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Monday
October 6, 1997

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Contents

Federal Register

Vol. 62, No. 193

Monday, October 6, 1997

Agency for Health Care Policy and Research
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52131–52132

Agricultural Marketing Service
RULES
Oranges, grapefruit, tangerines, and tangelos grown in Florida; correction, 52011
PROPOSED RULES
Tomatoes grown in Florida and imported, 52047–52051

Agriculture Department
See Agricultural Marketing Service
See Natural Resources Conservation Service
PROPOSED RULES
Acquisition regulations:
Alternative agricultural research and commercialization corporation; set-asides and preferences for products, 52081–52083

Antitrust Division
NOTICES
National cooperative research notifications:
Cable Television Laboratories, Inc., 52151–52152
Enterprise Computer Telephony Forum, 52152
IOPS.ORG Project, 52152
Open Group, L.L.C., 52153
Petroleum E&P Research Cooperative, 52153

Army Department
NOTICES
Meetings:
Army Education Advisory Committee, 52092–52093
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Ceramic ferroelectric composite material-BSTO-magnesium based compound, 52093
Topical prophylaxis against schistosomal infections, 52093

Barry M. Goldwater Scholarship and Excellence in Education Foundation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52084–52085

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52132–52133
Organization, functions, and authority delegations:
Assistant Secretary, 52133

Civil Rights Commission
NOTICES
Senior Executive Service:
Performance Review Board; membership, 52085

Coast Guard
PROPOSED RULES
Tank vessels:
Towing vessel safety, 52057–52071
NOTICES
Grants and cooperative agreements; availability, etc.:
National boating safety activities; national nonprofit public service organizations, 52174–52176

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Malaysia, 52086–52087
Pakistan, 52087–52088

Commodity Futures Trading Commission
NOTICES
National Futures Association:
Commodity pool operators and commodity trading advisors; performance of functions, 52088–52090

Defense Department
See Army Department
NOTICES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE managed care program
FY 1998 mental health rate updates, 52090–52091
Grants and cooperative agreements; availability, etc.:
Institutions of higher education ineligible for Federal funds; list, 52091
Meetings:
Science Board task forces, 52091–52092

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52093–52094

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 52016–52029
Virginia, 52029–52032
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 52032–52033
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 52071

Air quality planning purposes; designation of areas:
Texas, 52071–52072
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 52074–52078
NOTICES
Drinking water:
Safe Drinking Water Act—
Drinking water contaminant candidate list, 52194–52219
Meetings:
Drinking water analytical methods, 52097–52098
U.S. Government Representative to North American Commission on Environmental Cooperation—
Governmental Advisory Committee, 52098
National Advisory Committee, 52098
Solid wastes:
Performance based measurement system; implementation, 52098–52100
Water pollution control:
Clean Water Act—
Class II administrative penalty assessments, 52100–52101

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
de Havilland, 52051–52053
Pilatus Aircraft Ltd., 52055–52057
Short Brothers plc, 52053–52055
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 52176–52177
RTCA, Inc., 52177–52178

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
Automatic vehicle monitoring systems, 52036–52044
PROPOSED RULES
Radio services, special:
Private land mobile services—
Automatic vehicle monitoring systems, 52078–52081
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52101–52102
Reporting and recordkeeping requirements, 52102–52105

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
New Century Services, Inc., et al., 52096–52097
Applications, hearings, determinations, etc.:
Anker Power Services, Inc., 52094
Atlanta Gas Light Co., 52094
Colorado Interstate Gas Co., 52094–52095
Koch Gateway Pipeline Co., 52095
Turner Energy, L.L.C., 52096

Federal Financial Institutions Examination Council
NOTICES
Community reinvestment; interagency questions and answers, 52105–52128

Federal Housing Finance Board
RULES
Federal home loan bank system:
Advances to non-qualified thrift lenders; restrictions, 52011–52016

Federal Maritime Commission
NOTICES
Agreements filed, etc., 52128

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 52128–52129
Formations, acquisitions, and mergers, 52129
Permissible nonbanking activities, 52129

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 52129–52131

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
California Department of Forestry and Fire Protection, 52147–52148

Food and Drug Administration
PROPOSED RULES
Animal drugs, feeds, and related products:
Food labeling—
Net quantity of contents; compliance, 52057
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52133–52135
Biological product licenses:
Knickerbocker Biologicals, Inc., 52135–52136
Color additive petitions:
Zauder Bros., Inc., 52136
Food additive petitions:
Chemie Research & Manufacturing Co., Inc.; withdrawn, 52136
Mitsui Petrochemical Industries, Ltd., 52136–52137
Stilbene Whitening Agent Task Force, 52137
Human drugs:
New drug applications—
Chlorhexidine gluconate topical tincture 0.5%; approval refused, 52137–52138
Reports and guidance documents; availability, etc.:
SUPAC-MR, modified release solid oral dosage forms; scale-up and postapproval changes for chemistry, manufacturing, and controls; industry guidance, 52138–52139

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
New Jersey
Conair Corp.; warehousing/distribution and service repair facility, 52085

General Accounting Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Medicare Payment Advisory Commission, 52131

Health and Human Services Department
See Agency for Health Care Policy and Research
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52131

Health Care Financing Administration
RULES
Medicare:
Hospice wage index update methodology
Correction, 52034
Hospital inpatient prospective payment systems and 1998 FY rates;
Correction, 52034

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See Surface Mining Reclamation and Enforcement Office
NOTICES
Privacy Act:
Systems of records, 52145–52147

International Trade Administration
NOTICES
Antidumping:
Stainless steel wire rod from—
Italy, 52085–52086

Justice Department
See Antitrust Division
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52149–52150
Pollution control; consent judgments:
Blue Ridge Electric Membership Corp. et al., 52150
Ray O. Parker & Son, et al., 52150–52151
Seattle Disposal Co. et al., 52151

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
RULES
Land resource management:
Gifts-
Donating land to Interior Department; deletion, 52034–52036
NOTICES
Realty actions; sales, leases, etc.:
Nevada, 52148–52149

Legal Services Corporation
NOTICES
Grant and cooperative agreement awards:
Legal Services Corporation of Alabama, Inc. et al., 52154–52159

Minerals Management Service
RULES
Royalty management:
Lessees and payors; collection of information; payor recordkeeping designation, 52016
NOTICES
Meetings:
Alaska Outer Continental Shelf Offshore Advisory Committee, 52149

National Highway Traffic Safety Administration
RULES
Motor vehicle theft prevention standard:
High theft lines for 1998 model year; listing
Correction, 52044–52045
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52178–52180

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific cod, 52046
Caribbean, Gulf, and South Atlantic fisheries—
Red snapper, 52045–52046
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 52086

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Tri-Valley Watershed, UT, 52084

Nuclear Regulatory Commission
RULES
Reporting and recordkeeping requirements; statutory and technical amendments, 52184–52191
NOTICES
Electronic Bulletin Board System; technical specifications plus; termination, 52165
Meetings; Sunshine Act, 52165
Regulatory guides; issuance, availability, and withdrawal, 52166
Applications, hearings, determinations, etc.:
Consolidated Edison Co. of New York, Inc., 52159–52160
Pathfinder Mines Corp., 52160
Public Service Electric & Gas Co., 52161–52164
Tennessee Valley Authority, 52164–52165

Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52153–52154

Personnel Management Office
RULES
Group life insurance, Federal employees:
Merger of life insurance regulations
Correction, 52181

Presidential Documents
PROCLAMATIONS
Special observances:
Breast Cancer Awareness Month, National (Proc. 7029), 52005–52006
Disability Employment Awareness Month, National (Proc. 7031), 52223–52224

Domestic Violence Awareness Month, National (Proc. 7030), 52007–52008
ADMINISTRATIVE ORDERS
African Crisis Response Initiative; U.S. contributions (Presidential Determination No. 97-34 of September 22, 1997), 52009

Public Health Service
See Agency for Health Care Policy and Research
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 52169–52173
Applications, hearings, determinations, etc.:
Salomon Brothers Inc., 52166–52169

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52173

Substance Abuse and Mental Health Services Administration
NOTICES
Children with serious emotional disturbance (SED); estimation methodology, 52139–52145

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Virginia
Correction, 52181

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Transportation Statistics Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52173–52174
Meetings:
Assistance to Families in Aviation Disasters Task Force, 52174

Transportation Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52180

Separate Parts In This Issue

Part II
Nuclear Regulatory Commission, 52184–52191

Part III
Environmental Protection Agency, 52194–52219

Part IV
The President, 52223–52224

Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

7029 52005
7030 52007

Administrative Orders:

Presidential Determinations:

No. 97–34 of September 22, 1997 52009

5 CFR

870 52181

7 CFR

905 52011

Proposed Rules:

966 52047
980 52047

10 CFR

Ch. 1 52184

12 CFR

935 52011

14 CFR

Proposed Rules:

39 (3 documents) 52051, 52053, 52055

21 CFR

Proposed Rules:

101 52184
161 52184
501 52184

30 CFR

210 52016
218 52016
946 52181

33 CFR

Proposed Rules:

155 52057

40 CFR

52 (2 documents) 52016, 52029
300 52032
410 52034
412 52034

Proposed Rules:

52 52071
81 52071
300 (2 documents) 52072, 52074

42 CFR

418 52034

43 CFR

2090 52034
2110 52034
2130 52034

46 CFR

Proposed Rules:

25 52057
27 52057
32 52057

47 CFR

90 52036

Proposed Rules:

90 52078

48 CFR

Proposed Rules:

426 52081
452 52081

49 CFR

541 52044

50 CFR

622 52045
679 52046

Federal Register
Vol. 62, No. 193
Monday, October 6, 1997

Presidential Documents

Title 3—

The President

Proclamation 7029 of October 1, 1997

National Breast Cancer Awareness Month, 1997

By the President of the United States of America

A Proclamation

Every year we dedicate the month of October to focus on breast cancer and to reaffirm our national commitment to eradicate it. But for thousands of American women and their families and friends, breast cancer is a devastating reality that casts a shadow over their lives every day. In this decade alone, nearly half a million women will die of breast cancer, and more than 1.5 million new cases of the disease will be diagnosed.

Our greatest weapon in the crusade against breast cancer is knowledge; knowledge of its causes and knowledge about prevention and treatment. My Administration has established a National Action Plan on Breast Cancer to unite organizations across the country in a collaborative effort to find out more about the disease and how best to respond to it.

The Department of Health and Human Services is taking the lead in this national effort, through education and research at the National Cancer Institute and the Agency for Health Care Policy and Research; through nationwide screening and detection programs at the Centers for Disease Control and Prevention; through certification of mammography facilities by the Food and Drug Administration; through prevention services and treatment by health benefit programs such as Medicare and Medicaid; and through increased access to clinical treatment trials for cancer patients who are beneficiaries in Department of Defense and Department of Veterans Affairs programs. The Department of Defense has also initiated a breast cancer research program to reduce the incidence of breast cancer, increase survival rates, and improve the quality of life for women diagnosed with the disease.

We can be proud of the progress we have made. One of the most promising recent research achievements is our increased understanding of the role of genetics in the cancer process. We have learned that cancer is a disease of altered genes and altered gene function, and research into the relationship between breast cancer and genes is helping us to better understand the basis of the disease. However, we must ensure that progress in genetic information is used only to advance and to improve the Nation's health—not as a basis for discrimination. That is why this year I have urged the Congress to pass a law that prevents health insurance plans from discriminating against individuals on the basis of genetic information.

High-quality mammography has also proved to be a powerfully effective tool in the effort to detect breast cancer in its earliest, most treatable stage. The National Cancer Institute, the American Cancer Society, and many other professional organizations agree that women in their forties benefit from mammography screening, and earlier this year I was pleased to sign legislation that will help Medicare beneficiaries with cost-sharing for annual screening mammograms. The First Lady has also launched an annual campaign to encourage older women to use the Medicare mammography screening benefits.

We have real cause for celebration during National Breast Cancer Awareness Month this year: recent data show that the breast cancer rate for American women is declining. Heartened by this knowledge, let us reaffirm our commitment to the crusade against breast cancer. Let us ensure that all women know about the dangers of breast cancer, are informed about the lifesaving potential of early detection, receive recommended screening services, and have access to health care services and information. Let us continue to move research forward to improve treatments and find a cure for this disease. Working together, we can look forward to the day when our mothers, wives, daughters, sisters, and friends can live long, healthy lives, free from the specter of breast cancer.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 1997 as National Breast Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, volunteers, and all the people of the United States to reflect on the progress we have made in advancing our knowledge about breast cancer and to publicly reaffirm our national commitment to controlling and curing this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 97–26557
Filed 10–3–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7030 of October 1, 1997

National Domestic Violence Awareness Month, 1997

By the President of the United States of America

A Proclamation

In observing the month of October as National Domestic Violence Awareness Month, the American people reaffirm our commitment to prevent and eliminate violence against women. Domestic violence is not simply a private family matter—it is a matter affecting the entire community.

Too many of America's homes have become places where women, children, and seniors suffer physical abuse and emotional trauma. Domestic violence is a leading cause of injury to women in our country, and it occurs among all racial, ethnic, religious, and economic groups. It is a particularly devastating form of abuse because it wears a familiar face: the face of a spouse, parent, or partner. This violence too often extends beyond the home and into the workplace.

My Administration is committed to ending this violence and to protecting women in all aspects of their lives, whether in the home, in the community, or in the workplace. In 1994, I fought for passage of the Violence Against Women Act, which combined tough new penalties for offenders with funding for much-needed shelters, counseling services, public education, and research to help the victims of violence. The Federal penalties and prevention efforts included in this legislation have improved our ability to deter crimes of domestic violence.

Early in my Administration, as outlined in the landmark Crime Bill, I established the Office of Violence Against Women in the Department of Justice to lead our comprehensive national effort to combine tough Federal laws with assistance to States and localities to fight domestic violence and other crimes against women. In February 1996, the Department of Health and Human Services launched the 24-hour-a-day, toll-free National Domestic Violence Hotline, 1–800–797–SAFE, so that those in trouble can find out how to get emergency help, find shelter, or report abuse. To date, the hotline has received more than 118,000 calls from all 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. We also initiated an Advisory Council on Violence Against Women to bring together experts in the field, including representatives from law enforcement, business, health and human services, and advocates, to focus national attention on successful, multifaceted solutions to combating violence and sexual assault.

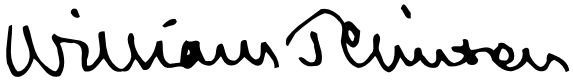
We cannot simply rest on past efforts. My Administration is continuing its work to prevent domestic violence and to care for survivors in their communities and workplaces. We are committed to strengthening the health care system's ability to screen, treat, prevent, and eliminate family violence by supporting training of health care providers and projects to assist those in the substance abuse field to address domestic violence. We are working to improve collaboration between human services providers, advocates, and the criminal justice community to enhance responses to domestic violence. The Department of Health and Human Services is sponsoring projects and programs to coordinate community responses to domestic violence, to focus on youth and children who witness violence, and to link child protection services with community providers who work with abused women and their children.

Finally, as a further enhancement of my 1995 directive to all Federal departments and agencies to conduct employee awareness campaigns on domestic violence, the Office of Personnel Management is producing a guide to help agency representatives develop programs to prevent and respond to all types of workplace violence against Federal employees, including domestic violence. This guide, drafted by experts in the areas of mental health, investigations, law enforcement, threat assessment, and employee relations, will serve as a useful tool in providing step-by-step information to identify, prevent, and respond to violence so that we can protect those in the Federal work force.

