center of Anchorage, Alaska ATCT; thence counterclockwise along that arc to its intersection with the new Seward Highway; thence northerly along the new Seward Highway to its intersection with O'Malley Road; thence east along O'Malley Road to its intersection with Lake Otis Parkway; thence northerly along Lake Otis Parkway to its intersection with Abbott Road; thence east along Abbott Road to its intersection with Abbott Loop Road; thence north to its intersect with Tudor Road; thence easterly along Tudor Road to its intersection with Muldoon Road; thence northerly along Muldoon Road to the intersection of the Glenn Highway; thence north and east along the Glenn Highway to meridian long. 149°43′08″ W.; thence north along meridian long. 149°43′08″ W. to lat. 61°17′28″ N.; thence to lat. 61°15′58″ N., long. 149°44′08″ W.; thence to lat. 61°19′36″ N., long. 149°46′44″ W.; thence north along meridian long. 149°46′44″ W. to intercept the 4.7-mile radius arc centered on the Elmendorf Air Force Base (AFB), Alaska; thence counterclockwise along the 4.7-mile radius arc to its intersection with the west bank of Knik Arm; thence southerly along the west bank of Knik Arm to the point of beginning.

4. Section 93.55 is revised to read as follows:

§ 93.55 Subdivision of Terminal Area.

The Anchorage, Alaska, Terminal Area is subdivided as follows:

(a) *International segment.* That area from the surface to and including 4,100 feet MSL, within a 5.2-mile radius of the Anchorage International ATCT; excluding that airspace east of the 350° bearing from the Anchorage ATCT and north of the 090° bearing from the Anchorage ATCT and east of a line bearing 180° and 360° from the intersection of the new Seward Highway and International Airport Road and the airspace extending upward from the surface to but not including 600 feet MSL, south of lat. 61°08′28″ N.

(b) *Merrill segment.* That area from the surface to and including 2,500 feet MSL, within a line beginning at Point Noname; thence direct to the mouth of Ship Creek; thence direct to the intersection of the Glenn Highway and Muldoon Road; thence south along Muldoon Road to Tudor Road; thence west along Tudor Road to the new Seward Highway; thence direct to West Anchorage High School; thence direct to Point MacKenzie; thence via the north

bank of Knik Arm to the point of beginning.

(c) *Lake Hood segment.* That area from the surface to and including 2,500 feet MSL, within a line beginning at Point MacKenzie; thence direct to West Anchorage High School; thence direct to the intersection of Tudor Road and the new Seward Highway; thence south along the new Seward Highway to the 090° bearing from the Anchorage International ATCT; thence west direct to the Anchorage International ATCT; thence north along the 350° bearing from the Anchorage International ATCT to the north bank of Knik Arm; thence via the north bank of Knik Arm to the point of beginning.

(d) *Elmendorf segment.* That area from the surface to and including 3,000 feet MSL, within a line beginning at Point Noname; thence via the north bank of Knik Arm to the intersection of the 4.7-mile radius of Elmendorf AFB; thence clockwise along the 4.7-mile radius of Elmendorf AFB to long. 149°46′44″ W.; thence south along long. 149°46′44″ W. to lat. 61°19′36″ N.; thence to lat. 61°15′58″ N., long. 149°44′08″ W.; thence to lat. 61°17′28″ N., long. 149°43′08″ W.; thence south along long. 149°43′08″ W. to the Glenn Highway; thence south and west along the Glenn Highway to Muldoon Road; thence direct to the mouth of Ship Creek; thence direct to the point of beginning.

(e) *Bryant segment.* That area from the surface to and including 2,000 feet MSL, within a line beginning at lat. 61°17′13″ N., long. 149°37′35″ W.; thence west along lat. 61°17′13″ N., to long. 149°43′08″ W. line; thence south along long. 149°43′08″ W., to the Glenn Highway; thence north and east along the Glenn Highway to Ski Bowl Road; thence southeast along the Ski Bowl Road to a point one-half mile south of the Glenn Highway; thence north and east one-half mile south of and parallel to the Glenn Highway to its intersection with a line one-half mile east of and parallel to the Bryant Airport Runway 16⁄34 extended centerline; thence northeast along a line one-half mile east of and parallel to Bryant Airport Runway 16⁄34 extended centerline to the point of beginning.

(f) *Seward Highway segment.* That area from the surface to and including, 4,100 feet MSL, within a line beginning at the intersection new Seward Highway and O'Malley Road, lat. 61°07′23″ N., long. 149°51′23″ W.; thence east along O'Malley Road to its intersection with Lake Otis Park Way, lat. 61°07′23″ N., long. 149°50′03″ W.; thence northerly along Lake Otis Park Way to its intersection with Abbott Road, lat. 61°08′14″ N., long. 149°50′03″ W.; thence east along Abbott Road to its intersection with Abbott Loop Road, lat. 61°08′14″ N., long. 149°48′16″ W.; thence due north to intersect with Tudor Road, lat. 61°20′51″ N., long. 149°48′16″ W.; thence west along Tudor Road to its intersection with the new Seward Highway, lat. 61°10′51″ N., long. 149°51′38″ W.; thence to the point of beginning.

5. Section 93.57 is revised to read as follows:

§ 93.57 General rules: All segments.

(a) Each person operating an aircraft to, from, or on an airport within the Anchorage, Alaska Terminal Area shall operate that aircraft according to the rules set forth in this section and §§ 93.59, 93.61, 93.63, 93.65, 93.67, or 93.68 as applicable, unless otherwise authorized or required by ATC.

(b) Each person operating an airplane within the Anchorage, Alaska Terminal Area shall conform to the flow of traffic depicted on the appropriate aeronautical charts.

(c) Each person operating a helicopter shall operate it in a manner avoiding the flow of airplanes.

(d) Except as provided in § 93.65(d) and (e), and § 93.67(b), each person operating an aircraft in the Anchorage, Alaska Terminal Area shall operate that aircraft only within the designated segment containing the arrival or departure airport.

(e) Except as provided in §§ 93.63(d) and 93.67(b), each person operating an aircraft in the Anchorage, Alaska Terminal Area shall maintain two-way radio communications with the ATCT serving the segment containing the arrival or departure airport.

6. Section 93.59 is revised to read as follows:

§ 93.59 General rules: International segment.

(a) No person may operate an aircraft at an altitude between 1,200 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane at a speed of more than 105 knots within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 1,600 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane at a speed of 105 knots or less within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 900 feet MSL until maneuvering for a safe landing requires further descent.

7. Section 93.61 is revised to read as follows:

§ 93.61 General rules: Lake Hood segment.

(a) No person may operate an aircraft at an altitude between 1,200 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane within this segment (except that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 1,000 feet MSL until maneuvering for a safe landing requires further descent.

8. Section 93.63 is revised to read as follows:

§ 93.63 General rules: Merrill segment.

(a) No person may operate an aircraft at an altitude between 600 feet MSL and 2,000 feet MSL in that portion of this segment lying north of the midchannel of Knik Arm.

(b) Each person operating an airplane at a speed of more than 105 knots within this segment (except for that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 1,200 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane at a speed of 105 knots or less within this segment (except for that part described in paragraph (a) of this section) shall operate that airplane at an altitude of at least 900 feet MSL until maneuvering for a safe landing requires further descent.

(d) Whenever the Merrill ATCT is not operating, each person operating an aircraft on the airport or in the traffic pattern; in that portion of the Merrill segment north of midchannel of Knik Arm; or in the Seward Highway segment shall contact Anchorage approach control.

9. Section 93.65 is revised to read as follows:

§ 93.65 General rules: Elmendorf segment.

(a) Each person operating a turbine-powered aircraft within this segment shall operate it at an altitude of at least 1,700 feet MSL until maneuvering for a safe landing requires further descent.

(b) Each person operating an airplane (other than turbine-powered aircraft) at a speed of more than 105 knots within this segment shall operate that airplane at an altitude of at least 1,200 feet MSL until maneuvering for a safe landing requires further descent.

(c) Each person operating an airplane (other than turbine-powered aircraft) at

a speed of 105 knots or less within the segment shall operate that airplane at an altitude of at least 800 feet MSL until maneuvering for a safe landing requires further descent.

(d) A person landing or departing from Elmendorf AFB, may operate that aircraft at an altitude between 1,500 feet MSL and 1,700 feet MSL within that portion of the International and Lake Hood segments lying north of the midchannel of Knik Arm.

(e) A person landing or departing from Elmendorf AFB, may operate that aircraft at an altitude between 900 feet MSL and 1,700 feet MSL within that portion of the Merrill segment lying north of the midchannel of Knik Arm.

(f) A person operating in VFR conditions, at and below 600 feet MSL, north of a line beginning at the intersection of Farrell Road and the long. 149°43″08′W.; thence west along Farrell Road to the east end of Sixmile Lake; thence west along a line bearing on the middle of Lake Lorraine to the northwest bank of Knik Arm; is not required to establish two-way radio communications with ATC.

10. Section 93.67 is revised to read as follows:

§ 93.67 General rules: Bryant segment.

(a) Each person operating an airplane to or from the Bryant Airport shall conform to the flow of traffic shown on the appropriate aeronautical charts, and while in the traffic pattern, shall operate at an altitude of at least 1,000 feet MSL until maneuvering for a safe landing requires further descent.

(b) Each person operating an aircraft within the Bryant segment should self-announce intentions on the Bryant Airport CTAF.

11. Section 93.68 is added to read as follows:

§ 93.68 General rules: Seward Highway segment.

(a) Each person operating an airplane in the Seward Highway segment shall operate at an altitude of at least 1,000 feet MSL unless maneuvering for a safe landing requires further descent.

(b) Each person operating an aircraft that will transition to the Lake Hood or Merrill segment shall contact the appropriate ATCT prior to entering the Seward Highway segment. During hours that the Merrill ATCT is not operating, pilots shall contact Anchorage approach control for transition through the Seward Highway segment to or from the Merrill segment. All other pilots operating in or through the Seward Highway segment shall contact Anchorage approach control.

Appendix A—[Removed]

12. Appendix A, of part 93 is removed.

Issued in Washington, DC on September 24, 1997.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–25828 Filed 9–30–97; 8:45 am]

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federal register

Wednesday
October 1, 1997

Part IX

Department of Commerce

International Trade Administration

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Canada; Steel Wire Rod From Germany; Steel Wire Rod From Trinidad and Tobago; Steel Wire Rod From Venezuela; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–826]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lisette Lach (202/482–6412); Cindy Sonmez (202/482–0961); or Dorothy Woster (202/482–3362) for Stelco, Inc. and Sidbec-Dosco (Ispat), Inc.; Alexander Braier (202/482–3818); Abdelali Elouaradia (202/482–2243); or Sharon Harris (202/482–0190) for Ivaco, Inc. Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

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 references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19, 1997), do not govern this investigation, citations to those regulations are provided, where appropriate, as a statement of current departmental practice.

Preliminary Determination

We preliminarily determine that steel wire rod (''SWR'') from Canada is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on March 18, 1997 (*see Notice of Initiation of Antidumping Duty Investigations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela,* 62 FR 13854 (March 24, 1997), (''*Notice of Initiation*''), the following events have occurred:

On April 14, 1997, the United States International Trade Commission (''ITC'') notified the Department of Commerce (''the Department'') of its affirmative preliminary injury determination in this case.

On April 21, 1997, the Department issued the antidumping duty questionnaire to counsel for the following producers/exporters of SWR: Stelco, Inc. (''Stelco''); Sidbec-Dosco (Ispat) Inc. (''SDI''); and Ivaco, Inc. (''Ivaco'') (collectively ''respondents''). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and the constructed value (''CV'') of the subject merchandise. Section E requests information on further manufactured merchandise.

During April and May 1997, the Department received interested party comments regarding modifications to the product characteristic reporting requirements. On May 22, 1997, the Department issued revised product characteristic reporting instructions.

Respondents submitted their questionnaire responses in May and June 1997. The Department issued supplemental requests for information in June, July, August, and September 1997, and received the supplemental responses to these requests in July, August and September 1997. Petitioners in this investigation (Connecticut Steel Group, Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Texas, Inc., and Northwestern Steel & Wire Co.) filed comments on respondents' questionnaire responses in June, July, August, and September 1997.

On July 3, 1997, petitioners made a timely request that the Department postpone the preliminary determination in this investigation and the companion investigations of SWR from Canada, Trinidad and Tobago, and Venezuela to September 24, 1997. We did so on July 14, 1997, in accordance with section 733(c)(1) of the Act (*see Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela,* 62 FR 38257 (July 17, 1997)).

On July 18, 1997, the Department granted requests received from all three respondents to exclude certain categories of ''outlier'' sales that represented an insignificant portion of each company's home market and U.S. sales (*see* Memoranda from Roland L. MacDonald to Joseph A. Spetrini, dated July 18, 1997).

Postponement of Final Determination and Extension of Provisional Measures

On September 15, 1997, Ivaco requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination, until not later than 135 days after the date of publication of the affirmative preliminary in the **Federal Register**. In accordance with section 735 (a)(2)(A) of the Act and 19 CFR 353.2(b), inasmuch as our preliminary determination is affirmative, Ivaco accounts for a significant proportion of exports of the subject merchandise, and we have not identified any compelling reasons for denying this request, we are granting Ivaco's request and postponing the final determination. Suspension of liquidation will be extended accordingly. *See Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy,* 61 FR 30326 (June 14, 1996).

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel, (b) tool steel, (c) high nickel steel, (d) ball bearing steel, (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium, or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum

combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as ''Tire Cord Wire Rod.''

Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth, containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as ''Valve Spring Quality Wire Rod.''

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

North American Wire Products Corporation (''NAW''), an importer of the subject merchandise from Germany, has requested that the Department exclude SWR used to manufacture pipe wrapping wire from the scope of the antidumping and countervailing duty investigations. Petitioners have not agreed to this scope exclusion. For purposes of the preliminary determination, we have not excluded SWR for manufacturing pipe wrapping wire from the scope.

On June 2, 1997, Ivaco requested that the Department exclude from its antidumping analysis U.S. and home market sales of processed rod (subject merchandise) produced from non-Canadian sourced ''green'' rod which falls within the physical description of merchandise subject to the proceeding. We examined the nature of the processing, which consisted of heat treating and cleaning/coating, to determine whether the green rod was substantially transformed so as to qualify as Canadian-origin merchandise within the scope of this investigation. Under the Department's ''substantial transformation'' practice, the nature of the processing must result in an article different in character and use to render the merchandise a product of the country in which it was processed. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From India,* 60 FR 10545, 10546 (Feb. 27, 1995); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Argentina (Appendix 1),* 58 FR 37062, 37066 (July 9, 1993).

Ivaco's response indicates that Sivaco performed two processing steps on its purchases of green SWR during the POI: cleaning/coating and heat treatment. The cleaning/coating step first removes scale from the SWR, while the coating aids in subsequent wire drawing and cold drawing. The heat treatment modifies the SWR microstructure in order to produce desired mechanical and metallurgical properties.

Neither of these two steps significantly change the physical or chemical properties of the product, nor do they change the intended uses. Further, the dimensional characteristics are similarly unchanged. The types of processing Sivaco performed does not move the product out of the scope or create a product of a new class or kind. Instead, this processing would at most change the classification of a given rod within individual model match characteristics. In sum, the nature of these processing steps do not substantially transform the subject merchandise. We note that our finding is consistent with the Customs' practice of treating such processing as less than substantial transformation. Therefore, we find that processed rod produced from non-Canadian green SWR is outside the scope of this investigation. Thus, these sales have been excluded from our analysis.

Period of Investigation

The period of investigation (''POI'') is January 1, 1996 through December 31, 1996.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents, covered by the description in the *Scope of Investigation* section above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 22, 1997, reporting instructions.

For Stelco, the Department noted that, in the product characteristic field deoxidation practice, silicon-killed titanium grain refined steel had been classified under the category ''other'' rather than ''silicon-killed.'' However, the category ''silicon-killed'' was intended to include all silicon-killed steels other than silicon-killed vanadium or niobium grain refined steels. Silicon-killed titanium grain refined steel is not included among these specific exceptions; hence, the Department has reclassified all silicon-killed titanium grain refined transactions as ''silicon-killed'' under deoxidation practice.