I encourage the private sector to expand its role in preventing and eliminating domestic violence. We must also strengthen coordinated efforts between the public and private sectors to combat domestic violence in the home, the community, and the workplace. These efforts must ensure that no survivor of domestic violence lives in isolation and that the families of victims also have our support. No child should have to live in an abusive home. No woman should live in fear in her home, on the streets, or on the job. Only through a national commitment to this effort can we stop domestic violence and ensure that its survivors are safe.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 1997 as National Domestic Violence Awareness Month. I call upon government officials, law enforcement agencies, health professionals, educators, community leaders, and the American people to join together to end the domestic violence that threatens so many of our people.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–26558
Filed 10–3–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 97–34 of September 22, 1997

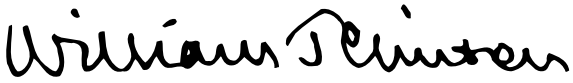
Transfer of $4 Million in FY 1997 Economic Support Funds to the Peacekeeping Operations Account To Support the African Crisis Response Initiative

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 610(a) of the Foreign Assistance Act of 1961, as amended (the ''Act''), I hereby determine that it is necessary for the purposes of the Act that $4 million of funds made available under Chapter 4 of Part II of the Act for fiscal year 1997 be transferred to, and consolidated with, funds made available under Chapter 6 of Part II of the Act.

I hereby authorize the use in fiscal year 1997 of the aforesaid $4 million in funds made available under Chapter 4 of Part II of the Act to provide peacekeeping assistance to support countries participating in the African Crisis Response Initiative.

You are hereby authorized and directed to report this determination immediately to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 22, 1997.

[FR Doc. 97–26568
Filed 10–3–97; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 62, No. 193
Monday, October 6, 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.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV96–905–2]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Procedures to Limit the Volume of Small Florida Red Seedless Grapefruit; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting Amendments.

SUMMARY: This document contains two corrections to final regulations (FV–96–905–2), which was published in the **Federal Register** on Tuesday, December 31, 1996, (61 FR 69011). The final regulations established procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, telephone: 202–720–2491.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections established procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season. When used in the regulation of red seedless grapefruit, the regulation period is defined as the 11 weeks beginning the third Monday in September and ending the first Sunday in December of each season. The final rule's intent was to effectuate the regulation period for an 11 week period during seasons of regulation. However, in some years, the time specified in the definition of regulation period extends beyond 11 weeks. For instance, in the 1997–98 season, the third Monday in September is September 15. The first Sunday in December falls on December 7. This time period is 12 weeks. To extend the regulation period beyond the 11 week period is contrary to what the rule intended. The final rule overlooked the possibility of this situation occurring. Therefore, this action modifies the language to correctly define the regulation period as the rule intended. The regulation will state that the regulation period will begin on the third Monday in September and continue for 11 weeks. In addition, the final rule established that the percentage on which to base the amount of small red seedless grapefruit that could be shipped during a particular week or weeks during the regulatory period could not be less than 25 percent of the calculated shipment base. This procedure was designed not to eliminate shipments of small red seedless grapefruit but to keep them from saturating the market. The final rule stated that such set percentage could vary from week to week, but could not be less than 25 percent.

Although the final rule set forth these procedures in the supplementary information, the regulatory text of the rule did not specify this information. This correction adds that information to the regulatory text to clarify the intention of the final rule.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

Accordingly, 7 CFR part 905 is corrected by making the following correcting amendments:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 905.153 [Corrected]

2. § 905.153, is amended by revising the last sentence in paragraph (a) and adding a sentence at the end of paragraph (b) to read as follows:

§ 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) * * * The term regulation period means the 11 week period beginning the third Monday in September of the current season.

(b) * * * Such set percentage may vary from week to week but shall not be less than 25 percent in any week.

* * * * *

Dated: September 30, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–26362 Filed 10–3–97; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 935

[No. 97–62]

RIN 3069–AA60

Restrictions on Advances to Non-Qualified Thrift Lenders

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulations on advances to members that are not qualified thrift lenders. The amendments revise an interim rule and implement the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), which broadened the types of assets that may be used to satisfy the qualified thrift lender (QTL) requirement. The final rule includes a safe harbor for ''loans to small businesses'' (*i.e.*, commercial loans of $1,000,000 or less or farm loans of $500,000 or less) and allows persons other than the chief executive officer (CEO) to certify the accuracy of certain QTL information. The final rule also changes the dates by which the Federal Home Loan Banks (Banks) must determine the QTL status of their members, which conforms the annual QTL determination to the date on which commercial loan data become available.

EFFECTIVE DATE: The final rule will become effective October 3, 1997, except for the amendments to 12 CFR

935.13(a)(3)(i), which take effect on December 30, 1997.

FOR FURTHER INFORMATION CONTACT: Gregory V. Goggans, Senior Financial Analyst, Financial Analysis and Reporting Division, Office of Policy, 202/408–2878, or Neil R. Crowley, Associate General Counsel, Office of General Counsel, 202/408–2990, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On February 27, 1997, the Finance Board published, and requested public comments on, an interim rule that amended the regulations relating to the QTL status of non-savings association members. 62 FR 8868 (Feb. 27, 1997). The interim rule required the Banks to use financial information from the call reports of such members when determining their QTL status, but also allowed the use of other information if certified by the member's CEO. The interim rule reflected changes made to the QTL test by EGRPRA, as well as by an interim rule adopted by the Office of Thrift Supervision (OTS), which administers the QTL statute. The Finance Board indicated that it would monitor the OTS rulemaking proceeding and expected to incorporate any material changes made by OTS into the advances regulation. OTS later adopted a final rule that broadened the definition of the term ''loans to small businesses'' as used in the QTL provisions. 62 FR 15819 (April 3, 1997). The Finance Board is now incorporating the substance of the OTS definition of ''loans to small businesses'' and is shifting forward by six months the period within which the Banks must determine the QTL status of their non-savings association members. The final rule also allows the CEO to delegate to the chief financial officer, chief operating officer, or controller of such members the authority to certify the accuracy of any QTL financial data that do not appear in the member's call report.

In 1987, Congress established the QTL test, which required savings associations to maintain 60 percent of their assets in instruments related to domestic residential real estate or manufactured housing. Competitive Equality Banking Act of 1987, Pub. L. 100–86, sec. 104(c), 101 Stat. 571–573 (August 10, 1987). The QTL test now requires savings associations to maintain 65 percent or more of their assets in what are characterized as ''qualified thrift investments.'' 12 U.S.C. 1467a(m). The QTL test does not apply directly to commercial banks or credit unions, but, in 1989, when Congress authorized commercial banks and credit unions to become members of the Federal Home Loan Bank System (System), it also limited their access to advances if they do not comply with the QTL test. Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, sec. 704(a), 103 Stat. 415 (August 9, 1989), *codified at* 12 U.S.C. 1424(a). Specifically, FIRREA required such members that do not meet the QTL test to purchase greater amounts of Bank stock to support their advances, and mandated that they could obtain advances only for housing finance purposes. FIRREA also gave QTL members a priority over non-QTL members on access to advances, and imposed a 30 percent System-wide limit on the aggregate amount of advances that could be outstanding to non-QTL members. 12 U.S.C. 1430(e).

The Banks are required to determine the QTL status of each non-savings association member at least annually, between January 1 and April 15, based on financial information as of December 31 of the prior calendar year. To do so, they must calculate the ''actual thrift investment percentage'' (ATIP) for each such member, which is obtained by dividing the institution's ''qualified thrift investments'' by its ''portfolio assets.'' 12 CFR 935.13(a)(3). In EGRPRA, Pub. L. 104–208, 110 Stat. 3009 (Sept. 30, 1996), Congress amended the QTL test by broadening the universe of assets that are considered to be ''qualified thrift investments.'' Pursuant to those amendments, loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts, as well as an increased amount of consumer loans, now may be included when determining the amount of an institution's ''qualified thrift investments.'' Congress directed OTS to define the term ''small business'' for purposes of the amended QTL test, which OTS has done. 61 FR 60179 (Nov. 27, 1996) (interim rule); 62 FR 15819 (Apr. 3, 1997) (final rule), *codified at* 12 CFR 560.3.

As part of its interim rule, OTS defined ''small business loans'' narrowly, limiting the term to any loan made to a small business concern or entity as defined by the Small Business Act, 15 U.S.C. 632(a), and the implementing regulations of the Small Business Administration (SBA). The practical effect of relying solely on the SBA regulations was to exclude from the QTL calculation any business loans for which the lender did not possess the documentation required to demonstrate that the loan in fact would satisfy the rather detailed requirements of the SBA regulations. Because of the complexity of those SBA provisions, and in response to public comments, the OTS final rule revised the definition to add a ''safe harbor'' provision for ''small business loans'' and ''loans to small businesses.'' Under the ''safe harbor'' provision of the OTS final rule, a commercial loan also is deemed to be a loan to small business for QTL purposes if the loan meets the criteria for ''loans to small businesses and small farms'' set out in the instructions for the OTS Thrift Financial Report. 62 FR 15819, 15825 (Apr. 3, 1997), *codified at* 12 CFR 560.3. Under those criteria, a ''loan to small business'' includes any business loan (or any series of loans to the same borrower) in the original amount of $1,000,000 or less, or any farm loan (or series of loans to the same borrower) in the original amount of $500,000 or less.

The Finance Board issued its interim rule based on the provisions of EGRPRA, as implemented by the OTS interim rule. Thus, the Finance Board's interim rule directed the Banks to use the financial information from their members' December 31 call reports as the primary source for QTL determinations. 12 CFR 935.13(a)(3). The interim rule recognized that certain items, such as business loans that meet the SBA definition, are not separately identified on the call report. Accordingly, the interim rule also included a certification procedure under which a member could include in its QTL calculation items that do not appear on the call report, provided the accuracy of the information was certified by the CEO of the member. The Finance Board acknowledged the practical difficulties associated with using the SBA definition of small business loan and solicited comments on all aspects of the interim rule.

II. Comments

The Finance Board received twelve comments on the interim rule. All of the commenters who addressed the issue of certification endorsed the concept as a practical method of providing information necessary for the QTL calculation that does not appear in the call report. Most of those also suggested that officers other than the CEO be allowed to execute the certification. One commenter suggested that the involvement of the CEO was necessary to ensure the accuracy of the information and should not be delegated to any other officer. Of those addressing the issue of loans to small businesses, all commenters favored the use of a proxy (such as the call report data on

commercial loans to small businesses) in addition to, or in lieu of, the SBA definition of small business loans.

III. Description of the Final Rule

One commenter questioned whether the interim rule was intended to allow the Banks to rely on certifications from their members as an alternative, rather than as a supplement, to the information obtained from the call report. The intention of the Finance Board is that the members' call reports, as that term is defined, are to be the principal source of the financial information used to calculate the QTL status of the members. The Finance Board recognizes that certain items that are included as ''qualified thrift investments'' or ''portfolio assets'' under the QTL test are not separately identified on the call report. It is with respect to those items that the Banks may accept a certification from the member.

The Finance Board also recognizes that some Banks may, as a matter of practice, first obtain uncertified information from their members regarding their QTL assets and subsequently confirm the accuracy of that information against the members' call report. The final rule would not affect that practice, provided that the Bank uses the available call report data when making the final QTL calculation. Any information that is not derived from the call report may be used in the QTL calculation only if a member provides the appropriate certification. The intent in creating the certification provision is to provide a means by which non-savings association members may include within the QTL calculation any eligible assets that are not available from the call report, at the option of the member; such certifications are not mandated.

The Finance Board believes that the commenters' contention that the CEO need not be the only officer authorized to certify the accuracy of a member's non-call report financial data presents a legitimate issue. Accordingly, the final rule allows the CEO to delegate his or her authority to sign the certification to the chief financial officer, chief operating officer, or controller of a non-savings association member. As noted in the interim rule, in requiring a certification the Finance Board has attempted to strike a balance between its need to ensure that the Banks base their QTL calculations on accurate financial information and the desire of the Banks to manage their affairs with their members.

The Finance Board does not believe that it would be prudent to allow more junior officers to execute the QTL certifications because the Banks, and the Finance Board, have no independent means of verifying that information. The Finance Board does not examine the members of the Banks; such examinations are conducted by the principal federal or state regulators. With respect to the non-savings association members, the principal regulators do not examine their subjects for compliance with the QTL test. Without an independent examination of QTL status, the Finance Board needs some other means of ensuring that the information used by the Banks is accurate. By requiring the formality of a written certification from a senior officer, the Finance Board believes that the Banks will have sufficient assurance that the matter has received careful consideration by the member. Allowing the CEO to delegate signature authority to additional senior officers should address the commenters' concerns that CEO not be burdened with this task, while maintaining accountability at the CEO level. As a point of clarification, the certification provision does not require, as some commenters apparently believe, that the senior officers must personally determine the amount and composition of QTL assets that do not appear separately on the call report. The certification provisions require only that the CEO or, if the CEO delegates that authority, one of the senior officers specified by the rule, sign and date the certification. As with other corporate matters, it is assumed that senior management will assign to the appropriate employees the task of compiling the information.

As was noted in the interim rule, the use of the SBA definition of small business loans for QTL purposes was problematic because it would exclude from the QTL calculation of ''qualified thrift investments'' any small business loans that did not meet the detailed requirements for SBA loans. Under the SBA regulations, a ''small business'' is an entity the gross receipts of which (or the number of its employees) fall below certain thresholds specified by SBA, which may vary depending on the type of business in which the entity is engaged. Unless a member had made a loan in connection with a SBA program, it would be unlikely to have obtained such information for its loan files. OTS addressed this issue in its final rule by including a ''safe harbor'' provision, which defines ''small business loans'' and ''loans to small businesses'' to include any other business loan in the original amount of $1,000,000 or less and any farm loan in the original amount of $500,000 or less.

The Finance Board endorses the concept of a safe harbor for loans to small businesses and small farms and is adopting the same approach for its advances regulation. The Finance Board, however, is defining the term ''loans to small businesses'' expressly, rather than by incorporating by reference the OTS regulations. The OTS regulation defines ''loans to small business'' by reference to the term ''loans to small businesses and small farms,'' which, in turn, is located within the definitions portion of the instructions for the OTS ''Thrift Financial Report.'' Because the non-savings association members of the Banks do not submit the Thrift Financial Report, and may not be familiar with its instructions, the Finance Board believes that a bare cross-reference to the OTS regulation or to the Thrift Financial Report instructions would not provide the specificity that the Banks and their non-savings association members require. Accordingly, the final rule provides that for QTL purposes the term ''loans to small businesses'' shall include any business or commercial loans (including a series of loans to the same borrower) in an original amount of $1,000,000 or less, and any farm loans (including a series of loans to the same borrower) of $500,000 or less, as well as any loan to an entity that satisfies the SBA definition of a ''small business.''