On April 4, 1997, as the Department was in the process of preparing its antidumping duty questionnaire, the Department requested comments on the product characteristics to be included in the questionnaire. On April 18, 1997, Ivaco requested the Department to establish a separate class or kind of subject merchandise for cold heading quality (''CHQ'') wire rod. On April 21, 1997, the Department issued the antidumping duty questionnaire, which specified the physical characteristics to be used in matching sales of subject merchandise. In response to comments made by interested parties regarding the appropriate product characteristics, on May 13, 1997, the Department requested comments from all interested parties regarding modification to the product characteristic reporting requirements. On May 22, 1997, the Department issued the revised product characteristic reporting instructions, which included the deoxidation variable. We preliminarily find that the respondents' diversified analysis does not provide a sufficient basis for finding a separate class or kind of merchandise for CHQ. However, we have accounted for product differences in the revised product characteristics.

Consistent with our practice, we compared prime merchandise sold in the United States to prime merchandise sold in the home market, and secondary merchandise to secondary merchandise. *See e.g., Final Results of Antidumping Duty Administrative Review: Cold-rolled Carbon Steel Flat Products from the Netherlands, 61 FR 48465 (September 13, 1996).*

Fair Value Comparisons

To determine whether sales of SWR by the Canadian respondents to the United States were made at less than fair value, we compared the Export Price (''EP'') or Constructed Export Price (''CEP'') to the Normal Value (''NV''), as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs and CEPs to weighted-average NVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of

the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review,* 62 FR 23760, 23761 (May 1, 1997).

Stelco

In this investigation, we calculated NV based on the same LOT. Stelco did not claim a LOT adjustment. To examine whether such an adjustment was necessary, we requested and examined Stelco's distribution system, including classes of customers, selling functions, and selling expenses. Stelco's home market sales are made through two channels of distribution: (1) Direct sales from Stelco to unaffiliated customers, and (2) direct sales by Stelwire, Stelco's wholly-owned processor, to unaffiliated customers. Sales at both channels are made to the same category of customer, (*e.g.,* original equipment manufacturers (OEMs)). We next reviewed where sales are made in the chain of distribution. Sales by Stelco are made directly from the factory, whereas sales by Stelwire are not—Stelwire first purchases rod from Stelco, then resells the rod to unaffiliated customers. Sales by a reseller represent an additional stage in the marketing process, since the reseller is an intermediary between the factory and the customer. Thus, sales by the two entities appear to be made at different stages in the chain of distribution. However, we found no evidence that the entities perform different selling activities (*e.g.,* inventory services, technical services, credit extension, and warranty services), or incur different selling expenses at these different marketing stages. We therefore conclude that Stelco's home market sales were made at one LOT.

Stelco reported EP sales in the U.S. market. We conducted an identical analysis as described above and found that all sales were made at the same stage in the chain of distribution, *i.e.,* direct to unaffiliated customers, with no distinction in selling functions provided, or selling expenses incurred, among U.S. sales. On this basis we conclude that Stelco's sales in the U.S. are made at one LOT. Finally, we found no differences among the LOTs in the U.S. and home market. Stelco provided the same or similar services with respect to U.S. transactions and home market transactions. Overall, based on this analysis, we conclude that there is no difference among the LOT in the U.S. and home markets. As we are able to calculate NV based on the same LOT as a U.S. sale, no LOT adjustment is warranted.

SDI

In this investigation, we calculated NV based on the same LOT. SDI did not claim a LOT adjustment. To examine whether such an adjustment was necessary, we requested and examined information on SDI's distribution system, including classes of customers, selling functions, and selling expenses. We noted that SDI had only one channel of distribution (wire drawers and parts manufacturers) in the home market and two channels of distribution in the U.S. market: EP sales (wire drawers and parts manufacturers) and CEP sales (further manufactured products). We also noted that SDI had two classes of customers (*i.e.,* wire drawers and parts manufacturers) in the home market and U.S. market. Furthermore, SDI's selling functions were the same for both classes of customers in the home market and U.S. markets (for CEP sales, we examined these functions after deducting U.S. selling expenses and associated profit). Finally, we also noted that SDI performed all selling functions or services during the POI, regardless of channel of distribution, and the related expenses were reported to the Department as indirect selling expenses. These functions and services include (1) negotiating terms/developing/maintaining customer base, (2) preparing merchandise for shipment, (3) maintaining records, (4) collecting bills, (5) providing technical assistance and services (provided to a greater degree to wire drawers rather than parts manufacturers in both the United States and Canada), and (6) after-sale service, and they are the same for the home market and U.S. market (including EP and CEP sales). Therefore, it appears that all sales made by SDI in both the home and U.S. markets were made at one LOT. As such, no LOT adjustment is warranted for SDI.

Ivaco

We also examined the stages in the marketing process and selling functions along the chain of distribution between Ivaco and its customers. Based on this examination, we preliminarily determine that Ivaco sold merchandise at two LOTs in the home market during the POI. One level of trade is for sales made by Ivaco's wire rod manufacturing facility, Ivaco Rolling Mills (''IRM''); the second level of trade is for sales made by Ivaco's wire rod processing and drawing facilities, Sivaco Ontario and Sivaco Quebec. From our analysis of the marketing process for these sales, we determined that sales by Sivaco Ontario and Sivaco Quebec are at a more remote marketing stage than that for sales by IRM. *See* Memorandum from Alexander Braier to Roland MacDonald, dated September 24, 1997, which is on file in Import Administration's Central Records Unit, Room B–099, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. We also found significant distinctions between the selling activities and associated expenses between these sales at each marketing stage. Based on these differences, we concluded that two LOTs exist in the home market, an IRM LOT and a Sivaco LOT.

Ivaco reported both EP and CEP sales in the U.S. market, claiming that the same two LOTs exist in the U.S. as in the home market. We examined the chains of distribution in the U.S., which were the same as those reported for the home market. We also examined the selling functions with respect to these sales (for CEP sales, we examined these functions after deducting U.S. selling expenses and associated profit). Based on this analysis, we concluded that there are two LOTs in the U.S. market and that these LOTs are the same as those found in the home market. Because the LOTs in the United States are identical to those in the home market, the preceding analysis with respect to the home market LOTs applies equally to the U.S. market. Therefore, the preceding analysis

applies to the U.S. market in total. *See* Memorandum from Alexander Braier to Roland L. MacDonald, dated September 24, 1997.

To the extent possible, we have compared U.S. and home market sales at the same LOT without making a LOT adjustment. When we were unable to find sales of the foreign like product in the home market at the same LOT as the U.S. sale, we examined whether a LOT adjustment was appropriate. The Department makes this adjustment when it is demonstrated that a difference in LOT effects price comparability. To make this determination, we compared the weighted-average of Ivaco's NV prices of sales made in the ordinary course of trade at the two LOTs for models sold at both levels. Because the weighted-average prices were higher at one of the LOTs for a preponderance of the models and higher for a preponderance (by quantity) of total sales on the quantities of each model sold, we considered this to demonstrate a pattern of consistent price differences. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081, 2106 (January 15, 1997). Thus, we made an adjustment to NV for the differences in LOT when appropriate. To calculate the LOT adjustment, we applied the percentage differential between the weighted-average home market starting price at one LOT and the weighted-average home market starting price at the next LOT. Because we were able to quantify the LOT adjustment, in accordance with section 773(a)(7)(B) of the Act, no CEP offset is applicable to relevant NV-CEP comparisons. For a detailed discussion of Ivaco's LOT analysis, *see* Memorandum from Alexander Braier to Roland MacDonald, dated September 24, 1997.

Export Price/Constructed Export Price

For Stelco, SDI, and Ivaco, we used the Department's EP methodology, in accordance with section 772(a) of the Act, where the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation because CEP methodology was not otherwise warranted based on the facts on the record. For SDI and Ivaco, we used the Department's CEP methodology, in accordance with sections 772(b) of the Act, where the subject merchandise was sold to unaffiliated purchasers after importation into the United States.

We made company-specific adjustments as follows:

1. Stelco

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States. We made deductions from the starting price (gross unit price), where appropriate, for rebates, pre-sale warehousing, Canadian inland freight from plant to distribution warehouse, inland freight from plant/warehouse to point of delivery in the United States, U.S. brokerage and handling, and U.S. customs duties.