One reason why OTS adopted, and why the commenters suggested that the Finance Board adopt, the $1,000,000 and $500,000 thresholds for loans to small businesses and small farms is that the information is readily available from existing sources. The federal banking agencies require the depository institutions that they supervise to submit periodic information about the composition of their loan portfolios as part of their quarterly call reports. The call report that is to be filed as of June 30 includes a schedule for loans to small businesses and small farms, on which the institutions must report the number and amount currently outstanding as of June 30 of business loans with original amounts of $1,000,000 or less and farm loans of $500,000 or less. Using that information to determine the amount of the ''loans to small businesses'' for purposes of the QTL calculation, as OTS has done, also is consistent with the provisions of the Finance Board's interim rule that require the Banks to use the call report as the principal source of financial information for the QTL test. Moreover, the use of existing call report data would not entail any additional

recordkeeping by the Banks or their non-savings association members.

The one complicating factor associated with using the commercial loan schedule to the call reports as the source for information on loans to small businesses is that the depository institutions submit the detailed data on their commercial loan portfolios only with their June 30 call report. That arrangement conflicts with the existing time period within which the Banks conduct their annual QTL determinations, which must be done between January 1 and April 15 and must be based on information as of December 31 of the prior calendar year. Because the category of loans to small businesses is apt to be a significant portion of the ''qualified thrift investments'' of the non-savings association members, most of which are commercial banks, the Finance Board believes that it would be a better practice for the annual QTL determination to be performed soon after that information on loans to small businesses becomes available. Accordingly, the final rule shifts the QTL calculation period forward by six months. The Finance Board informally solicited the views of the Banks on the use of the June 30 call reports, and all but two of the Banks favored using that source. Because the Banks may obtain the call report data from commercial providers, some of which may not become available in final form until early October, the Finance Board has extended the end of the period to October 31, which should give all Banks ample time to conduct their QTL calculations.

The Finance Board considered retaining the current January-to-April QTL period and allowing the Banks to use the December 31 data for all items but for loans to small businesses, for which the source would be the prior June 30 call report. Using financial data derived from reports that are six months apart, however, could lead to inaccurate QTL calculations and would prevent the Finance Board, and the Banks, from having an accurate QTL determination as of a particular date. The Finance Board believes that it is important for all of the Banks to conduct their required annual QTL determinations as of the same date so that there be some uniformity within the System and the Finance Board will have accurate System-wide QTL data should the 30 percent cap on the aggregate amount of advances to non-QTL members become an issue.

The use of the June 30 call report data should enable a substantially greater number of non-savings association members to increase their ATIP and come into compliance with the QTL requirement. Because the final rule would ease compliance with the QTL test, the Finance Board has decided to make the portion of the rule allowing the use of the June 30 call report data effective on publication in the **Federal Register**. In that way the Banks will be able immediately to recalculate the QTL status of its non-savings association members based on the June 30, 1997 commercial loan data. Under the existing Finance Board regulations regarding the annual QTL determination, which would remain in effect until year-end, the Banks may calculate the QTL status of any non-savings association member at any time other than the mandatory January-to-April annual calculation period, provided that when doing so they use the data from the most recent call report. 12 CFR 935.13(a)(3)(i).

Because the Banks have completed the required 1997 annual QTL determinations earlier this year, the Finance Board has decided not to impose the mandatory July-to-October annual QTL calculation on the Banks for 1997. Accordingly, that provision of the final rule will not take effect until December 30, 1997, which means that the annual mandatory QTL calculation for 1998 will occur between July and October 1998, and will be based on call report data as of June 30, 1998. The combination of the different effective dates is intended to allow the Banks the flexibility to determine when to apply the revised QTL provisions to their members. Thus, the Banks may take advantage of the new safe harbor provision for loans to small business immediately, should they choose to do so, but the final rule does not mandate that they do so again for this year. If a Bank has determined earlier this year that a non-savings association member met the QTL test, it need not recalculate that member's QTL status until the 1998 annual calculation.

As noted above, the Banks have the option of recalculating the QTL status of their non-savings association at any time, should they choose to do so. That provision is in the current rule and is retained in this final rule, with one revision. When making QTL calculations at any time other than the required annual calculation, the Banks still must use the most recent call report available for the member, except for information that is not included in any call report and is certified by a senior officer. For purposes of determining a member's outstanding commercial loans of $1,000,000 or less or its farm loans of $500,000 or less, the ''most recent call report'' will always be the prior June 30 call report. Thus, it is permissible for a Bank that is making a QTL determination at some time other than during the annual QTL determination, to use data from two separate call reports. That would be the case whether the QTL determination is being done for an existing member, such as in response to a change in the composition of the member's assets, or for a new member, for which the QTL test is being done for the first time. For example, if a commercial bank were to become a member of the System in December, the Bank could use the financial information from the September 30 call report for all items except for commercial loans of $1 million or less and farm loans of $500,000 or less. The information about those commercial and farm loans would be obtained from the June 30 call report. Any additional information that is required for the QTL test, but that is not on either of the call reports, could be submitted by certification, but only if the member were to choose to do so.

IV. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, do not apply. The final rule implements statutory changes to the QTL test and conforms the Finance Board regulations to EGRPRA. Moreover, the final rule would not impose any additional regulatory requirements on small entities of the type contemplated by the RFA, and reduces the regulatory burdens on all non-savings association members.

V. Paperwork Reduction Act

As part of the interim final rulemaking, the Finance Board published a request for comments concerning the collection of information contained in § 935.13 of the interim final rule. *See* 62 FR 8870 (Feb. 27, 1997). The Finance Board did not receive any comments. The Finance Board submitted an analysis of the information collection to the Office of Management and Budget (OMB) for review in accordance with section 2507 of the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3507. OMB assigned a control number, 3069–0057, and approved the information collection without conditions with an expiration date of April 30, 2000. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by OMB. *See id.*

3512(a). Although the final rule does not substantively or materially modify the approved information collection, it reduces the reporting and recordkeeping burden imposed on many respondents by permitting use of ''loans to small businesses,'' as reported on June 30 call reports, as a proxy for small business loans as defined by the SBA. The title, description of need and use, and a description of the information collection requirements in the final rule are discussed in parts I through III of the **SUPPLEMENTARY INFORMATION.**

The following table discloses the estimated annual reporting and recordkeeping burden approved by OMB:

The estimated annual reporting and recordkeeping hour burden is:

a. Number of respondents—4272
b. Total annual responses—4272
Percentage of these responses collected electronically—0%
c. Total annual hours requested—3930
d. Current OMB inventory—0
e. Difference—3930

The estimated annual reporting and recordkeeping cost burden is:

a. Total annualized capital/startup costs—0
b. Total annual costs (O&M)—0
c. Total annualized cost requested—$126,660
d. Current OMB inventory—0
e. Difference—$126,660

Any comments concerning the information collection should be submitted to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006, and the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Federal Housing Finance Board, Washington, D.C. 20503.

VI. Other Procedural Requirements

The Finance Board has determined that the notice and comment procedure ordinarily required by the Administrative Procedure Act (APA) is not required in this instance. The APA authorizes agencies to waive the notice and comment procedures when the agency ''for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). The Finance Board made such a determination with respect to the interim rule, finding that a delay would deny the Banks the opportunity to incorporate the newly expanded QTL provisions into the required annual QTL determinations of their members. The final rule does not differ substantially from the interim rule, except by conforming the definition of loans to small businesses to the OTS rule and by otherwise incorporating revisions suggested by the public commenters.

The Finance Board also has determined that the 30-day delay of the effectiveness provisions of the APA may be waived in these circumstances. Section 553(d) of the APA permits waiver of the 30-day delayed effective date requirement, among other things, where a substantive rule relieves a restriction, or otherwise for good cause found by the agency. The Finance Board finds that there is good cause for making the final rule, with the exception of the amendments to 12 CFR 935.13(a)(3)(i), effective on October 3, 1997 because it will allow the Banks to take advantage of the June 30 call report data as soon as it becomes available, thereby relieving a regulatory burden on members that will come into compliance with the QTL test as a result of these amendments. The amendments to 12 CFR 935.13(a)(3)(i) will take effect on December 30, 1997.

List of Subjects in 12 CFR Part 935

Credit, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends title 12, chapter IX, part 935 of the Code of Federal Regulations, to read as follows:

PART 935—ADVANCES

1. The authority citation for part 935 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1), 1426, 1429, 1430, 1430b, and 1431.

2. Section 935.13 is amended by revising paragraph (a)(3) and by adding an OMB parenthetical sentence following the section to read as follows:

§ 935.13 Restrictions on advances to members that are not qualified thrift lenders.

(a) *Restrictions on advances to non-QTL members.* * * *

* * * * *

(3)(i) A Bank shall calculate each non-savings association member's ATIP at least annually, between July 1 and October 31, based upon financial data as of June 30 of that calendar year. The Bank may, in its discretion, calculate a member's ATIP more frequently than annually.

(ii) In determining a non-savings association member's annual ATIP, a Bank shall use the financial information from the member's June 30 call report as the primary source of information. A Bank making ATIP determinations other than as part of the annual QTL determination (whether for existing members or new members) shall use the member's most recent call report, except that in determining the amount of a member's loans to small businesses a Bank may use the information for such loans on the member's most recent June 30 call report. If any information necessary for determining the member's ATIP is not separately identified on a member's call report, the Bank may rely on a written certification provided by the member that attests to the dollar amount and composition of those other assets that meet the definitions of ''qualified thrift investments'' or ''portfolio assets'' as of the date of the call report. Notwithstanding the preceding two sentences, a Bank may, at its option, accept from a non-savings association member preliminary information as to the dollar amount and composition of assets that meet the definitions of ''qualified thrift investments'' or ''portfolio assets,'' provided that the Bank thereafter verifies against the most recent call report the accuracy of any items that also are available from the call report. In any case in which a Bank relies on a certification from a non-savings association member as to its level of ''qualified thrift investments'' or ''portfolio assets,'' the certification must recite that the information is accurate as of the date specified, must be in writing and be signed and dated by the chief executive officer of the member. The chief executive officer may delegate authority to sign and date the certification to the chief financial officer, chief operating officer, or controller of the member.

(iii) For purposes of this section, the term ''call report'' shall include:

(A) With respect to a commercial bank, the annual or quarterly ''Report of Condition and Income'' submitted to its appropriate Federal banking agency;

(B) With respect to a credit union, the quarterly or semi-annual call report submitted to the National Credit Union Administration; and

(C) With respect to an insurance company, its National Association of Insurance Commissioners annual regulatory filing.

(iv) For purposes of this section, the amount of a member's ''loans to small businesses'' shall include any commercial or business loan (or series of loans to the same borrower) in the original amount of $1 million or less, any farm loan (or series of loans to the same borrower) in the original amount of $500,000 or less, and any loan to a ''small business'' as that term is defined by section 3(a) of the Small Business Act, 15 U.S.C. 632(a), and implemented by the Small Business Administration at

13 CFR part 121, or any successor provisions.

* * * * *

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0057 with an expiration date of April 30, 2000)

Dated: September 10, 1997.

By the Board of Directors of the Federal Housing Finance Board

Bruce A. Morrison,

Chairperson.

[FR Doc. 97–26290 Filed 10–3–97; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210 and 218

RIN 1010–AC38

Designation of Payor Recordkeeping

AGENCY: Minerals Management Service, Interior.

ACTION: Interim final rulemaking; notice of extension of public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is extending the public comment period on an Interim final rulemaking and information collection, which was published in the **Federal Register** on August 5, 1997, (62 FR 42062). In response to requests for additional time, MMS will extend the comment period from October 6, 1997, to November 6, 1997.

DATES: Comments must be submitted on or before November 6, 1997.

ADDRESSES: Comments should be sent to: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; courier delivery to Building 85, Denver Federal Center, Denver, Colorado 80225; or e-Mail David__Guzy.mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, telephone (303) 231–3432, Fax (303) 231–3385, e-Mail David__Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: MMS received requests to extend the comment period in order to provide commenters with adequate time to provide detailed comments to MMS. After this comment period closes, MMS will submit an information collection request to the Office of Management and Budget (OMB) to extend the authority to use the information collection in this Interim Final Rule, titled Designation of Royalty Payment Responsibility (OMB Control Number 1010–0107, expiration date January 31, 1998). We will publish a **Federal Register** notice and respond to any comments received and we will again invite comment on our request to OMB to extend this information collection.

Dated: September 29, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–26355 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–MR–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5901–7]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NO_X). The intended effect of this action is to approve regulatory provisions and source specific orders which require major stationary sources of NO_X to reduce their emissions statewide in accordance with requirements of the Clean Air Act.

DATES: This action is effective December 5, 1997, unless adverse or critical comments are received by November 5, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; as well as the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) requires that States develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of nitrogen oxides (NO_X) in areas which have been classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the CAA.

Major sources in moderate areas are subject to section 182(b)(2), which requires States to adopt RACT for all major sources of VOC. This requirement also applies to all major sources in areas with higher classifications. Additionally, section 182(f) of the CAA states that ''The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen.'' For serious nonattainment areas, a major source is defined by section 182(c) as a source that has the potential to emit 50 tons per year. For severe nonattainment areas, a major source is defined by section 182(d) as a source that has the potential to emit 25 tons per year. The entire State of Connecticut is classified as nonattainment for ozone, with the Connecticut portion of the New York-New Jersey-Long Island CMSA being classified as severe, and with the rest of the State being classified as serious.

These CAA NO_X requirements are further described by EPA in a notice entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' published November 25, 1992 (57 FR 55620). The November 25, 1992 notice, also known as the ''NO_X Supplement,'' should be

referred to for more detailed information on NO_X requirements. Additional EPA guidance memoranda, such as those included in the ''NO_X Policy Document for the Clean Air Act of 1990,'' (EPA–452/R–96–005, March 1996), should also be referred to for more information on NO_X requirements. Similarly, the ''Economic Incentive Program Rules,'' or EIP, (67 FR 16690, April 7, 1997) should be referred to for information on EPA's policy concerning the use of emissions trading by sources subject to NO_X RACT.

On May 20, 1997, the Connecticut Department of Environmental Protection (DEP) submitted revisions to its SIP. The revisions included a revised section 22a–174–22 of the Regulations of Connecticut State Agencies, ''Control of Nitrogen Oxides Emissions.'' The Connecticut NO_X RACT regulation contains a combination of NO_X emission limitations, performance standards, and compliance options, including provisions for sources to meet emission limitations through emissions trading. Subsequently, Connecticut submitted a number of case-specific SIP revisions related to the emissions trading provisions of section 22a–174–22. These regulations and case-specific SIP revisions were submitted in response to the CAA requirements that Connecticut require RACT for all major sources of NO_X.

II. State Submittal

Connecticut's regulation 22a–174–22, ''Control of Nitrogen Oxides Emissions,'' was first incorporated into the SIP on May 31, 1972 (37 FR 23085). On February 1, 1994, Connecticut sent a revised draft of the rule to EPA. The regulations were filed with the Secretary of State on May 20, 1994, and became effective on that date. Connecticut submitted the revised section 22a–174–22 as a formal SIP submittal to EPA on May 24, 1994. After reviewing the regulation for completeness, EPA sent Connecticut a June 23, 1994 letter stating that Connecticut's rule had been found to be administratively and technically complete. Subsequently, on September 19, 1996, Connecticut proposed another revision to section 22a–174–22. Connecticut held a public hearing on that revision on October 30, 1996 and EPA submitted written comments to the public record on October 23, 1996. The revised section 22a–174–22 was adopted by Connecticut on January 23, 1997. On May 20, 1997, Connecticut submitted the regulations to EPA as a request for a revision to the SIP. On May 28, 1997, EPA sent a letter to Connecticut deeming the package administratively and technically complete.

In addition to the submittal of section 22a–174–22, since May 1995, Connecticut has submitted 23 case-specific SIP revisions for sources involved in the trading of NO_X credits as allowed under subsection 22a–174–22(j). Of the 23 case-specific packages, four involve the generation of NO_X credits and 19 involve the use of NO_X credits in order to meet NO_X emission reduction requirements of section 22a–174–22.

III. Description of Submittal

The following description concerns the changes being approved in this action. For a more detailed discussion of Connecticut's submittal and EPA's proposed action, the reader should refer to the Technical Support Document (TSD) and attachments which were developed as part of this action. Copies of the TSD and attachments are found at the previously mentioned addresses.

A. Section 22a–174–22

Connecticut's regulation, section 22a–174–22, ''Control of Nitrogen Oxides Emissions,'' is divided into thirteen sections. Subsection (a) defines terms used in the rule. Subsections (b) and (c) cover applicability and exemptions. Applicability is determined unit-by-unit, based on unit type. An emissions unit is subject to the rule if it exceeds a minimum capacity rating and is located at a major source. Additionally, any fuel-burning equipment, whether located at a major stationary source or not, which has daily potential emissions of NO_X in excess of certain thresholds during the ozone season, is also subject to the rule. The regulations exempt sources where actual emissions have not exceeded the major source threshold since 1990 and emergency electricity generating engines. Subsection (c) states that this subsection does not apply to mobile sources.

Subsections (d) and (e) establish the emission limits to apply before and after May 31, 1995. Subsection (d) established the emission limits for sources prior to May 31, 1995. Subsection (d) also lists compliance options available to sources after May 31, 1995. These options are compliance with emission limitations, fuel switching, a 40% emission reduction, source reconstruction, schedule modification, or emission reduction trading. Requirements for each method of compliance are detailed in subsections (f) through (j). Subsection (d) also provides for one year compliance date extensions subject to the approval of the Commissioner and EPA.[1] Subsection (e) establishes the post-May, 1995 emission limits with specific limits for: turbines; cyclone furnaces; fast-response double-furnace Naval boilers; fluidized-bed combustors; ''other boilers;'' reciprocating engines; waste combustors; fuel burning equipment firing fuels other than gas, oil, or coal; glass melting furnace; and other sources providing direct heat. Subsection (e) also contains an emission limit for all other sources not having a specifically defined emission limitation.

Subsection (f) establishes the requirements for multi-fuel sources which co-fire, fuel switch, or completely convert to a different fuel. Sources simultaneously firing more than one fuel are subject to the Btu-weighted average of the applicable emission limits. Sources capable of firing more than one fuel are subject to applicable emission limits for each fuel at the time it is fired, however, if gas or distillate oil is fired exclusively May through September, the source is subject to a limit of 0.20 lb/mmBtu in May through September and a limit of 0.29 lb/mmBtu October through April. If a source converts to a new fuel, the source is subject to 0.29 lb/mmBtu if the primary fuel was previously coal, or 0.225 lb/mmBtu if the primary fuel was previously residual oil.

Subsection (g) establishes the requirements for sources making a 40% emission reduction to comply. The 40% reduction is calculated as the more stringent of a) 60% of the source's emission rate at maximum capacity during 1990 or b) 60% of the applicable pre-May 1995 emission limit established in subsection (d). Subsection (h) establishes the compliance requirements for sources reconstructing or replacing a unit. Pursuant to a permit, these sources must complete reconstruction by May 31, 1999. Prior to May, 1999, the source's emissions are limited to the more stringent of the pre-May 1995 emission limit the source would be subject to under subsection (d) or the emission limit in the source's current permit. In the interim period between May 31, 1995 and May 31, 1999, the source must deposit money into an escrow account equivalent to $1000 times the pounds/day needed to comply with RACT. This money is only returned to the source after the reconstruction is completed. If reconstruction has not been completed by the date required in the permit, the

[1] See EPA's July 5, 1994 policy memorandum entitled, ''Phase-in of Controls Beyond May 1995,'' from John Seitz, Director of the Office of Air Quality Planning and Standards to the regional EPA Air Program Directors.

source may use the escrow money to acquire emission credits.

Subsection (i) establishes the requirements for sources complying through schedule modification. Schedule modification by permit is allowed only if the source can demonstrate to the Commissioner that it is not economically or technically feasible to comply with the emission limitations, fuel switching, or a 40% emission reduction. Subsection (i) applies only to oil-fired turbines or fast-response double-furnace Naval boilers that generate power to create simulated high-altitude atmospheres for the testing of aircraft engines or testing of fuel-burning equipment undergoing research and development.

Subsection (j) establishes the requirements for sources complying with subsection (e) emission limitations through emissions trading. Under subsection (d)(4), compliance through emission reduction trading is allowed only through revisions to the SIP. Therefore, each use of emissions trading for compliance with subsection (e) limits will be reviewed and processed as a separate regulatory action.

Subsection (k) covers requirements for emission testing and monitoring. Units at major sources having stacks which emitted 100 tons per year or more at anytime since 1990 are required to install CEMS. Sources with CEMS are required to demonstrate compliance on a block 24-hour basis, including emissions from start-up, shut-down, and equipment malfunctions. All other sources are required to demonstrate compliance through three 1-hour stack tests. Initial compliance demonstrations were required by May 31, 1995. Sources without CEMS are required to conduct emission tests once every 5 years. Sources may apply for a one-year extension to comply with subsection (k) requirements.

Subsection (l) covers recordkeeping and reporting requirements concerning operating hours, fuel usage, NO_X emissions, equipment maintenance, CEMS records, and emissions testing information. Sources must retain these records for five years. Sources with CEMS are required to submit quarterly excess emissions reports and all sources are required to submit annual emission reports.

Subsection (m) covers compliance plans. Sources were required to submit certified compliance plans to the Commissioner by September 1, 1994.

B. Case-Specific Emission Trading Orders

In addition to the submittal of section 22a–174–22, Connecticut subsequently submitted 23 case-specific SIP revisions for sources involved in the trading of NO_X credits as part of the emission reduction trading option of subsection 22a–174–22(j). These SIP revisions consist of SIP narratives, which describe how Connecticut's actions comply with the State program requirements of the EIP (see 40 CFR Part 51.493), and the trading orders issued by the State, which define the enforceable requirements applicable to the sources involved in trading. Of the 23 case-specific packages, 4 involve the generation of NO_X credits and 19 involve the use of NO_X credits in order to meet the NO_X emission reduction requirements of section 22a–174–22. EPA's analysis in the attachments to the TSD addresses Connecticut's compliance with EPA regulations and guidance concerning the EIP.

The first credit creation submittal involves United Illuminating Company's Station #3 in New Haven. Consent Order no. 8092 was adopted by the State on May 18, 1995, submitted to EPA on May 18, 1995, and deemed complete by EPA on September 12, 1995. The second credit generation consent order, issued to Connecticut Light and Power, Order no. 1494, involves reductions at the Devon, Montville, and Norwalk stations. Order 1494 was adopted on October 15, 1996, submitted to EPA on March 20, 1997, and deemed complete on April 7, 1997. Additionally, Order no. 8116 for the Connecticut Resource Recovery Authority, issued by the State and submitted to EPA on April 22, 1997, and deemed complete by EPA on May 28, 1997, allows for the generation of credit at the Hartford facility. Order No. 8123 allows for the creation of credit at Algonquin Gas Transmission Company's Cromwell facility. Similarly, Order no. 8123 was adopted on April 18, 1997 and submitted to EPA as a SIP revision on April 22, 1997. The package was deemed complete on May 28, 1997.

The remaining case-specific actions involve the use of NO_X credits as described in the following consent orders: (1) Order no. 8093 for Pfizer, Inc., in Groton, adopted on July 19, 1995, submitted to EPA on January 17, 1996 and deemed complete on July 3, 1996; (2) Order no. 8095 for American Ref-Fuel Company of Southeastern Connecticut in Preston, adopted on June 2, 1995, submitted on August 21, 1995 and deemed complete on September 12, 1995; (3) Order no. 8096 for Food Ingredients Company in New Milford, adopted on August 25, 1995, submitted on June 24, 1996 and deemed complete on July 3, 1996; (4) Order no. 8100 for Bridgeport RESCO Company in Bridgeport, adopted on November 2, 1995, submitted on January 30, 1996 and deemed complete on July 3, 1996; (5) Order no. 8105 for Electric Boat Division of General Dynamics in Groton, adopted on October 31, 1995, submitted on January 30, 1996 and deemed complete on July 3, 1996; (6) Order no. 8106 for Connecticut Light and Power Company in Middletown, adopted on October 10, 1995, submitted on January 30, 1996 and deemed complete on July 3, 1996; (7) Order no. 8107 for Northeast Nuclear Energy Company in Waterford, adopted on October 13, 1995, submitted on January 30, 1996 and deemed complete on July 3, 1996; (8) Order no. 8103 for United Illuminating Company's Station #4 in New Haven, adopted on February 14, 1996, submitted on June 17, 1996 and deemed complete on July 3, 1996; (9) Order no. 8102 for United Illuminating's auxiliary boiler in New Haven, adopted on December 15, 1995, submitted on June 20, 1996 and deemed complete on July 3, 1996; (10) Order no. 8118 for South Norwalk Electric Works, South Norwalk, adopted on March 19, 1996, submitted on July 9, 1996 and deemed complete on November 25, 1996; (11) Order no. 8119 for City of Norwich, Department of Public Utilities, adopted on March 4, 1996, submitted on July 11, 1996 and deemed complete on November 25, 1996, (12) Order no. 8115 for the University of Connecticut in Storrs, adopted on November 19, 1996, submitted on February 18, 1997, and deemed complete on April 7, 1997; (13) Order no. 1494 for Connecticut Light and Power's Branford, Cos Cob, Devon, Franklin Drive, Montville, Middletown, South Meadow, Torrington, Tunnel Road, and Norwalk Harbor stations, adopted on October 15, 1996, submitted on March 20, 1997, and deemed complete on April 7, 1997; (14) Order no. 8101 for the State of Connecticut Department of Mental Health and Addiction Services, adopted on July 16, 1996, submitted on March 24, 1997, and deemed complete on April 7, 1997; (15) Order no. 8130 for the State of Connecticut Department of Public Works, adopted on October 16, 1996, submitted on March 24, 1997, and deemed complete on April 7, 1997; (16) Order no. 8132 for Bridgeport Hospital, adopted on September 10, 1996, submitted on March 24, 1997, and deemed complete on April 7, 1997; (17) Order no. 8135 for Bridgeport Hydraulic Company, adopted on December 24, 1996, submitted on March 24, 1997, and deemed complete on April 7, 1997; (18) Order no. 8141 for the Town of Wallingford Department of Public Utilities, adopted on December 27,

1997, submitted on March 24, 1997, and deemed complete on April 7, 1997; (19) Order no. 8113 for Simkins Industries, adopted on November 19, 1996, submitted to EPA on May 19, 1997, and deemed complete on May 28, 1997; and, (20) Order no. 8110 for Yale University, adopted on July 29, 1996, submitted on April 19, 1997, and deemed complete on May 28, 1997.

Additionally, on November 16, 1996, Connecticut submitted supplementary documentation to EPA in support of the emissions trading related consent orders. This documentation included an audit of the NO_X credit creation and credit use in Connecticut as well as a discussion of how the Connecticut program meets the State program requirements of the EIP. These documents have been included in the Technical Support Document (TSD) as Appendix A.

The November 16, 1996 documentation demonstrates that the use of credits for compliance with section 22a–174–22, including the use of one-time or carry over credits during time periods other than when they were generated (i.e., the intertemporal use of credits), is consistent with the requirements of the Connecticut SIP, RFP and ROP plans, and area-wide RACT requirements. The documentation includes an audit of the NO_X RACT trades in Connecticut from June 1995 to December 1995 and shows that there was no increase in NO_X emissions, or ''spiking,'' due to the use of credits for compliance during that time. In fact, Connecticut's audit clearly shows that quantity of credits created during the ozone season of 1995 were greater than the quantity used.

Connecticut's analysis also discusses a number of their NO_X RACT program characteristics which inherently buffer the intertemporal use of credits. First, some of the credit is generated from units which are using additional controls to permanently keep emissions at levels well below their limits. Since some or all of this credit is not used during the season/year that it is generated, it provides a buffer against spiking during that time. Second, most sources operate below the required emission rate limitations, creating a compliance margin of emission reductions which are not assumed in the SIP. This aggregate compliance margin could be quantified relatively easily, particularly for sources with continuous emission monitoring systems. This margin is estimated to be several hundred tons per year. Although concerns have been expressed to EPA about allowing this type of margin to be treated as an individual facility's credit, the aggregate can be viewed as buffering intertemporal credit use statewide regardless of whether a facility's margin would ever be approved as tradeable credit. Furthermore, Connecticut has dealt with the question of the creditability of the compliance margin on a trade-by-trade basis by requiring that a minimum of 10% of credit be retired upon creation and that credit users meet an emission limit which is at least 5% lower than the RACT limits of subsection (e).

Also, the Connecticut documentation discusses a number of other program elements which, although not quantified at this time, could be considered as acting as a trading buffer and helping to ensure that RACT and RFP are maintained. For instance, Connecticut's rule does not provide for alternative RACT limits (i.e., relaxations of the limits set in subsection (e) of the regulation) or compliance date extensions (other than the one year extensions for innovative technologies under subsection (d)(3)). During the first two years of NO_X RACT implementation, Connecticut has followed the policy that since other compliance options are provided for by the regulation, relaxations are not allowed in this program. Admirably, Connecticut has held to this policy and the effectiveness of the regulation to reduce emissions has been greater than if such variances had been allowed under the rule. If Connecticut does, however, ever decide to allow for NO_X RACT variances while simultaneously relying on the increased rule effectiveness for intertemporal credit buffering purposes, EPA will have the ability to evaluate the credit balance situation at that time since such actions must be reviewed and approved by EPA as changes to the SIP.

Given Connecticut's documentation, EPA believes that Connecticut has shown that the quantity of NO_X reductions being achieved by section 22a–174–22 is at least as great as would have been achieved without the trading option. Furthermore, given the inherent buffering characteristics of the program, the RFP and SIP attainment requirements also should continue to be met. Based upon the documentation presented, EPA believes that the emissions trading aspect of the NO_X RACT program meets all applicable EPA guidances.

IV. Issues

Subsections (h) and (i) of the regulation do not explicitly require facilities undergoing reconstruction or utilizing schedule modifications to have RACT orders issued to them and subsequently, to have those orders approved by EPA. However, on June 18, 1996, Carmine DiBattista, Chief, Bureau of Air Management, Connecticut DEP, sent a letter to Susan Studlien, Deputy Director, Office of Ecosystem Protection, U.S. EPA Region I, clarifying that either federally enforceable permits or case-specific SIP revisions will be submitted for the three sources subject to the reconstruction and schedule modification provisions. Furthermore, the letter contained documentation that neither combustion modifications nor add-on controls are technically or economically feasible for the three facilities affected by the schedule modification section of the regulation because these units are operated intermittently or at irregular loads. Given this additional documentation, subsections (h) and (i) are approvable.