2. SDI

We calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States. We made deductions from the starting price (gross unit price), where appropriate, for rebates, Canadian inland freight from warehouse to port of exit, U.S. inland freight from warehouse to unaffiliated customers, U.S. inland freight from port to warehouse, U.S. brokerage and handling, and U.S. customs duties.

We calculated CEP based on packed, delivered prices to the first unaffiliated customer in the United States. We made the same deductions from the starting price as described above. In accordance with sections 772(d)(1) and (2) of the Act, we also made deductions, where appropriate, for direct selling expenses, including credit and warranty expenses, indirect selling expenses, including Canadian and U.S. inventory carrying costs, further manufacturing costs, and CEP profit, in accordance with section 772(d)(3) of the Act.

3. Ivaco

We calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States. In some instances, customers took delivery of the merchandise at the factory. We made additions to the starting price (gross unit price), where appropriate, for freight revenue (reimbursement for freight charges paid by Ivaco) and debit-note price adjustments (adjustments made by Ivaco for billing errors), and deductions, where appropriate, for discounts, rebates, inland freight from IRM to Sivaco Ontario or Sivaco Quebec, inland from IRM to Sivaco New York, inland freight from IRM to unaffiliated U.S. customers, inland freight from IRM to unaffiliated U.S. processors, inland freight from Sivaco Ontario to unaffiliated customers, inland freight from Sivaco Ontario, Sivaco Quebec, or Sivaco New York to their unaffiliated U.S. customers, U.S. customs duties, U.S. brokerage and handling, and credit price adjustments.

We calculated CEP based on packed, delivered prices to the first unaffiliated customer in the United States. In some instances, customers took delivery of the merchandise at the factory. We made the same adjustments to the starting price as described above. In accordance with sections 772(d)(1) and (2) of the Act, we also made deductions, where appropriate, for direct and indirect selling expenses, commissions, further manufacturing costs, and CEP profit, in accordance with 773(d)(3) of the Act.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for each respondent. Therefore, we have based NV on home market sales.

We based NV on the price at which the foreign like product was first sold for consumption in Canada, in the usual commercial quantities, in the ordinary course of trade in accordance with section 773(a)(1)(B)(i) of the Act. To the extent practicable, we based NV on sales at the same level of trade as the EP or CEP sales. If NV was calculated at a different level of trade, when appropriate, we made an adjustment in accordance with section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section above.

Because Stelco, SDI, and Ivaco reported home market sales to affiliated parties during the POI, we tested these sales to ensure that the affiliated party sales were at ''arm's length.'' To conduct this test, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses (credit and warranty expenses), rebates, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated party, we determined that the sale made to the affiliated party was at arm's length. Based on the results of this test, we

excluded from the calculation of each respondent's NV all sales made to an affiliated party that failed the ''arm's length'' test.

Cost of Production Analysis

Pursuant to an allegation made by petitioners, we initiated a cost of production investigation in our notice of initiation. See Notice of Initiation, 62 FR 13854 (March 24, 1997). Before making any fair value comparisons, we conducted the COP analysis described below.

a. Calculation of COP

We calculated the COP based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market general expenses and packing costs in accordance with section 773(b)(3) of the Act. We adjusted the company's reported COP as follows:

1. Stelco: We adjusted Stelco's reported COP to allocate ingot teeming costs only to the products manufactured from billets produced at the facility for which these costs were incurred. We recalculated Stelco's general and administrative amounts to exclude off-sets to research and development and capital tax expenses. *See* Memorandum to Chris Marsh from Beverly Lyons, dated September 17, 1997.

2. Ivaco: We recalculated Ivaco's general and administrative amounts based on the expenses incurred by IRM, Sivaco Ontario, and Sivaco Quebec. We adjusted the cost of billets to account for Atlantic Steel's selling, general and administrative costs. We recalculated further manufacturing general and administrative amounts to reflect Sivaco New York's expenses rather than IRM's expenses. *See* Memorandum to Chris Marsh from Art Stein, dated September 18, 1997.

b. Test of Home Market Prices

We used each respondent's submitted POI weighted-average COPs, as adjusted (see above). We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, packing, and direct and indirect selling expenses.

c. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

d. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, G&A, U.S. packing costs, direct and indirect selling expenses, interest expenses, and profit. As noted above, we adjusted Stelco's COP for ingot teeming costs and recalculated general and administrative expense amounts. We also adjusted Ivaco's cost of billets, and general and administrative expense amounts.

In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual monthly weighted-average home market direct and indirect selling expenses.

e. Adjustments to Prices

1. Stelco: We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. We made deductions from the starting price (gross unit price), where appropriate, for rebates, inland freight from plant to distribution warehouse, inland freight from plant/warehouse to customers, pre-sale warehouse expense, and packing, in accordance with section 773(a)(6) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, by deducting home market direct selling expenses (*i.e.*, warranty, credit and technical service expenses) and adding U.S. direct selling expenses (*i.e.*, warranty, credit and technical service expenses).

Because Stelco paid commissions on U.S. sales, in calculating NV for the respondents, we deducted the lesser of either (1) the weighted-average amount of commission paid on a U.S. sale for a particular product, or (2) the weighted-average amount of indirect selling expenses paid on the home market sales for a particular product. *See* 351.410(e), 62 FR 27414 (May 19, 1997).

For matches of similar merchandise, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

2. SDI: We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where sales were made at arm's length. We made deductions from the starting price (gross unit price), where appropriate, for rebates, inland freight from plant/warehouse to customer, packing, and warranty and credit expenses, in accordance with section 773(a)(6) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, by deducting home market direct selling expenses (*i.e.*, warranty and credit expenses) and adding U.S. direct selling expenses (*i.e.*, warranty and credit expenses). For matches of similar merchandise, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

3. Ivaco: We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where sales were made at arm's length. We made deductions from the starting price (gross unit price), where appropriate, for discounts, rebates, post-sale price adjustments, foreign inland freight, warranty expense, and the direct portion of technical service expenses, in accordance with section 773(a)(6) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, for warranty and credit expenses. If NV was calculated at a different level of trade than EP, we made an adjustment in accordance with section 773(a)(7) of the Act, as discussed in the Level of Trade section above.

If NV was calculated at a different level of trade than CEP, we made an adjustment in accordance with section 773(a)(7) of the Act, as discussed in the Level of Trade section above.

Because Ivaco paid commissions on U.S. sales, in calculating NV for the respondent, we deducted the lesser of either (1) the weighted-average amount of commission paid on a U.S. sale for a particular product, or (2) the weighted-average amount of indirect selling expenses paid on the home market sales for a particular product. *See* 351.410(e), 62 FR 27414 (May 19, 1997). For matches of similar merchandise, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773(A) of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Stelco, Inc.	2.43
Sidbec-Dosco (Ispat), Inc.	11.76
Ivaco, Inc.	7.49
All Others Rate	7.79

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than December 16, 1997, and rebuttal briefs, no later than December 30, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 6, 1998, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination not later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26040 Filed 9–30–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–822]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Wey Rudman or John Brinkmann, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0192 or (202) 482–5288, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the 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 references to the provisions codified at 19 CFR part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296; May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Preliminary Determination

We preliminarily determine that steel wire rod (''SWR'') from Germany is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on March 18, 1997 (*see Notice of Initiation of Antidumping Duty Investigations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela,* 62 FR 13854 (March 24, 1997), ''*Notice of Initiation*''), the following events have occurred:

On April 14, 1997, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

On April 21, 1997, the Department issued the antidumping duty questionnaire to the following producers/exporters of SWR to the United States: Brandenburg Elektrostahlwerk GmbH (''Brandenburg''); Ispat Hamburger Stahlwerke GmbH (''IHSW''); Saarstahl AG (''Saarstahl''); and Thyssen Stahl AG (''Thyssen'') (collectively ''respondents''). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and the constructed value (''CV'') of the subject merchandise.

During April and May 1997, the Department received interested party comments regarding modifications to the product characteristic reporting requirements. On May 22, 1997, the Department issued revised product characteristic reporting instructions.