V. Final Action

EPA review of the NO_X RACT SIP related submittals, including NO_X RACT regulation 22a–174–22 and the 23 source-specific NO_X emissions trading orders described above, indicates that Connecticut has sufficiently defined the NO_X RACT requirements for the State. Therefore, EPA is approving section 22a–174–22, as submitted on May 20, 1997, as well as the 23 source-specific Connecticut orders, into the SIP at this time.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision unless adverse or critical comments are filed. This action will be effective December 5, 1997 unless adverse or critical comments are received by November 5, 1997.

If EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 5, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for

revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 1997.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 22, 1997.

John P. DeVillars,

Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(72) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(72) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on: May 18, 1995; August 21, 1995; January 17, 1996; January 30, 1996; January 30, 1996; January 30, 1996; January 30, 1996; June 17, 1996; June 20, 1996; June 24, 1996; July 9, 1996; July 11, 1996; February 18, 1997; March 20, 1997; March 24, 1997; March 24, 1997; March 24, 1997; March 24, 1997; March 24, 1997; April 22, 1997; April 22, 1997; May 19, 1997; May 19, 1997; and May 20, 1997.

(i) Incorporation by reference.

(A) Twenty-four letters from the Connecticut Department of Environmental Protection dated: May 18, 1995; August 21, 1995; January 17, 1996; June 24, 1996; January 30, 1996; January 30, 1996; January 30, 1996; January 30, 1996; June 20, 1996; June 17, 1996; July 11, 1996; July 9, 1996; March 24, 1997; May 19, 1997; March 24, 1997; March 20, 1997; March 24, 1997; February 18, 1997; May 19, 1997; March 24, 1997; March 24, 1997; May 20, 1997; April 22, 1997; and April 22, 1997; submitting revisions to the Connecticut State Implementation Plan.

(B) Connecticut Trading Agreement and Order no. 8092 issued to United Illuminating Company's Station #3 in New Haven, effective on May 18, 1995.

(C) Connecticut Trading Agreement and No. 8095 issued to American Ref-Fuel Company of Southeastern Connecticut in Preston, effective on June 2, 1995.

(D) Connecticut Trading Agreement and Order no. 8093 issued to Pfizer, Inc., in Groton, effective on July 19, 1995.

(E) Connecticut Trading Agreement and Order no. 8096 issued to Food Ingredients Company in New Milford, effective on August 25, 1995.

(F) Connecticut Trading Agreement and Order no. 8106 issued to Connecticut Light and Power Company in Middletown, effective on October 10, 1995.

(G) Connecticut Trading Agreement and Order no. 8107 issued to Northeast Nuclear Energy Company in Waterford, effective on October 13, 1995.

(H) Connecticut Trading Agreement and Order no. 8105 issued to Electric Boat Division of General Dynamics in Groton, effective on October 31, 1995.

(I) Connecticut Trading Agreement and Order no. 8100 issued to Bridgeport RESCO Company in Bridgeport, effective on November 2, 1995.

(J) Connecticut Trading Agreement and Order no. 8102 issued to United Illuminating's auxiliary boiler in New Haven, effective on December 15, 1995.

(K) Connecticut Trading Agreement and Order no. 8103 issued to United Illuminating Company's Station #4 in New Haven, effective on February 14, 1996.

(L) Connecticut Trading Agreement and Order no. 8119 issued to the City of Norwich, Department of Public Utilities, effective on March 4, 1996.

(M) Connecticut Trading Agreement and Order no. 8118 issued to South Norwalk Electric Works, South Norwalk, effective on March 19, 1996.

(N) Connecticut Trading Agreement and Order no. 8101 issued to the State of Connecticut Department of Mental Health and Addiction Services, effective on July 16, 1996.

(O) Connecticut Trading Agreement and Order no. 8110 issued to Yale University, effective on July 29, 1996.

(P) Connecticut Trading Agreement and Order no. 8132 issued to Bridgeport Hospital, effective on September 10, 1996.

(Q) Connecticut Trading Agreement and Order no. 1494 issued to Connecticut Light and Power, involving Branford, Cos Cob, Devon, Franklin Drive, Montville, Middletown, South Meadow, Torrington, Tunnel Road, and Norwalk Harbor Stations, effective on October 15, 1996.

(R) Connecticut Trading Agreement and Order no. 8130 issued to the State of Connecticut Department of Public Works, effective on October 18, 1996.

(S) Connecticut Trading Agreement and Order no. 8115 issued to the University of Connecticut in Storrs, effective on November 19, 1996.

(T) Connecticut Trading Agreement and Order no. 8113 issued to Simkins Industries, effective on November 19, 1996.

(U) Connecticut Trading Agreement and Order no. 8135 issued to Bridgeport Hydraulic Company, effective on December 24, 1996.

(V) Connecticut Trading Agreement and Order no. 8141 issued to the Town of Wallingford Department of Public Utilities, effective on December 27, 1996.

(W) Regulations 22a–174–22 ''Control of Nitrogen Oxides Emissions,'' adopted on January 23, 1997, which establishes reasonably available control technology requirements for major stationary sources of nitrogen oxides.

(X) Connecticut Trading Agreement and Order no. 8123 issued to the Algonquin Gas Transmission Company, effective on April 18, 1997.

(Y) Connecticut Trading Agreement and Order no. 8116 issued to the Connecticut Resource Recovery Authority, effective on April 22, 1997.

(ii) Additional materials.

(A) Letter, dated June 18, 1996, from Carmine DiBattista, Chief of the Bureau of Air Management for the Connecticut DEP, to Susan Studlien, Deputy Director of the Office of Ecosystem Protection at U.S. EPA, Region I.

(B) SIP narrative materials, dated May 1995, submitted with Connecticut Trading Agreement and Order no. 8092 for United Illuminating Company's Station #3 in New Haven.

(C) SIP narrative materials, dated August 3, 1995, submitted with Connecticut Trading Agreement and Order no. 8095 for American Ref-Fuel Company of Southeastern Connecticut in Preston.

(D) SIP narrative materials, dated December 1995, submitted with Connecticut Trading Agreement and Order no. 8093 issued to Pfizer, Inc., in Groton.

(E) SIP narrative materials, dated November 1995, submitted with Connecticut Trading Agreement and Order no. 8096 issued to Food Ingredients Company in New Milford.

(F) SIP narrative materials, dated November 1995, submitted with Connecticut Trading Agreement and Order no. 8106 issued to Connecticut Light and Power Company in Middletown.

(G) SIP narrative materials, dated November 1995, submitted with Connecticut Trading Agreement and Order no. 8107 issued to Northeast Nuclear Energy Company in Waterford.

(H) SIP narrative materials, dated October 6, 1995, submitted with Connecticut Trading Agreement and Order no. 8105 issued to Electric Boat Division of General Dynamics in Groton.

(I) SIP narrative materials, dated September 29, 1995, submitted with Connecticut Trading Agreement and Order no. 8100 issued to Bridgeport RESCO Company in Bridgeport.

(J) SIP narrative materials, dated December 1995, submitted with Connecticut Trading Agreement and Order no. 8102 issued to United Illuminating's auxiliary boiler in New Haven.

(K) SIP narrative materials, dated March 1996, submitted with Connecticut Trading Agreement and Order no. 8103 issued to United Illuminating Company's Station #4 in New Haven.

(L) SIP narrative materials, dated May 31, 1995, submitted with Connecticut Trading Agreement and Order no. 8119 issued to the City of Norwich, Department of Public Utilities.

(M) SIP narrative materials, dated May 31, 1995, submitted with Connecticut Trading Agreement and Order no. 8118 issued to South Norwalk Electric Works, South Norwalk.

(N) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and Order no. 8101 issued to the State of Connecticut Department of Mental Health and Addiction Services.

(O) SIP narrative materials, dated May 1997, submitted with Connecticut Trading Agreement and Order no. 8110 issued to Yale University.

(P) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and Order no. 8132 issued to Bridgeport Hospital.

(Q) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and Order no. 1494 issued to Connecticut Light and Power, involving Branford, Cos Cob, Devon, Franklin Drive, Montville, Middletown, South Meadow, Torrington, Tunnel Road, and Norwalk Harbor Stations.

(R) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and Order no. 8130 issued to the State of Connecticut Department of Public Works.

(S) SIP narrative materials, dated February 1996, submitted with Connecticut Trading Agreement and Order no. 8115 issued to the University of Connecticut in Storrs.

(T) SIP narrative materials, dated May 1997, submitted with Connecticut Trading Agreement and Order no. 8113 issued to Simkins Industries.

(U) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and

Order no. 8135 issued to Bridgeport Hydraulic Company.

(V) SIP narrative materials, dated March 1997, submitted with Connecticut Trading Agreement and Order no. 8141 issued to the Town of Wallingford Department of Public Utilities.

(W) SIP narrative materials, dated April 1997, submitted with Connecticut Trading Agreement and Order no. 8123 issued to the Algonquin Gas Transmission Company.

(X) SIP narrative materials, dated April 1997, submitted with Connecticut Trading Agreement and Order no. 8116 issued to the Connecticut Resource Recovery Authority.

3. Section 52.385 is added to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

The following table identifies the State regulations which have been submitted to and approved by EPA as revisions to the Connecticut State Implementation Plan. This table is for informational purposes only and does not have any independent regulatory effect. To determine regulatory requirements for a specific situation, consult the plan identified in § 52.370. To the extent that this table conflicts with § 52.370, § 52.370 governs.

TABLE 52.384—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
19–508	Connecticut Air Implementation Plan.	3/3/72	5/31/72	37 FR 10842	(c) 1&2	State of CT Air Implementation Plan.
		8/10/72	5/14/73	38 FR 12696	(c) 3	Correction to submission dates for supplemental information.
		4/9/74	6/2/75	40 FR 23746	(c) 5	Identification of Air Quality Maintenance Areas.
		8/10/76	11/29/77	42 FR 60753	(c) 7	Adds carbon monoxide/oxidant control strategy and regulations.
		6/30/77	9/29/78	43 FR 44840	(c) 8	Describes air quality surveillance program.
22a–171	Small Business Assistance.	1/12/93	5/19/94	59 FR 26123	(c) 65	Established small business compliance and technical assistance program.
22a–174–1	Definitions	4/01/72	5/31/72	37 FR 23085	(b).	
		5/31/72	12/23/80	45 FR 84769		Adds definitions for PSD and NSR program. EPA took no action because CT did not submit regulations.
		12/13/84	7/18/85	50 FR 29229	(c) 34	Revision to the definition of VOC adding 7 non-reactive compounds to exempt list.
		12/27/88	2/23/93	58 FR 10957	(c) 56	Changes definitions of ''actual emissions'' and ''potential emissions'' throughout regulations.
22a–174–2	Registration requirements for existing stationary sources of air pollutants.	4/04/72	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	45 FR 84769	(c) 11	In tandem with changes to Regulation 3, sources existing prior to 1972 must register.
22a–174–3	Permits for construction and operation of stationary sources.	4/04/72	5/31/72	37 FR 23085	(b)	Conditional approval of NSR program.
		8/30/79	12/23/80	45 FR 84769	(c)11	EPA conditionally approved changes to meet federal New Source Review (NSR) requirements. CT did not submit Prevention of Significant Determination program.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		8/31/79	1/07/82	47 FR 762	(c) 20	Final approval of NSR Rules removing conditions of 12/23/80.
		10/10/80	1/07/82	47 FR 762	(c) 20	Allows conditional exemption of resource recovery facilities from offset transactions.
		10/10/80	1/07/82	47 FR 762	(c) 20	Replaces the word ''actual'' with word ''allowable''.
		12/27/88	2/23/93	58 FR 10957	(c) 56	Changes to NSR and PSD requirements.
22a–174–4	Source monitoring, record keeping, reporting and authorization of inspection of air pollution sources.	4/04/72	5/31/72	37 FR 23085	(b).	
		10/31/77	12/23/80	45 FR 84769	(c) 11	Clarifies record keeping and reporting requirements and rescinds smoke monitoring requirements for small sources.
		12/15/80	8/24/82	47 FR 36822	(c) 20	Rescinded requirements for smoke monitors on sources less than 250 mmBtu.
		12/27/88	2/23/93	58 FR 10957	(c) 56	Changes to opacity continuous emission monitoring (CEM) requirements.
22a–174–5	Methods for sampling, emission testing, and reporting.	4/04/72	5/31/72	37 FR 23085	(b).	
		10/05/77	12/23/80	45 FR 84769	(c) 11	Tied State testing method requirement to federal requirements, clarified requirements for stack testing, and eliminated record keeping and reporting requirements.
		12/19/80	8/28/81	46 FR 43418	(c) 16	Revisions to source monitoring and stack testing requirements for SO2.
22a–174–6	Air Pollution Emergency Episode Procedures.	4/04/72	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	45 FR 84769	(c) 11	Allows DEP to separately limit mobile and stationary sources depending upon the cause of the episode.
22a–174–7	Malfunction of Control Equipment; Reporting.	4/04/72	5/31/72	37 FR 23085	(b).	
22a–174–8	Compliance Plans and Schedules.	4/04/72	5/31/72	37 FR 23085	(b).	
22a–174–9	Prohibition of air pollution.	4/04/72	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	45 FR 84769	(c) 11	Non-substantive numbering change.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		8/31/79	8/12/83	48 FR 36579	(c) 11.	Full authority delegated for NSPS and NESHAPS.
			12/6/91	56 FR 63875		Delegation of new subparts.
22a–174–10	Public Availability of Information.	4/04/72	5/31/72	37 FR 23085	(b).	
22a–174–11	Prohibition against concealment of circumvention.	4/04/72	5/31/72	37 FR 23085	(b).	
22a–174–12	Violations and enforcement.	4/4/72	5/31/72	37 FR 23085	(b).	
22a–174–13	Variances	4/4/72	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	45 FR 84769	(c) 11	Non-substantive numbering change.
22a–174–14	Compliance with regulation no defense to nuisance claim.	4/04/72	5/31/72	37 FR 10842	(b).	
22a–174–15	Severability	4/4/72	5/31/72	37 FR 10842	(b).	
22a–174–16	Responsibility to comply with applicable regulations.	4/4/72	5/31/72	37 FR 10842	(b).	
22a–174–17	Control of open burning.	4/04/72	5/31/72	37 FR 10842	(b).	
22a–174–18	Control of particulate emissions.	4/4/72	5/31/72	37 FR 10842	(b).	
		11/30/73	4/16/74	39 FR 13651	52.375	Allowed Hartford Electric Light & Connecticut Light & Power Supplies to use nonconforming fuel from 12/3/73 to 1/1/74.
		7/11/81	9/23/82	47 FR 41958	(c) 22	Defines TSP RACT for fuel burning equipment and process sources including cupolas, foundries, and hot mix asphalt plants.
22a–174–19	Control of sulfur compound emissions.	4/4/72	5/31/72	37 FR 23085	(b).	
		11/30/73	4/16/74	39 FR 13651	52.375	Allowed Hartford Electric Light and Connecticut Power and Light to use nonconforming fuel.
		4/3/79	7/30/79	44 FR 44498	(c) 10	Allowed Northeast Utilities to purchase, store, and burn nonconforming fuel.
		9/8/80	4/27/81	46 FR 23412	(c) 12	Variance for Federal Paperboard, Inc.
		12/19/80 & 3/11/81	8/28/81	46 FR 43418	(c) 14	Amends sulfur control strategy.
		3/11/81 & 7/15/81	8/28/81	46 FR 43418	(c) 15	Amends New Source Ambient Impact Analysis Guideline.
		3/17/81	10/23/81	46 FR 51914	(c) 17	Variance for Uniroyal, Inc.
		11/2/81	11/18/81	46 FR 56612	(c) 18	Approval State Energy Trade program.
		11/14/75	11/18/81	46 FR 56612	52.380 (e)(1)	EPA disapproval revision which allows exemption for home heating with coal, historic demonstrations, and other small sources.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		11/12/81	12/22/81	46 FR 62062	(c) 19	Variances for United Technologies Corp., Pratt & Whitney Aircraft Division facilities in New Haven and Middletown.
		7/7/81	11/12/82	47 FR 51129	(c) 24	Variance for Sikorsky Aircraft—approved under the State Energy Trade Program.
		5/27/82	2/8/83	48 FR 5723	(c) 26	Variance for Dow Chemical—approved under the State Energy Trade Program.
		12/15/82	5/4/83	48 FR 20051	(c) 27	Variance for Lydall, Inc.—approved under the State Energy trade (SET) Program.
		11/1/82	6/28/83	48 FR 29689	(c) 28	Simkins Industries—approved under the State Energy Trade Program.
		3/28/83	12/20/83	48 FR 56218	(c) 30	Variance for Loomis Institute—approved under the State Energy Trade Program.
		2/19/93	1/18/94	59 FR 2531	(c) 63	Changes requirements at Himilton Standard Division of UTC.
22a–174–20	Control of organic compound emissions.	4/4/72	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	45 FR 84769	(c) 11	Requirements for certain Group I CTG source categories. Conditionally approved cutback asphalt and solvent metal cleaning categories.
		10/10/80	1/17/82	47 FR 762	(c) 20	Requirements for cutback asphalt (Group I—CTG).
		10/10/80	2/17/82	47 FR 6827	(c) 25	Requirements for Group II CTGs exclusive of controlling gasoline tank truck leaks, petroleum liquid storage external floating roof tanks, manufacture of vegetable oil, pneumatic rubber tire categories. Other VOC rules.
		10/10/80	6/7/82	47 FR 24452	(c) 23	Alternative emission reduction provisions.
		12/10/82	2/1/84	49 FR 3989	(c) 29	Requirements for small open top degreasers (Group I—CTG).
		9/24/83	2/1/84	49 FR 3989	(c) 29	Exempts colds cleaners at auto repair facilities.
		9/24/83	3/21/84	49 FR 10542	(c) 32	Adds degreasing requirements for conveyorized and cold cleaning operations.
		8/31/79	3/21/84	49 FR 10542	(c) 32	Requirements for solvent metal cleaning (Group I CTG).

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		9/24/83	3/21/84	49 FR 10542	(c) 32	Exempts storage vessels from submerged fill. Delays effective date of Stage I vapor recovery by 1 year. Requires RACT for all major sources of VOC not covered under a CTG document.
		9/24/83	10/19/84	49 FR 41026	(c) 33	Adds major non-ctg sources covered by 20(ee) to applicability, compliance, alternative emission reduction and seasonal operation after burner provisions.
		12/13/84	7/18/85	50 FR 29229	(c) 34	Revision to cutback asphalt regulation. Requires facilities with external floating roofs to install secondary seats. Changes to gasoline tank truck regulation.
		4/23/86	11/20/86	51 FR 41963	(c) 36	VOC RACT for Connecticut Charcoal Company.
		4/28/86	2/19/87	52 FR 5104	(c) 37	VOC RACT for King Industries.
		8/8/87	12/17/87	52 FR 47925	(c) 39	VOC RACT for Belding Corticelli Thread Company.
		5/28/86	2/17/88	51 FR 4621	(c) 41	Effective date clarification for Connecticut Charcoal.
		9/24/87	4/11/88	53 FR 11847	(c) 42	VOC RACT for Raymark Industries, Inc.
		2/2/87	5/19/88	53 FR 17934	(c) 38	Clarifies applicability of VOC compliance methods for surface coating sources.
		3/17/87	5/19/88	53 FR 17934	(c) 38	Adds regulations for SOCMI fugitive leaks and polystyrene resins.
		8/21/87	7/12/88	53 FR 26256	(c) 44	VOC RACT for Spongex International Ltd.
		12/26/86	8/1/88	53 FR 28884	(c) 43	VOC RACT for American Cyanamid Company.
		10/27/88	3/8/89	54 FR 9781	(c) 48	VOC RACT for Dow Chemical, U.S.A.
		6/7/88	3/24/89	54 FR 12193	(c) 46	VOC RACT for New Departure Hyatt.
		12/14/88	4/10/89	54 FR 14226	(c) 49	VOC RACT for Stanadyne.
		3/22/89	5/30/89	54 FR 22891	(c) 51	VOC RACT for Pratt & Whitney Division of UTC.
		12/30/88	6/2/89	54 FR 23650	(c) 50	Changes limit on volatility of gasoline.
		10/19/87	11/28/89	54 FR 48885	(c) 47	VOC RACT for Frismar, Inc.
		10/18/88	11/39/89	54 FR 49284	(c) 52	VOC RACT for Pfizer, Inc.
		9/5/89	12/22/89	54 FR 52798	(c) 53	VOC RACT for Uniroyal Chemical Co.
		11/29/89	3/12/90	55 FR 9121	(c) 54	VOC RACT for Hamilton Standard Division of United Technologies Corp.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		11/2/88	3/14/90	55 FR 9442	(c) 55	VOC RACT for Heminway & Bartlett Manufacturing Company.
		10/31/89	10/18/91	56 FR 52205	(c) 58	Changes applicability to facilities with >=15 pounds VOC per day.
		10/31/89	10/18/91	56 FR 52205	(c) 58	Various changes to Section 20 approved.
		9/1/93	11/19/93	58 FR 61041		Withdrawal of NPR for Sikorsky Aircraft Division of UTC, Bridgeport.
22a–174–21	Control of carbon monoxide emissions.	4/4/72	5/31/72	37 FR 23085	(b).	
		9/21/82	3/21/84	49 FR 10542	(c) 32	CO attainment plan.
22a–174–22	Control of nitrogen oxide emissions.	4/472	5/31/72	37 FR 23085	(b).	
		8/31/79	12/23/80	49 FR 84769	(c) 11	Exemption of fast response double furnace naval burners and cyclone furnaces (not addressed by EPA).
		5/18/95	10/6/97		(c) 72	Case-specific trading order for United Illuminating's Station #3, in New Haven.
		6/2/95	10/6/97		(c) 72	Case-specific trading order for American Ref-Fuel of Southeastern Connecticut in Preston.
		7/19/95	10/6/97		(c) 72	Case-specific trading order for Pfizer, Inc. in Groton.
		8/25/95	10/6/97		(c) 72	Case-specific trading order for Food Ingredients Specialties, Inc. in New Milford.
		10/10/95	10/6/97		(c) 72	Case-specific trading order for Connecticut Light and Power in Middletown.
		10/13/95	10/6/97		(c) 72	Case-specific trading order for Northeast Nuclear Energy Co. in Waterford.
		10/31/95	10/6/97		(c) 72	Case-specific trading order for Electric Boat Division of General Dynamics in Groton.
		11/2/95	10/6/97		(c) 72	Case-specific trading order for Bridgeport RESCO Co. in Bridgeport.
		12/15/95	10/6/97		(c) 72	Case-specific trading order for United Illuminating's auxiliary boiler, in New Haven.
		2/14/96	10/6/97		(c) 72	Case-specific trading order for United Illuminating's Station #4, in New Haven.
		3/4/96	10/6/97		(c) 72	Case-specific trading order for Norwich Department of Public utilities.
		3/19/96	10/6/97		(c) 72	Case-specific trading order for South Norwalk Electric Works.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		7/16/96	10/6/97		(c) 72	Case-specific trading order for the Connecticut Dept. of Mental Health and Addiction Services.
		7/29/96	10/6/97		(c) 72	Case-specific trading order for Yale University.
		9/10/96	10/6/97		(c) 72	Case-specific trading order for Bridgeport Hospital.
		10/15/96	10/6/97		(c) 72	Case-specific trading order for Connecticut Light & Power's Branford, Cos Cob, Devon, Franklin Drive, Montville, Middletown, South Meadow, Torrington, Tunnel Road, and Norwalf Harbor stations.
		10/18/96	10/6/97		(c) 72	Case-specific trading order for the Connecticut Department of Public Works.
		11/19/96	10/6/97		(c) 72	Case-specific trading order for University of Connecticut in Storrs.
		11/19/96	10/6/97		(c) 72	Case-specific trading order for Simkins Industries.
		12/24/96	10/6/97		(c) 72	Case-specific trading order for Bridgeport Hydraulic Company.
		12/27/96	10/6/97		(c) 72	Case-specific trading order for the Town of Wallingford Dept. of Public Utilities.
		1/23/97	10/6/97		(c) 72	Establishes NO_X RACT regulations and source-specific requirements.
		4/18/97	10/6/97		(c) 72	Case-Specific trading order for Algonquin Gas Transmission Company.
		4/22/97	10/6/97		(c) 72	Case-specific trading order for the Connecticut Resource Recovery Authority.
22a–174–23	Control of Odors	4/4/72	5/31/72	37 FR 23085	(b).	
	Rescinded from Federal SIP.	8/31/79	12/23/80	45 FR 84769	(c) 11	EPA has no authority to control odors.
22a–174–24	Connecticut primary and secondary standards.	4/4/72	5/31/72	37 FR 23085	(b).	
		7/11/81	11/18/81	46 FR 56612	(c) 18	Eliminated State 24-hour and annual standard for SO2.
		10/8/80	2/17/82	47 FR 6827	(c) 25	Adopted ambient air quality standards for lead and revised the ozone standard.
		10/8/80	8/24/82	47 FR 36822	(c) 20	EPA took ''no action'' on definition of the term ''acceptable method'' because did not ensure consistency with EPA monitoring regulations.

TABLE 52.384—EPA-APPROVED REGULATIONS—Continued

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
		10/8/80	11/2/82	47 FR 49646	(c) 20	Correction to subparagraph designation.
		10/8/80	12/13/85	50 FR 50906	(c) 35	Approved definition of acceptable method.
		2/25/91	3/24/92	57 FR 10139	(c) 61	Requires use of low sulfur fuels at Connecticut Light & Power in Montville.
		2/14/92	11/20/92	57 FR 54703	(c) 59	Requires use of low sulfur fuels at Stones CT Paperboard Corp.
		2/5/92	11/20/92	57 FR 54703	(c) 59	Requires use of low sulfur fuel at Hartford Hospital.
22a–174–25	Effective date	4/4/72	5/31/72	37 FR 23085	(b).	
22a–174–27	Emission Standards for Motor Vehicles.	9/24/82	3/21/84	49 FR 10542	(c) 32	Exhaust ''emission standards'' for periodic motor vehicle inspection and maintenance.
14–164C	Periodic Motor Vehicle Emissions Inspection and Maintenance.	7/27/82	3/21/84	49 FR 10542	(c) 32	Department of Motor Vehicle Regulations establishing specifications for Connecticut I&M program.
22a–174–30	Gasoline Vapor Recovery.	1/12/93	12/17/93	58 FR 65930	(c) 62	Requires Stage II vapor recovery from gasoline dispensers.
			1/18/94	59 FR 2649	(c) 62	Correction to 12/17/93 notice.
22a–174–100	Permits for construction of indirect sources Rescinded from federal SIP.	1/9/74	2/25/74	39 FR 7280	(c) 4	Requires review of air impacts of indirect sources.
		8/20/74	2/13/76	41 FR 6765	(c) 6	Added indirect source review (ISR) regulations.
		6/30/77	1/26/79	44 FR 5427	(c) 9.	
		NA	12/23/79	45 FR 84769	(c) 11	SIP shown to attain standards as expeditiously as practicable without ISR regulation.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX No.VA–076–5028; FRL–5904–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia: Determination of Attainment of Ozone Standard and Applicability of Certain Requirements in the Richmond Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that the Richmond moderate ozone nonattainment area has attained the 1-hour .12 parts per million (ppm) National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon the latest four years of ambient air monitoring data for the years 1993–96 that demonstrate that the 1-hour ozone NAAQS is being attained in this area. EPA has also determined that the Richmond area has continued to attain the 1-hour standard to date. On the basis of this determination, EPA is also determining that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements of part D of Title I of the Clean Air Act (CAA), are not applicable to the Richmond area so long as this area continues to attain the ozone NAAQS, or until the area is redesignated to attainment.

EFFECTIVE DATE: This final rule is effective on November 5, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566–2092. Questions may also be sent via e-mail, to the following address: Gaffney.Kristeen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On June 13, 1997, EPA published its determination that the Richmond ozone nonattainment area has attained the National Ambient Air Quality Standard (NAAQS) for ozone, and that Richmond has continued to attain the standard to date. On the basis of this determination, EPA further determined that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements of part D of Title I of the CAA are not applicable to this area as long as this area continues to attain the ozone NAAQS. See 62 FR 32204.

EPA made these determinations through direct final rulemaking without prior proposal because the Agency viewed the action as noncontroversial and anticipated no adverse comments. The final rule was published in the **Federal Register** with a provision for a 30-day public comment period. The final rule stated that if adverse comments were received during the comment period, the final rulemaking action would be withdrawn by publishing a notice announcing withdrawal of the final action in the **Federal Register**. At the same time, EPA published a proposed rule for the same action in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the **Federal Register** [62 FR 32258, June 13, 1997].

In a separate action, also on June 13, 1997, EPA proposed approval of the redesignation request and maintenance plan submitted by the Commonwealth of Virginia for the Richmond area and provided a 30-day public comment period. [62 FR 32258] On July 14, 1997, EPA received a letter from the New York State Department of Environmental Conservation (NYSDEC) submitting adverse comments that referenced both the determination of attainment rulemaking and the proposed approval of the redesignation request and maintenance plan rulemaking. The adverse comments all appear to pertain to the proposed approval of the redesignation request, and several comments were clearly identifiable as addressed solely to the proposal to approve the redesignation request. It was thus at best ambiguous as to whether any comments pertained to the rulemaking on the determination of attainment. However, to ensure that this comment letter was given proper consideration as it relates to EPA's determination of attainment and the resulting inapplicability of the RFP, attainment demonstration and section 172(c)(9) contingency measure requirements for the Richmond area, EPA removed the June 13, 1997 final rulemaking action in order to address the comments. [See 62 FR 43471, August 14, 1997.]

In today's action, the EPA is responding to the comments in NYSDEC's letter only as they may relate to the determination of attainment and the inapplicability of certain RFP and attainment demonstration requirements, along with certain other related requirements of part D of Title I of the CAA. EPA will respond to the comments received from NYSDEC related to the redesignation request and maintenance plan in a separate rulemaking on EPA's final action in the context of the requirements for redesignation to attainment under the CAA.

On July 18, 1997, EPA promulgated a new NAAQS for ozone replacing the 1-hour .12 ppm standard with an 8-hour 0.08 ppm standard [62 FR 38856]. EPA is in the process of developing guidance and proposed rules to implement the new ozone standard based on a Presidential Directive signed on July 16, 1997 and also published in the **Federal Register** on July 18, 1997. Today's action is a determination of attainment for the Richmond area of the 1-hour .12 ppm ozone standard and a determination of inapplicability of certain CAA requirements related to that standard only. Today's decision does not in any way make a determination regarding Richmond's attainment status for the newly promulgated 8-hour .08 ppm ozone standard. Decisions regarding the attainment status of areas for the new 8-hour .08 ppm ozone NAAQS will be conducted through a separate rulemaking to be published at a later date at the time EPA designates all areas as attainment or nonattainment under the new 8-hour NAAQS.