IHSW submitted its questionnaire responses in May and June 1997. The Department issued supplemental requests for information in June, July, and September 1997, and received the supplemental responses to these requests in July, August, and September 1997. The petitioners in this investigation (Connecticut Steel Group, Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Texas, Inc., and Northwestern Steel & Wire Co.) filed comments on IHSW's questionnaire responses in June, July, August, and September 1997.

On June 11, 1997, Saarstahl informed the Department that it did not have the necessary resources to respond to the Department's questionnaire. In addition, without explanation, neither Brandenburg nor Thyssen responded to the questionnaire (*see* the ''Facts Available'' section below, for further discussion).

On July 3, 1997, petitioners made a timely request that the Department postpone the preliminary determination in this investigation and the companion investigations of SWR from Canada, Trinidad and Tobago, and Venezuela to September 24, 1997. We did so on July 14, 1997, in accordance with section 733(c)(1) of the Act (*see Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela,* 62 FR 38257 (July 17, 1997)).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act and section 353.20(b)(1) of the Department's interim regulations, on September 9, 1997, IHSW requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination. While IHSW is only one of four German producer/exporters identified in the petition, we determine that it accounts ''for a significant proportion of exports of the merchandise which is the subject of the investigation,'' and therefore, that it is eligible to request such an extension. First, IHSW is the only German respondent participating in this investigation; its exports thus account for all of the German SWR production analyzed by the Department for this preliminary determination. Second, the problem anticipated by the ''significant proportion'' requirement—that a single producer representing a relatively small proportion of the production of the subject merchandise could delay a final determination against the wishes of the other producers—is not present in this proceeding. The three other German respondents (Brandenburg, Saarstahl and Thyssen) in this investigation did not object to the extension request submitted by IHSW. Finally, the Department has identified no compelling reason to deny IHSW's request for extension. For these reasons, we are postponing the final determination until no later than the 135th day following publication of this preliminary determination notice. Suspension of liquidation will be extended accordingly (*see Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn From Austria,* 62 FR 14399, 14400 (March 26, 1997); *Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy,* 61 FR 30326 (June 14, 1996)).

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as ''Tire Cord Wire Rod.''

Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth, containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as ''Valve Spring Quality Wire Rod.''

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

North American Wire Products Corporation (NAW), an importer of the subject merchandise from Germany, has requested that the Department exclude steel wire rod used to manufacture pipe wrapping wire from the scope of the antidumping and the companion countervailing duty investigations. Petitioners have not agreed to this scope exclusion. For purposes of the preliminary determination, we have not excluded steel wire rod for manufacturing pipe wrapping wire from the scope. However, we will address this issue further in our final determination.

Period of Investigation

The period of investigation (''POI'') is January 1 through December 31, 1996.

Fair Value Comparisons

To determine whether sales of SWR by IHSW to the United States were made at less than fair value, we would

normally compare the export price or constructed export price to the normal value. Although IHSW responded to the Department's questionnaires, as discussed in the ''Facts Available'' section of this notice below, there are significant deficiencies that have rendered their response unreliable and therefore unusable for the calculation of LTFV margins in this preliminary determination. Therefore, in accordance with section 776 of the Act, our results are based on facts otherwise available.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party (1) withholds information that has been requested by the Department, (2) fails to provide such information in a timely manner or in the form or manner requested, (3) significantly impedes a determination under the antidumping statute, or (4) provides such information but the information cannot be verified, the Department shall use facts otherwise available in reaching the applicable determination (subject to subsections 782 (d) and (e)). As detailed below, the Department has determined that all four respondents have failed to cooperate to the best of their ability in this investigation as defined under 776(a)(2) and that the use of facts otherwise available is applicable.

Brandenburg, Saarstahl, and Thyssen have clearly failed to cooperate to the best of their ability in this investigation, as they have not responded to the Department's antidumping questionnaire. Accordingly, the Department is required to base the antidumping rate for these companies on the facts otherwise available.

The use of facts otherwise available is also applicable to IHSW because they ''fail[ed] to provide [requested] information by the deadlines for submission of the information or in the form and manner requested.'' As discussed in the ''Case History'' section above, and as required by section 782(d), the Department informed IHSW of the deficiencies in its responses through the issuance of several extensive supplemental questionnaires covering all sections of the original questionnaire. However, despite the detailed requests for supplemental information issued by the Department and the extension of time granted to IHSW to file its responses, IHSW's questionnaire responses remained seriously deficient.

The significant deficiencies in the information submitted by IHSW include: (1) A significant number of missing sales in the home market sales database, rendering the database unreliable and unusable for making price-to-price comparisons and calculating a profit amount for CV; (2) the failure to notify the Department that major inputs were purchased from affiliated suppliers and, once this fact was discovered, the failure to demonstrate that inputs purchased from affiliated suppliers were arm's-length transactions. Without information as to whether transfer prices between IHSW and its affiliates were set at arm's length or the affiliated suppliers' cost information, we cannot determine if the major inputs were properly valued in calculating the reported COPs and CVs. Furthermore, without information concerning the quantities of inputs purchased from affiliated suppliers, the Department cannot make adjustments to IHSW's COP and CV databases. Since the COP and CV data cannot be relied upon, the Department cannot conduct a COP analysis, calculate the difference-in-merchandise adjustments (difmers), or calculate an accurate profit for purposes of calculating CV; (3) IHSW has not provided product specific costs and has failed to explain how its cost groups were derived, raising further concerns about the reliability of the COP and CV data; and (4) there are errors and inconsistencies in IHSW's creation of product control numbers. If product control numbers are not properly assigned based on product matching criteria, the Department cannot accurately determine which products in the home market should be matched to U.S. sales for purposes of making price-to-price comparisons. (For a more detailed discussion of the deficiencies in the information IHSW has provided, see the September 24, 1997, Memorandum to Richard W. Moreland.)

IHSW's questionnaire responses constituted deficient submissions within the meaning of section 782(d). Under these circumstances, section 776(a) directs the Department to use facts available subject to section 782(e). Section 782(e) 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.

Thus, if any one of these criteria is not met, the Department may decline to consider the information at issue in making its determination. IHSW's information has satisfied the first two criteria. Regarding criterion (3), as detailed above, IHSW's home market sales data and cost of production information is so deficient as to render it unreliable. As to criterion (4), IHSW has not demonstrated that it acted to the best of its ability in providing the requested information because IHSW failed to respond in a satisfactory manner to the Department's requests for information. Despite repeated requests that IHSW correct the deficiencies in its submissions, as detailed above, significant inconsistencies remain in IHSW's data. Finally, as to criterion (5), the information is so deficient that the Department cannot conduct a proper LTFV analysis.

As indicated above, the analysis of IHSW's responses to date, in the context of sections 782 (d) and (e), demonstrates that IHSW has failed to provide its home market sales and COP information in the form and manner requested. The information provided by IHSW is unreliable and inadequate for the purpose of calculating a preliminary LTFV margin. Section 776(a) thus requires the Department to use facts otherwise available in making its preliminary determination with respect to IHSW.

Section 776(b) provides that adverse inferences may be used for a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information (*see* also the Statement of Administrative Action (''SAA''), accompanying the URAA, H.R. Rep. No. 316, 103rd Cong., 2d Sess. 870). As discussed above, Brandenburg, IHSW, Saarstahl, and Thyssen have failed to act to the best of their ability to comply with requests for information and, therefore, adverse inferences are warranted with respect to all four companies.

Consistent with Department practice in cases where respondents refuse to participate or provide seriously deficient information that precludes the Department from conducting its LTFV analysis, as facts otherwise available, we are basing their margins on information in the petition. Section 776(c) provides that when the Department relies on secondary information (*e.g.*, the petition) as the facts otherwise available, it must, to the extent

practicable, corroborate that information from independent sources that are reasonably at its disposal. The Department reviewed the adequacy and accuracy of the secondary information in the petition from which the margins were calculated during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose, (*e.g.*, import statistics, independent trade data, U.S. Bureau of Labor Statistics, International Energy Agency). (*See Notice of Initiation* and September 24, 1997, Memorandum to Richard W. Moreland).

For purposes of the preliminary determination, the Department reexamined the price information provided in the petition in light of information obtained during the investigation, and found that it continues to be of probative value (*see* the September 24, 1997, Memorandum to Richard W. Moreland).

A. Brandenburg, Saarstahl, and Thyssen

Consistent with Department practice, as facts otherwise available, the Department is assigning to Brandenburg, Saarstahl, and Thyssen, the companies that did not respond to the Department's requests for information, the highest margin from the petition (as adjusted by the Department), 153.10 percent (*see* the March 18, 1997, ''Import Administration AD Investigation Initiation Checklist'' and the *Notice of Initiation* for a discussion of the margin calculations in the petition and the Department's recalculations).

B. IHSW

Since IHSW made some effort to comply with the Department's requests for information, consistent with Department practice, we are assigning IHSW a facts available margin based on a simple average of the margins in the petition (as adjusted by the Department), 72.51 percent.

C. The All-Others Rate

All foreign manufacturers/exporters in this investigation are being assigned dumping margins on the basis of facts otherwise available. Section 735(c)(5) of the Act provides that where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776, the Department ''* * * may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.'' This provision contemplates that we weight average the facts-available margins to establish the all-others rate. Where the data is not available to weight average the facts available rates, the SAA, at 873, provides that we may use other reasonable methods.

Inasmuch as we do not have the data necessary to weight average the respondents' facts available margins, we are basing the All-Others rate on a simple average of the margins in the petition (as adjusted by the Department), 72.51 percent.

Verification

We will issue another supplemental questionnaire to IHSW in an effort to obtain complete and accurate responses. If the requested information is received in a timely manner, we will attempt to conduct verification of the company's information as provided in section 782(i) of the Act. If IHSW's reported information can be verified, we will use such information in making the final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Brandenburg Elektrostahlwerk GmbH	153.10
Ispat Hamburger Stahlwerke GmbH	72.51
Saarstahl AG	153.10
Thyssen Stahl AG	153.10
All-Others	72.51

The all-others rate applies to all entries of subject merchandise except for the entries of merchandise produced by the exporters/manufacturers listed above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than January 5, 1998, and rebuttal briefs, no later than January 12, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 14, 1998, at 8:30 a.m. in room 1414 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination not later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(d) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26041 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–802]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Trinidad and Tobago

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Alexander Braier, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2243 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the 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 references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Preliminary Determination

We preliminarily determine that steel wire rod (''SWR'') from Trinidad & Tobago is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on March 18, 1997 (*See Initiation of Antidumping Duty Investigations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela*, 62 FR 13854 (March 24, 1997) (''*Initiation*''), the following events have occurred:

On April 14, 1997, the United States International Trade Commission (''ITC'') notified the Department of Commerce (''the Department'') of its affirmative preliminary injury determination in this case.

On April 21, 1997, the Department issued the antidumping duty questionnaire to counsel for the following producer/exporter of steel wire rod to the United States: Caribbean Ispat, ltd. (CIL). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and the constructed value (''CV'') of the subject merchandise.

During April and May 1997, the Department received interested party comments regarding modifications to the product characteristic reporting requirements. On May 22, 1997, the Department issued revised product characteristic reporting instructions.

CIL submitted its questionnaire responses in May and June 1997. The Department issued supplemental requests for information in June, July, August and September 1997 and received the supplemental responses to these requests in June, July, August and September 1997. Petitioners in this investigation (Connecticut Steel Group, Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Texas, Inc., and Northwestern Steel & Wire Co.) filed comments on CIL's questionnaire responses in June, July, August, and September 1997.

On July 3, 1997, petitioners made a timely request for a postponement of the preliminary determination in this investigation and the companion investigations of steel wire rod from Canada, Germany, and Venezuela to September 24, 1997. On July 14, 1997, the Department postponed the preliminary determinations in these investigations until September 24, 1997, in accordance with section 733(c)(1) of the Act (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Canada, Germany, Trinidad and Tobago, and Venezuela*, 62 FR 38257 (July 17, 1997).

Postponement of Final Determination

On September 22, 1997, CIL, the only respondent participating in this investigation, requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination, until not later than 135 days after the date of publication of the affirmative preliminary in the **Federal Register**. In accordance with section 735 (a)(2)(A) of the Act and 19 CFR 353.2(b), inasmuch as our preliminary determination is affirmative, CIL accounts for a significant proportion of exports of the subject merchandise, and we have not identified any compelling reasons for denying this request, we are granting CIL's request and postponing the final determination. Suspension of liquidation will be extended accordingly. *See Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 30326 (June 14, 1996).

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as ''Tire Cord Wire Rod.''

Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth; containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as ''Valve Spring Quality Wire Rod.''

The products under investigation are currently classifiable under subheadings

7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

North American Wire Products Corporation (NAW), an importer of the subject merchandise from Germany, has requested that the Department exclude steel wire rod used to manufacture pipe wrapping wire from the scope of the antidumping and countervailing duty investigations. Petitioners have not agreed to this scope exclusion. For purposes of the preliminary determination, we have not excluded steel wire rod for manufacturing pipe wrapping wire from the scope.

Period of Investigation

The period of investigation (''POI'') is January 1, 1996 through December 31, 1996.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of Investigation* section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 22, 1997, reporting instructions.

Consistent with our practice, we compared prime merchandise sold in the United States to prime merchandise sold in the home market, and secondary merchandise to secondary merchandise. *See, e.g., Ceratin Cold-rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review,* 61 FR 48465 (September 13, 1996).

Fair Value Comparisons

To determine whether sales of steel wire rod sold by CIL to the United States were made at less than fair value, we compared the Export Price (''EP'') to the normal value (''NV''), as described in the ''EP'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs for comparisons to weighted-average NVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually the sale from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than the EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review,* 62 FR 23760, 23761 (May 1, 1997).

Respondent claimed one LOT in the NV market and one LOT in the U.S. market. CIL did not claim an LOT adjustment. To examine whether such an adjustment was necessary, we examined CIL's distribution system, including selling functions, classes of customers, and selling expenses. We noted that CIL's selling expenses for the POI were the same for all customers. We found that the selling functions, which included sales administration, billing, maintaining inventory, and in some cases arranging freight services, are sufficiently similar in the U.S. and the home market to consider them as one level of trade. Based on the findings noted above, we conclude that for these preliminary results, CIL's U.S. and home market sales were made at the same LOT.

Export Price

We based price in the United States on EP, in accordance with subsections 772 (a) and (c) of the Act because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on the record.

We calculated EP based on packed prices to the first unaffiliated customer in the United States. We made adjustments, where appropriate, for international ocean freight, marine insurance, U.S. brokerage and handling, U.S. Customs duties and user fee, U.S. inland freight from port to unaffiliated customer, U.S. inland insurance and survey fee in both the United States and Trinidad in accordance with section 772(c)(2) of the Act.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* if the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since CIL's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Cost of Production Analysis

Pursuant to an allegation made by petitioners, we initiated a cost of production investigation in our notice of initiation. *See Notice of Initiation,* 62 FR 13854 (March 24, 1997). Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market general expenses and packing costs in accordance with section 773(b)(3) of the Act. We have recalculated CIL's general and administrative amounts to include only net foreign exchange losses related to accounts payable . *See* Memorandum to Chris Marsh From Taija Slaughter, September 12, 1997.

B. Test of Home Market Prices

We used the respondent's submitted POI weighted-average COPs, as adjusted (see above). We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1)

within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act and, therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses and profit. As noted above, we recalculated CIL's general and administrative amounts. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We calculated NV based on prices to unaffiliated home market customers. We made deductions for discounts, rebates, and inland freight. In addition, we made circumstance-of-sale adjustments or deductions for credit and warranty, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Currency Conversions

In accordance with section 773(A) of the Act, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of steel wire rod from Trinidad and Tobago, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Normally, we would instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. However, the product under investigation is also subject to a concurrent countervailing duty investigation. Article VI.5 of the General Agreement on Tariffs and Trade (GATT) provides that ''[n]o product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization.'' This provision is implemented by section 772(c)(1)(C) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributed to export subsidies, there is no reason to require a cash deposit or bond for that amount.