EPA's decision that certain CAA requirements related to the 1-hour .12 ppm ozone standard are inapplicable is based on an EPA policy memo of May 10, 1995, from John S. Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Air Division Directors entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard.'' See the discussion and rationale contained in EPA's prior determination of attainment rulemakings for: Grand Rapids, MI [61 FR 31831, 31832–31834, June 21, 1996], Cleveland/Akron/Lorain, OH [61 FR 20458, May 7, 1996] and Salt Lake City/Davis County, UT [60 FR 36723, July 18, 1995]. See also the decision of the U.S. Court of Appeals for the 10th Circuit upholding the statutory interpretation contained in the May 10, 1995 Seitz memo. *Sierra Club* v. *EPA* 99f.3d 1551 (10th Cir. 1996).

Response to Public Comments

Comment #1

NYSDEC disagrees with EPA's statement in the proposed rulemaking for approval of the redesignation request and maintenance plan that the Richmond area has met all relevant requirements of the CAA that were due as of July 26, 1996, the date Virginia submitted its redesignation request. NYSDEC states that the Commonwealth of Virginia missed the ''November 15, 1995'' statutory deadline for implementing the nitrogen oxides (NO_X) reasonably available control technology (RACT) requirements of the CAA and continues to be delinquent.[1] It was noted that the Commonwealth of Virginia responded to EPA's July 8, 1994 finding of failure to submit a NO_X RACT state implementation plan (SIP) for the Richmond area with a petition for an exemption from the NO_X RACT requirement submitted on December 18, 1995. NYSDEC states that this December 18, 1995 petition was well after the mandated date of November 15, 1993 for submittal of a NO_X RACT SIP and after the mandatory implementation date. NYSDEC concludes that ''[t]herefore, not implementing NO_X RACT in the Richmond area was not an option.'' NYSDEC objects to the proposed approval of the redesignation request on the grounds that the area failed to implement RACT on major sources of NO_X.

Response #1

Upon careful consideration of this comment, EPA concludes that this comment is relevant only to the proposed approval of the redesignation to attainment and not EPA's July 13, 1997 decision that the RFP, attainment demonstration and section 172(c)(9) contingency measure requirements of the CAA are inapplicable to Richmond. Section 107 of the CAA requires that the Commonwealth meet all applicable part D requirements prior to redesignation. However, there is no linkage of the section 182(f) NO_X RACT requirement with the determination of attainment and resulting inapplicability of certain part D requirements for RFP, the attainment demonstration and other requirements of CAA sections 172(c)(2), 172(c)(9), and 182(b)(1). Eligibility for this

[1] Section 182(b) of the Act specifies that RACT is to be implemented not later than May 15, 1995. The discrepancy in dates does not substantively affect the commenters argument.

determination is based solely on monitored air quality. Furthermore, on July 21, 1997, EPA published final approval of an exemption from the NO_X RACT requirement for the Richmond area contingent upon air quality monitoring that demonstrates continued attainment of the ozone NAAQS [62 FR 38922].

As discussed in the June 13, 1997 direct final rulemaking, EPA has previously interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172) so as not to require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures where an area is monitoring attainment of the ozone standard. See 57 FR 13498, 57 FR 13564 (April 16, 1992). As discussed in the direct final rulemaking and in previous rulemakings in other areas cited above, EPA has concluded that it is appropriate to interpret the more specific RFP, attainment demonstration and related provisions of subpart 2 in the same manner. This conclusion was upheld by the U.S. Court of Appeals for the 10th Circuit, *Sierra Club* v. *EPA* 99f.3d 1551 (10th Cir. 1996). According to the May 10, 1995 policy memo, three consecutive years of complete, quality assured ambient air quality monitoring data is the sole determinant of whether the Richmond area has attained the standard and is therefore eligible for a determination that certain part D requirements do not apply, for as long as the Richmond area continues to attain the standard, or until the area is no longer designated nonattainment.

Comment #2

NYSDEC also contests EPA's statement in the redesignation request and maintenance plan proposed rulemaking that the Commonwealth of Virginia has a fully approved SIP for the Richmond area under section 110(a)(2). NYSDEC states that any NO_X exemption petition would also be invalid because section 110(a)(2)(D) prohibits granting an exemption from NO_X RACT pursuant to section 182(f) of the CAA where there is evidence that the exemption would interfere with attainment of a NAAQS in another state. Therefore, NSYDEC claims the redesignation request does not meet this prerequisite for redesignation of section 107 of the CAA that the Commonwealth have a fully approved SIP under section 110(a)(2).

Response #2

Upon careful consideration of this comment, EPA concludes that this comment is relevant only to the proposed approval of the redesignation to attainment and not EPA's July 13, 1997 decision that the RFP, attainment demonstration and section 172(c)(9) contingency measure requirements of the CAA are inapplicable to Richmond. The commenter objected to the proposed approval of the redesignation request on the grounds that the area failed to implement RACT on major sources of NO_X. The commenter did not object to the determination that the area has attained the standard or that certain requirements of the CAA are no longer applicable for so long as the area continues to attain the standard, or until the area is no longer designated nonattainment.

While section 107 of the CAA requires the Commonwealth to have a fully approved SIP under section 110(a)(2) prior to redesignation to attainment, the determination of the inapplicability of certain part D requirements is based solely on air quality data. There is no requirement to have a fully approved SIP under section 110(a)(2) to be eligible for a determination that the area is attaining the standard and that, therefore, certain part D requirements of the CAA for RFP, attainment demonstration and other requirements of sections 172(c)(2), 172(c)(9) and 182(b)(1) are inapplicable.

On July 21, 1997, EPA published final approval of an exemption from the NO_X RACT requirement for the Richmond area contingent upon air quality monitoring that demonstrates continued attainment of the ozone NAAQS [62 FR 38922]. In the July 21, 1997 final rulemaking action on the NO_X exemption, EPA responded to adverse comments received that section 110(a)(2)(D) prohibits granting exemptions pursuant to section 182(f) where there is evidence that granting of the exemption would interfere with attainment of the ozone NAAQS in downwind areas. See 62 FR 38926. Furthermore, as EPA responded in the final rulemaking, the action to provide a NO_X RACT waiver under section 182(f) for any area would not shield that state from the obligation, in response to a SIP call under section 110 by EPA, to obtain NO_X emission reductions, if evidence such as photochemical grid modeling shows that NO_X emissions contribute significantly to downwind nonattainment or maintenance in another state.

Comment #3: NSYDEC states that it is not a relevant factor that Richmond is now attaining the ozone NAAQS because the Richmond area has avoided implementing the NO_X RACT requirements of the Act.

Response #3: As stated above, air quality data is directly relevant to this action. As set forth in the May 10, 1995 Seitz memo and subsequent rulemakings, EPA is authorized to conduct individual rulemakings concerning areas that have three consecutive years of clean air quality monitoring data demonstrating attainment of the ozone standard to make binding determinations that the areas have attained the standard and thus need not make the required SIP submissions for RFP, the attainment demonstration and the section 172(c)(9) contingency measure requirements for so long as the area remains in attainment, or until the area is redesignated to attainment. The fact that the Richmond area has not implemented the NO_X RACT requirements of the CAA is not relevant to EPA's determination of inapplicability of these other CAA requirements.

Other specific requirements of section 110 and the rationale for EPA's proposed action are explained in the June 13, 1997 direct final rulemaking and other rulemakings referenced in today's action, and will not be restated here.

Final Action

EPA has determined that the Richmond ozone nonattainment area has attained the 1-hour .12 ppm ozone standard and continues to attain that standard at this time. As a consequence of this determination, the requirements of sections 182(b)(1) and 172(c)(2) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures are no longer applicable to the area so long as the area does not violate the 1-hour .12 ppm ozone standard, or until the area is redesignated to attainment.

EPA emphasizes that this determination is contingent upon the continued monitoring and continued attainment and maintenance of the ozone NAAQS in the affected area. In the event the area is still designated nonattainment and a violation of the ozone NAAQS is monitored in the Richmond nonattainment area (consistent with the requirements contained in 40 CFR part 58), EPA will provide notice to the public in the **Federal Register**. Such a violation would mean that the area would thereafter have to address the requirements of section 182(b)(1) and section 172(c)(9) since the basis for the determination that they do not apply would no longer exist.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation

plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

I. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

II. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Today's determination does not create any new requirements, but suspends the indicated requirements. Therefore, because this action does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected.

III. Unfunded Mandates

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

EPA has determined that the approval action proposed/promulgated does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action does not create any new requirements, but suspends the indicated requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

IV. Submission to Congress and the General Accounting Office

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

V. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 1997. Filing a petition for reconsideration by the Administrator of this final rule regarding a determination of attainment of ozone standard and a determination regarding the applicability of certain CAA requirements in the Richmond area does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: September 27, 1997.

William T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart VV of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2428 is added to read as follows:

§ 52.2428 Control Strategy: Carbon monoxide and ozone.

Determination—EPA has determined that, as of November 5, 1997, the Richmond ozone nonattainment area, which consists of the counties of Chesterfield, Hanover, Henrico, and part of Charles City County, and of the cities of Richmond, Colonial Heights and Hopewell, has attained the 1-hour .12 ppm ozone standard based on three years of air quality data for 1993, 1994 and 1995. EPA has further determined that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the Richmond area for so long as the area does not monitor any violations of the 1-hour .12 ppm ozone standard, or until the area is no longer designated nonattainment. If a violation of the ozone NAAQS is monitored in the Richmond ozone nonattainment area while the area is designated nonattainment, these determinations shall no longer apply.

[FR Doc. 97–26444 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5902–7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Partial Deletion of Releases from the Saegertown Industrial Area Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of releases on certain properties at the Saegertown Industrial Area Superfund Site (Site) in Saegertown, Pennsylvania from the National Priorities List (NPL). Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), EPA promulgated the National Oil and Hazardous Substances Contingency Plan (NCP) at 40 CFR part 300. The NPL is published at appendix B of 40 CFR part 300. EPA and the Commonwealth of Pennsylvania have determined that all appropriate Fund-financed and responsible party-financed responses under CERCLA have been implemented on the former GATX property at the Site, and that no further cleanup is appropriate for the former GATX property, the former SCI property or the SMC property at the Site. Moreover, EPA and the Commonwealth of Pennsylvania have determined that the remedial action conducted on the former GATX property to date remains

protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 6, 1997.

ADDRESSES: Comprehensive information about this Site is available through the public docket, which is available for viewing at the Site information repositories at the following locations: Hazardous Waste Technical Information Center, 9th Floor, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–5364. Saegertown Area Library, 320 Broad Street, Saegertown, PA 16433, (814) 763–5203.

FOR FURTHER INFORMATION CONTACT: Steven J. Donohue, Remedial Project Manager, EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107. 215–566–3215.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is: Saegertown Industrial Area Site, Saegertown, Pennsylvania.

Based primarily on the information collected during the Remedial Investigation and Feasibility Study (RI/FS), EPA issued a Record of Decision (ROD) for the Saegertown Industrial Area Site on January 29, 1993. The ROD called for remedial action on two areas of the industrial park: the property formerly owned by the General American Transportation Corporation (GATX) and property owned and operated by the Lord Corporation (Lord). The RI/FS conducted for the Site indicated that the releases from the Spectrum Control, Inc. (SCI) property and the Saegertown Manufacturing Company (SMC) property posed no significant threat to public health or the environment. The ROD, therefore, selected no action for the SMC and SCI properties at the Site. On September 17, 1993 SCI sold its property at the Site to SMC.

GATX has implemented all appropriate response actions required under CERCLA on its former property at the Site. In July 1997, EPA approved the remedial action certification report documenting the completion of the cleanup of the former GATX property in accordance with the ROD. With the exception of the continued monitoring of the ground water, no further action is required at the former GATX property. The former GATX property is available for unrestricted use and unlimited access. Due to the continued ground water monitoring on the former GATX property, EPA will include this portion of the Site in the next Five-Year Review of the Site.

Because the selected remedy for the ground water below the Lord property at the Site has not yet been fully implemented and completed, this portion of the Site is not yet protective of human health and the environment, and is not being proposed for deletion.

A Notice of Intent for Partial Deletion for this Site was published on August 22, 1997 in the **Federal Register** (62 FR 44619–44621). The closing date for comments on the Notice of Intent for Partial Deletion was September 22, 1997. EPA did not receive any written comments during the comment period.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the National Priorities List containing those sites. Remedial Actions at sites on the NPL may be funded by the Hazardous Substance Response Trust Fund (Fund). Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Superfund, Water supply.

Dated: September 26, 1997.

W. Michael McCabe,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

For the reason set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Table 1 of appendix B to part 300 is amended by revising the entry for ''Saegertown Industrial Area'', Saegertown, Pennsylvania to read as follows:

APPENDIX B TO PART 300—NATIONAL PRIORITIES LIST

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes(a)
* * *	* * *	* * *	
PA	Saegertown Industrial Area	Saegertown	P
* * *	* * *	* * *	

(a) A=Based on issuance of a health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be ≤ 28.50).

* * * * *

P=Sites with partial deletion(s).

* * * * *

[FR Doc. 97–26186 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410 and 412

[BPD–878–CN]

RIN 0938–AH55

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates; Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period; correction notice.

SUMMARY: In the August 29, 1997, issue of the **Federal Register** (62 FR 45966), we published a final rule with comment period revising the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes resulting from the Balanced Budget Act of 1997, Pub. L. 105–33 and changes arising from our continuing experience with the system. This document corrects technical errors made in that document.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Edwards, (410) 786–4531.

SUPPLEMENTARY INFORMATION: The August 29, 1997, final rule with comment period contained technical errors relating to codified regulations text. Therefore, we are making the following corrections:

1. On page 46030, first column, in the amendatory language of item number 17, first line, the phrase ''In § 412.108 paragraph (a)(1)'' is corrected to read ''In § 412.108 the introductory text of paragraph (a)(1)''.

2. On page 46037, second column, 26th line, the entry ''§ 410.32(b)(1)'' is corrected to read ''§ 410.32(e)(1)''.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance; and No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: September 30, 1997.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resource Management.

[FR Doc. 97–26348 Filed 10–3–97; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 418

[BPD–820–CN]

RIN 0938–AG93

Medicare Program; Hospice Wage Index; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: This document corrects the final rule published August 8, 1997 (62 FR 42859), that established a methodology to update the wage index used to adjust Medicare payment rates for hospice care included in the new wage index, to be effective October 1, 1997. This notice corrects the wage index entry for Cherokee, GA.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Carol Blackford, (410) 786–5909.

SUPPLEMENTARY INFORMATION: We are making the following correction to the final rule published in the **Federal Register** on August 8, 1997 (62 FR 42859):

On page 42864, in the first column ''Urban area (constituent counties or county equivalent)'', under Table A, the wage index entry for Cherokee, GA, ''0.9841'', is corrected to read ''0.9822''.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 30, 1997.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 97–26468 Filed 10–3–97; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2090, 2110, and 2130

[WO–130–1820–00–24 1A]

RIN 1004–AC98

Gifts; Acquisition of Lands or Interest in Lands by Purchase or Condemnation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: BLM is removing the regulations that explain the procedures for donating land to the Department of the Interior, and those that describe the Department's authority to acquire land by purchase or condemnation under the King Range National Conservation Area Act. These regulations are either statements of policy, internal procedures, or restatements of statutory provisions. BLM believes that these regulations can be removed without any substantive impact on the public.