The Department has determined in *Preliminary Affirmative Countervailing Duty Determination: Steel Wire Rod from Trinidad and Tobago,* 62 FR 41927 (August 4, 1997), that the product under investigation benefitted from an export subsidy. To obtain the most accurate estimate of the antidumping duty, and to fulfill our international obligations arising under the GATT, we are subtracting, for deposit purposes, the cash deposit rate attributable to the export subsidies found in the countervailing duty investigation. For Caribbean Ispat, Ltd., the attributable rate is 3.45 percent. We are also subtracting from the ''All Others'' rate the cash deposit rate attributable to the export subsidy included in the countervailing duty investigation for the All Others rate, 3.45 percent. Pursuant to Article of 17.4 of the WTO Agreement on Subsidies and Countervailing Measures, in the absence of an affirmative final determination the Department will terminate the suspension of liquidation in the companion countervailing duty investigation of steel wire rod from Trinidad and Tobago, effective December 2, 1997, which is 120 days after the date of publication of that preliminary determination. Accordingly, on December 2, 1997, if the ITC has not yet made an affirmative injury determination in the countervailing duty investigation, the antidumping deposit rate will revert to the full amount calculated in this preliminary determination. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Bonding percentage
Caribbean Ispat Limited	13.00	9.55
All Others	13.00	9.55

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than December 22, 1997, and rebuttal briefs, no later than January 5, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 9, 1998, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should

confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(d) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26042 Filed 9–30–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–813]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Daniel Manzoni, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4136 or (202) 482–1121, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the 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 references to the provisions codified at 19 CFR part 353 (April, 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19, 1997), do not govern this investigation, citations to those regulations are provided, where appropriate, to explain current Departmental practice.

Preliminary Determination

We preliminarily determine that steel wire rod (''SWR'') from Venezuela is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on March 18, 1997 (*see Notice of Initiation of Antidumping Duty Investigations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela,* 62 FR 13854, (March 24, 1997), (''*Notice of Initiation*''), the following events have occurred:

On April 14, 1997, the United States International Trade Commission (''ITC'') notified the Department of Commerce (''the Department'') of its affirmative preliminary injury determination in this case.

On April 21, 1997, the Department issued the antidumping duty questionnaire to CVG Siderurgica Del Orinoco C.A. (''Sidor''), the sole exporter of the subject merchandise from Venezuela. The questionnaire is divided into four sections: Section A requests general information concerning Sidor's company corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and the constructed value (''CV'') of the subject merchandise.

During April and May 1997, the Department received interested party comments regarding modifications to the product characteristic reporting requirements. On May 22, 1997, the Department issued revised product characteristic reporting instructions.

Sidor submitted its questionnaire responses in May and June, 1997. The Department issued supplemental requests for information in June, July, and August, 1997, and received the supplemental responses to these requests in July, August, and September, 1997. Petitioners in this investigation (Connecticut Steel Group, Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Texas, Inc., and Northwestern Steel & Wire Co.) filed comments on Sidor's questionnaire responses in May, June, July, August, and September, 1997.

On July 3, 1997, petitioners made a timely request that the Department postpone the preliminary determination in this investigation and the companion investigations of SWR from Canada, Trinidad and Tobago, and Germany to September 24, 1997. We did so on July 14, 1997, in accordance with section 733(c)(1) of the Act (*see Notice of Postponement of Preliminary Determinations: Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela* (62 FR 38257, July 17, 1997)).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act and section 353.20(b)(1) of the Department's interim regulations, on September 10, 1997, Sidor requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of this notice in the **Federal Register**. In accordance with section 735(a)(2)(A) of the Act, because our preliminary determination is affirmative, the respondent accounting for all of the exports of the subject merchandise has requested postponement, and no compelling reasons for denial exist, we are postponing the final determination. Suspension of liquidation will be extended accordingly (*see Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determinations: Open-End Spun Rayon Singles Yarn From Austria,* 62 FR 14399, 14400 (March 26, 1997); *see also Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 30326 (June 14, 1996)).

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4

percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as ''Tire Cord Wire Rod.''

Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth; containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as ''Valve Spring Quality Wire Rod.''

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

North American Wire Products Corporation (NAW), an importer of the subject merchandise from Germany, has requested that the Department exclude steel wire rod used to manufacture pipe wrapping wire from the scope of the antidumping and countervailing duty investigations. Petitioners have not agreed to this scope exclusion. For purposes of the preliminary determination, we have not excluded steel wire rod for manufacturing pipe wrapping wire from the scope. However, we will consider this issue further in our final determination.

Period of Investigation

The period of investigation (''POI'') is January 1, 1996, through December 31, 1996.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Sidor, covered by the description in the *Scope of Investigation* section, above, and sold in the home market during the POI, to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign-like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 22, 1997, reporting instructions. Consistent with our practice (*see, e.g., Final Results of Antidumping Duty Administrative Review: Cold-rolled Carbon Steel Flat Products from the Netherlands,* 61 FR 48465, (September 13, 1996)), we compared prime merchandise sold in the United States to prime merchandise sold in the home market, and secondary merchandise to secondary merchandise.

Fair Value Comparisons

To determine whether sales of steel wire rod by Sidor to the United States were made at less than fair value, we compared the Export Price (''EP) to the normal value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs for comparison to weighted-average NVs.

Venezuela experienced significant inflation during the POI, as measured by the consumer price index published by the Central Bank of Venezuela. Accordingly, to avoid the distortions caused by the effects of inflation on prices, we calculated EPs and NVs on a monthly average basis, rather than on a POI average basis.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or constructed export price (''CEP''). The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP (or CEP), we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review,* 62 FR 23760, 23761 (May 1, 1997).

Sidor did not claim a LOT adjustment. To evaluate whether such an adjustment was necessary, we examined Sidor's distribution system, including selling functions, classes of customers, and selling expenses. Sidor sold to only one class of customer in each market. We found that selling functions, which included sales administration, billing, warranties, and in some cases arranging freight services, are sufficiently similar in the U.S. and the home market to consider them as constituting the same level of trade in the two markets. Accordingly, all comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is not warranted.

Export Price

We based our starting price on EP, in accordance with subsections 772(a) and (c) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on the record.

We calculated EP based on packed, FOB factory prices to the first unaffiliated customer in the United States. We made no deductions from the gross unit price.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared Sidor's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since Sidor's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for Sidor. Therefore, we have based NV on home market sales provided they were not disregarded pursuant to the cost test under section 773(b) of the Act.

Cost of Production Analysis

Pursuant to an allegation made by the petitioners, we initiated a cost of production investigation in our *Notice of Initiation* (62 FR 13854 March 24, 1997). Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market general expenses and packing costs in accordance with section 773(b)(3) of the Act. We recalculated Sidor's interest expense, as discussed in the September 16, 1997, Memorandum to Chris Marsh, Director, Office of Accounting, from Paul McEnrue. As noted above, we determined that the Venezuelan economy experienced significant inflation during the POI. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Sidor submit monthly COP figures based on the current production costs incurred during each month of the POI. We indexed Sidor's monthly COP amounts, adjusted as discussed above, in order to compute an annual weighted-average COP for the POI.

B. Test of Home Market Prices

We used Sidor's submitted POI weighted-average COPs, as adjusted (see above). We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the inflation-adjusted COP to the home market prices, less any applicable movement charges, and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of Sidor's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. Where we determined that such sales were also not made at prices which would permit recovery of all costs within a reasonable period of time and, in accordance with section 773(b)(2)(D) of the Act, we disregarded the below-cost sales. Where all comparison sales of a specific product were at prices below the COP, we disregarded all such sales of that product, and calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses and profit. As noted above, we recalculated Sidor's interest expenses. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses (as indexed for inflation).

Comparison of the U.S. Price to NV

We compared U.S. prices to home market prices or to CV, as appropriate. We made adjustments for inland freight, interest revenue, and late payment fees. In addition, we made circumstance-of-sale adjustments for credit, warranties, and bank fees, where appropriate. We re-allocated home market and U.S. warranty expenses on a value basis rather than the quantity basis Sidor reported. Where we compared CV to EPs, we deducted from CV the home market direct selling expenses and added the weighted-average U.S. direct selling expenses.

We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Currency Conversions

The Department's normal source for exchange rates—the Federal Reserve Bank—does not provide certified exchange rates for Venezuela. Therefore, we converted Venezuelan bolivares into U.S. dollars as follows: For the period from January 1, 1996, through April 21, 1996, we used the official exchange rate from the Central Bank of Venezuela because the Dow Jones Business Information Services rates (an alternate source often relied upon by the Department) reflected the implicit (parallel) exchange rate in Venezuela for Brady bonds (i.e., foreign currency—denominated government bonds trading on the secondary market). After April 21, 1996, Venezuela had a unified, market exchange rate that applied to all trade transactions. Therefore, for the period after April 21, 1996, we used the Dow Jones rates.

Verification

As provided in section 782(i) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
CVG Siderurgica Del Orinoco C.A. (''Sidor'')	51.21
All Others	51.21

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than January 5, 1998, and rebuttal briefs, no later than January 12, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to

afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 14, at 2:00 p.m. in Room 1412 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: September 24, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26043 Filed 9–30–97; 8:45 am]

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federal register

Wednesday
October 1, 1997

Part X

The President

Notice of September 30, 1997—Continuation of Iran Emergency

Federal Register
Vol. 62, No. 190
Wednesday, October 1, 1997

Presidential Documents

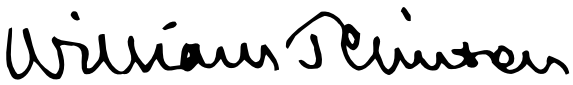
Title 3—

The President

Notice of September 30, 1997

Continuation of Iran Emergency

On November 14, 1979, by Executive Order 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the **Federal Register**. The most recent notice appeared in the **Federal Register** on October 31, 1996. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1997. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iran. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
September 30, 1997.

[FR Doc. 97–26267
Filed 9–30–97; 11:30 am]
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Lessees and payors; collection of information; payor recordkeeping designation; comments due by 10-6-97; published 8-5-97

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky; comments due by 10-6-97; published 9-5-97

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Agency for International Development
Commodity transactions:

Maximum prices and preshipment inspection requirements; comments due by 10-7-97; published 8-8-97

NORTHEAST DAIRY COMPACT COMMISSION

Over-order price regulations:

Compact over-order price regulations—

Class I fluid milk route distributions in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; comments due by 10-8-97; published 9-8-97

NUCLEAR REGULATORY COMMISSION

Freedom of Information Act; implementation; comments due by 10-6-97; published 9-5-97

Production and utilization facilities; domestic licensing:

Nuclear power reactors—

Safety-related structures, systems, and components; definition; comments due by 10-8-97; published 9-8-97

Safety-related structures, systems, and components; definition; comments due by 10-8-97; published 9-8-97

Radiation protection standards:

NRC-licensed facilities; radiological criteria for decommissioning (license termination)—

Uranium recovery facilities; comments due by 10-6-97; published 7-21-97

POSTAL SERVICE

Domestic Mail Manual:

Nonprofit standard mail matter; eligibility requirements; comments due by 10-8-97; published 9-8-97

International Mail Manual:

Global package link service; implementation; comments due by 10-10-97; published 9-10-97

International surface air lift service; postage rates adjustment and miscellaneous changes; comments due by 10-9-97; published 9-9-97

SOCIAL SECURITY ADMINISTRATION

Social security benefits:

Federal old age, survivors and disability insurance—

Information disclosure to consumer reporting agencies and overpayment recovery through administration offset against Federal payments; comments due by 10-6-97; published 8-7-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

British Aerospace; comments due by 10-6-97; published 8-25-97

Dassault; comments due by 10-10-97; published 9-15-97

Pratt & Whitney; comments due by 10-6-97; published 8-7-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—

Anthropomorphic test dummy modification; comments due by 10-6-97; published 8-7-97

School bus pedestrian safety devices; conspicuity requirements for stop signal arms; comments due by 10-6-97; published 8-6-97

TREASURY DEPARTMENT

Civil penalty assessment for misuse of Department of the Treasury Names, Symbols, etc.; comments due by 10-6-97; published 8-6-97

CFR ISSUANCES 1997
January—July 1997 Editions and Projected October, 1997 Editions

This list sets out the CFR issuances for the January–July 1997 editions and projects the publication plans for the **October, 1997** quarter. A projected schedule that will include the **January, 1998** quarter will appear in the first **Federal Register** issue of January.

For pricing information on available 1996–1997 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1997:

Title

CFR Index

1–2 (Revised as of Feb. 1, 1997)

3 (Compilation)

4

5 Parts:
1–699
700–1199
1200–End

6 [Reserved]

7 Parts:
0–26
27–52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1199
1200–1499
1500–1899
1900–1939
1940–1949
1950–1999
2000–End

8

9 Parts:
1–199
200–End

10 Parts:
0–50
51–199
200–499
500–End

11

12 Parts:
1–199
200–219
220–299
300–499
500–599
600–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–799
800–End

16 Parts:
0–999
1000–End

Titles revised as of April 1, 1997:

Title

17 Parts:
1–199
200–239
240–End

18 Parts:
1–399
400–End

19 Parts:
1–140
141–199
200–End

20 Parts:
1–399
400–499
500–End

21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End

22 Parts:
1–299
300–End

23

24 Parts:
0–199
200–219
220–499
500–699
700–1699
1700–End

25

26 Parts:
1 (§§ 1.0-1–1.60)
1 (§§ 1.61–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.440)
1 (§§ 1.441–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.907)
1 (§§ 1.908–1.1000)
1 (§§ 1.1001–1.1400)
1 (§ 1.1401–End)
2–29
30–39
40–49
50–299
300–499
500–599 (Cover only)
600–End

27 Parts:
1–199
200–End

Titles revised as of July 1, 1997:

Title

28 Parts:
0–42
43–End

29 Parts:
0–99
100–499
500–899
900–1899
1900–1910.999
1910.1000–End
1911–1925
1926
1927–End

30 Parts:
1–199
200–699
700–End

31 Parts:
0–199
200–End

32 Parts:
1–190
191–399
400–629
630–699
700–799
800–End

33 Parts:
1–124
125–199
200–End

34 Parts:
1–299
300–399
400–End

35

36 Parts:
1–199
200–299
300–End

37

38 Parts:
0–17
18–End

39

40 Parts:
1–49
50–51
52.01–52.1018
52.1019–End
53–59
60
61–62
63–71
72–80
81–85
86
87–135
136–149
150–189
190–259
260–265
266–299
300–399
400–424 (Cover only)
425–699
700–789
790–End

41 Parts:

Chs. 1–100
Ch. 101
Chs. 102–200
Ch. 201–End

Projected October 1, 1997 editions:

Title

42 Parts:
1–399
400–429
430–End

43 Parts:
1–999
1000–End

44

45 Parts:
1–199
200–499
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–499
500–End

47 Parts:
0–19
20–39
40–69
70–79
80–End

48 Parts:
Ch. 1 (1–51)
Ch. 1 (52–99)
Ch. 2 (201–299)
Chs. 3–6
Chs. 7–14
Ch. 15–28
Ch. 29–End

49 Parts:
1–99
100–185
186–199
200–399
400–999
1000–1199
1200–End

50 Parts:
1–199
200–599
600–End

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1997

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	October 16	October 31	November 17	December 1	December 30
October 2	October 17	November 3	November 17	December 1	December 31
October 3	October 20	November 3	November 17	December 2	January 2
October 6	October 21	November 5	November 20	December 5	January 5
October 7	October 22	November 6	November 21	December 8	January 5
October 8	October 23	November 7	November 24	December 8	January 6
October 9	October 24	November 10	November 24	December 8	January 7
October 10	October 27	November 10	November 24	December 9	January 8
October 14	October 29	November 13	November 28	December 15	January 12
October 15	October 30	November 14	December 1	December 15	January 13
October 16	October 31	November 17	December 1	December 15	January 14
October 17	November 3	November 17	December 1	December 16	January 15
October 20	November 4	November 19	December 4	December 19	January 20
October 21	November 5	November 20	December 5	December 22	January 20
October 22	November 6	November 21	December 8	December 22	January 20
October 23	November 7	November 24	December 8	December 22	January 21
October 24	November 10	November 24	December 8	December 23	January 22
October 27	November 12	November 26	December 11	December 26	January 26
October 28	November 12	November 28	December 12	December 29	January 26
October 29	November 13	November 28	December 15	December 29	January 27
October 30	November 14	December 1	December 15	December 29	January 28
October 31	November 17	December 1	December 15	December 30	January 29