EFFECTIVE DATE: November 5, 1997.

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

FOR FURTHER INFORMATION CONTACT: Erica Petacchi, telephone: 202–452–5084; or David Beaver, telephone: 202–452–7788.

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule as Adopted
III. Responses to Comments
IV. Procedural Matters

I. Background

The final rule published today is a stage of a rulemaking process that will conclude in the removal of the regulations in 43 CFR parts 2110 and 2130. This rule finalizes a proposed rule that was published on September 11, 1996, in the **Federal Register** at 61 FR 47853. The rule provided for a comment period of 30 days, and BLM received no comments from the public.

This final rule is part of BLM's efforts to streamline its regulations in the Code of Federal Regulations (CFR). BLM is removing unnecessary or obsolete regulations, and making the remainder of its regulations more understandable and relevant. The regulations this rule removes are repetitive of statutory language, obsolete, or merely informational. These regulations belong not in the CFR, but in other publications such as manuals or brochures.

II. Final Rule as Adopted

The final rule will remove the regulations in 43 CFR parts 2110 and 2130, with the exception of section 2111.4—Status of Lands, which will be relocated in subpart 2091.

Subpart 2110—Gifts; General

Most of subpart 2110 merely restates statutory provisions found in various sections of the U.S. Code, including two repealed sections. Section 2110.0–3(a) repeats language from the Taylor Grazing Act at 43 U.S.C. 315g. Section 2110.0–3(b) repeats language from the Public Land Administration Act at 43

U.S.C. 1364. Section 2110.0–3(c) repeats language from the King Range Conservation Area Act at 16 U.S.C. 460y. Section 2110.0–3(d) repeats language from the Wild and Scenic Rivers Act at 16 U.S.C. 1277(f).

The only section in subpart 2110 that does not merely repeat statutory language is § 2110.0–1, which states the policy concerning the Secretary of the Interior's discretion to accept gifts of land. Since the non-binding terms of this section do not materially affect the public at large, we are removing this provision to enhance flexible decision-making.

Subpart 2111—Procedures

We will retain § 2111.4 in 43 CFR subpart 2091, but we are removing the remainder of subpart 2111. Most of the text in subpart 2111 already exists in the BLM Manual/Handbook (H–2101–1), and any aspect not already found in the Manual/Handbook can be incorporated in that publication.

Part 2130—Acquisition of Lands or Interests in Lands by Purchase or Condemnation

The provisions of 43 CFR part 2130 are unnecessary because they either merely restate statutory language of the King Range Conservation Area Act at 16 U.S.C. 460y, or contain policy directives which should be relocated to the BLM Manual/Handbook.

Subpart 2130—Acquisition of Lands or Interests in Lands by Purchase or Condemnation: General

Subpart 2130 consists entirely of restatements of the King Range Conservation Area Act, 16 U.S.C. 460y, concerning the authority of the Secretary to purchase and condemn lands.

Subpart 2137—Condemnation of Lands or Interests in Lands

Subpart 2137 contains two policy statements that should be relocated to the BLM Manual/Handbook: § 2137.0–7 concerns BLM's policy of appraising acquired property, an internal procedure derived from 16 U.S.C. 460y–4(4); and § 2137.0–9 concerns the BLM policy of resorting to eminent domain as a last option.

With the exception of 43 CFR 2111.4, which this rule will relocate to subpart 2091, no portion of either part 2110 or part 2130 contains any necessary substance to guide the public in any meaningful way. The language being removed serves only to guide BLM decisions, or serves no purpose at all. Removing and relocating these sections as described above will streamline the CFR and enhance BLM's efficiency without affecting the public.

III. Responses to Comments

BLM received no comments from the public, and is therefore adopting the proposed rule without changes.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the 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, 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**).

Paperwork Reduction Act

This rule contains no 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 (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 analysis contained in this preamble, BLM concludes the rule will not impact the public or small entities because the substance of the regulations only provides guidance to BLM regarding procedures for accepting gifts of land, and acquiring land by purchase or condemnation under the King Range National Conservation Area Act. Because the regulations to be removed do not provide any guidance or mandates to the public, BLM anticipates that the final rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Removal of 43 CFR parts 2110 and 2130 and the relocation of § 2111.4 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 final 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 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 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.

Author

The principal author of this rule is Erica Petacchi, Bureau of Land Management, 1849 C Street, NW., Room 401LS, Washington, DC 20240; Telephone: 202–452–5084 (Commercial or FTS).

List of Subjects

43 CFR Part 2090

Airports, Alaska, Coal, Grazing lands, Indians—lands, Public lands, Public lands—classification, Public lands—

mineral resources, Public lands—withdrawal, Seashores.

43 CFR Part 2110

Government property, Public lands.

43 CFR Part 2130

Public lands.

Dated: September 25, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated above, and under the authority of 43 U.S.C. 1740, BLM is amending Chapter II of Subtitle B, title 43 of the Code of Federal Regulations as follows:

PART 2090—[AMENDED]

1. Revise the authority for part 2090 to read as follows:

Authority: 16 U.S.C. 3124; 30 U.S.C. 189; 43 U.S.C. 322, 641, 1201, 1624, 1740.

2. Section 2111.4 of Part 2110 is redesignated as § 2091.8 in Subpart 2091 and is revised to read as follows:

§ 2091.8 Status of gift lands.

Upon acceptance by the United States, through the Secretary of the Interior, of a deed of conveyance as a gift, the lands or interests so conveyed will become property of the United States but will not become subject to applicable land and mineral laws of this title unless and until an order to that effect is issued by BLM.

PART 2110—[REMOVED]

3. Remove part 2110 in its entirety.

PART 2130—[REMOVED]

4. Remove part 2130 in its entirety.

[FR Doc. 97–26457 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93–61, FCC 97–305]

Automatic Vehicle Monitoring Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Memorandum Opinion and Order,* the Commission addresses the remaining issues raised by petitioners for reconsideration of its *Report and Order* in PR Docket No. 93–61, 60 FR 15248 (March 23, 1995), which established rules governing the licensing of the Location and Monitoring Service (LMS) in the 902–928 MHz band. The Commission resolved other issues raised by petitioners in an *Order on Reconsideration* in this docket. 61 FR 18981 (April 30, 1996). This item clarifies interconnection limitations for multilateration LMS, as well as other issues raised on reconsideration, such as operational parameters for non-multilateration systems, treatment of other users of the 902–928 MHz band, the structure of the spectrum allocation plan, the geographic service area for licensing multilateration LMS, and the licensing of wideband forward links. The intended effect of this action is to minimize potential interference within and among users of the 902–928 MHz band.

EFFECTIVE DATE: December 5, 1997.

FOR FURTHER INFORMATION CONTACT: David Furth or Linda Chang at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *Memorandum Opinion and Order* in PR Docket No. 93–61, adopted August 28, 1997, and released September 16, 1997, is available for public inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street N.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036 (telephone number: (202) 857–3800).

Synopsis of Memorandum Opinion and Order

Introduction and Background

1. LMS refers to advanced radio technologies designed to support the nation's transportation infrastructure and to facilitate the growth of Intelligent Transportation Systems. In the *LMS Report and Order,* the Commission created a new subpart M in part 90 of the Commission's Rules for Transportation Infrastructure Radio Services (TIRS). LMS, which encompasses the 20-year-old Automatic Vehicle Monitoring Service as well as developing transportation-related services, was deemed to be the first service included within the TIRS category. Parties have requested that the Commission redesignate TIRS as ITSRS, or ''Intelligent Transportation Systems Radio Service.'' These parties contend that the term ''Intelligent Transportation System'' has become widely accepted by other government agencies and in the private sector, and would be more descriptive of the types of services contemplated for subpart M of part 90. The Commission is persuaded that it would be appropriate to refer to LMS and like services as Intelligent Transportation Systems Radio Services, and the Commission changes its rules accordingly.

2. In the *LMS Report and Order,* the Commission defined two types of LMS systems—multilateration and non-multilateration. Multilateration LMS systems are designed to locate vehicles or other objects by measuring the difference of time of arrival, or difference in phase, of signals transmitted from a unit to a number of fixed points, or from a number of fixed points to the unit to be located. Such systems generally use spread-spectrum technology to locate vehicles throughout a wide geographic area. The Commission defined non-multilateration systems as LMS systems that employ any technology other than multilateration technology. The Commission noted that unlike a multilateration system, which determines the location of a vehicle or object over a wide area, a typical non-multilateration system uses narrowband technology whereby an electronic device placed in a vehicle transfers information to and/or from that vehicle when the vehicle passes near one of the system's stations.

3. LMS operates in the 902–928 MHz frequency band. The band is allocated for primary use by Federal Government radiolocation systems. Next in order of priority are Industrial, Scientific and Medical (ISM) devices. Federal Government fixed and mobile and LMS systems are secondary to both of these uses. The remaining uses of the 902–928 MHz band include licensed amateur radio operations and unlicensed part 15 equipment, both of which are secondary to all other uses of the band. Part 15 low power devices include, but are not limited to, those used for automatic meter reading, inventory control, package tracking and shipping control, alarm services, local area networks, internet access and cordless telephones. The amateur radio service is used by technically inclined private citizens to engage in self-training, information exchange and radio experimentation. In the *LMS Report and Order,* the Commission recognized the important contribution to the public provided by part 15 technologies and amateur radio operators and sought to develop a band plan that would maximize the ability of these services to coexist with LMS systems.

4. The Commission adopted the *LMS Report and Order* with an eye toward minimizing potential interference within and among the various users of

the 902–928 MHz band. The Commission's band plan accordingly permits secondary operations across the entire band by users of unlicensed part 15 devices and amateur licensees. At the same time, the band plan separates non-multilateration from multilateration LMS systems in all but one subband so as to avert interference. The *LMS Report and Order* also established limitations on LMS systems' interconnection with the public switched network and set forth a number of technical requirements intended to ensure successful coexistence of all the services authorized to operate in the band.

5. This *Memorandum Opinion and Order* for the most part affirms decisions made by the Commission in the *LMS Report and Order* as an appropriate balancing of the interests of the different uses authorized in the band. Where appropriate, the Commission clarifies particular aspects of those decisions. First, the Commission reviews petitioners' objections to its interconnection restrictions and clarifies that the regulatory classification of LMS operators will be determined on a case-by-case basis. Next, the Commission addresses petitioners' concerns regarding the definition and scope of the non-multilateration LMS service. The Commission then discusses issues raised by petitioners regarding the ''safe harbor'' within which part 15 devices and amateur operators will be deemed not to cause interference to multilateration LMS providers. The Commission next addresses petitioners' suggested changes to the band plan adopted in the *LMS Report and Order,* as well as its decision to license multilateration LMS systems on a major trading area (MTA) basis. The Commission further considers the propriety of allowing multilateration wideband forward links to operate in the 902–928 MHz band.

A. Eligibility and Permissible Uses

6. In the *LMS Report and Order,* the Commission recognized that multilateration systems may have some need for interconnection with the public switched telephone network (PSTN). At the same time, however, the Commission recognized that unlimited interconnection by multilateration operators would be incompatible with the unique technical environment created by different types of services sharing the 902–928 MHz band. The Commission was concerned that such activity would not only increase the potential for harmful interference to other users of the band, but also detract from the location and monitoring purposes of the LMS allocation. Accordingly, the Commission adopted operational restrictions on multilateration LMS operators to minimize interference to all users of the spectrum. These restrictions include limitations on messaging services and interconnection with the PSTN, and a prohibition against message and data transmissions to fixed units and units for which location and monitoring is not being provided.

7. Of the restrictions listed above, the most discussed by petitioners were the Commission's limitations on interconnection. Specifically, the Commission in the *LMS Report and Order* permitted ''store and forward'' interconnection where either (1) transmissions from a vehicle or object being monitored are stored by the multilateration LMS provider for later transmission over the PSTN, or (2) transmissions received by the multilateration LMS provider from the PSTN are stored for later transmission to the vehicle or object being monitored. The rules adopted in the *LMS Report and Order* do not permit ''real-time'' interconnection between vehicles and the PSTN except for emergency communications related to a vehicle or a passenger in a vehicle.

8. In the *Memorandum Opinion and Order,* the Commission notes that only one petitioner supported unrestricted interconnection while the majority of parties addressing the issue support at least some restriction on LMS interconnection. One commenter suggests a minimum time delay of transmission to prevent two way person-to-person conversation. Some petitioners who were against permitting any multilateration LMS interconnection to the PSTN argue that the restrictions adopted by the Commission present substantial enforcement problems. They argue that by limiting transmission of messages to emergency communications related to the location and monitoring functions of the system, the Commission will place multilateration LMS operators in the position of having to become substantially involved with the content of their customers' communications. Nonetheless, some parties, even those that generally oppose interconnection, recognize that some interconnected service is needed in the event of an emergency.

9. After revisiting this issue and considering petitioners' concerns, the Commission continues to believe that its decision regarding limitations on multilateration LMS interconnection reflects a necessary balancing of the interests of LMS providers and other users of the 902–928 MHz band. Relaxing restrictions on interconnection could increase the potential for interference in the band by allowing for additional message traffic. The Commission believes that requiring messages to be sent on a store-and-forward basis will reduce message traffic in the band by making it difficult to conduct a real-time conversation using LMS spectrum. However, the Commission concludes that real-time interconnection is necessary and appropriate in emergency situations. The Commission therefore rejects the arguments of commenters asking that the Commission forbid real-time interconnection in emergency situations. The Commission believes that to do otherwise could impede the development of LMS, to the detriment of Intelligent Transportation Systems and, more importantly, would raise significant public safety concerns.

10. The Commission clarifies that ''store and forward'' communications as described in the *LMS Report and Order* refers to a storage of voice or data messages for subsequent delivery to the recipient. The Commission declines to adopt a specific minimum delay, as requested by some petitioners. As a guideline, however, the Commission adopts a ''safe harbor'' approach whereby a particular message will be considered an acceptable store-and-forward message pursuant to its rules if the LMS service provider incorporates at least a thirty-second delay between the time a message is stored and the time that message is forwarded. This is not to say that a delay of less than 30 seconds will be unacceptable in all cases, but use of a 30-second delay will ensure that the communication will be deemed to fit within the definition of a store and forward message with respect to LMS. While the Commission considered using a one-minute delay, the Commission believes that a thirty-second delay is sufficient to ensure that two-way conversation is impractical and will thereby discourage use of multilateration LMS for general messaging. The Commission also clarifies that emergency communications, for which real-time interconnection may be utilized, is equivalent to a 911 or 311 call. Such communication must have a direct relation to the immediate safety of life or for communications to render assistance to a motorist. If no immediate action is necessary, it is not an emergency. All other communications should use ''store and forward'' technology.

11. The Commission recognizes petitioners'' concerns that limiting interconnection based on the character

of the message would be difficult to enforce and therefore raises the possibility of abuse. The Commission believes, however, that setting forth specific examples of what is or is not an emergency would serve no useful purpose and that such a rule could be unduly restrictive. The Commission does not intend to monitor the content of messages but expects that multilateration operators will be able to demonstrate compliance with the interconnection limitations if requested. Compliance may be accomplished by equipment that will permit voice calls in real time only to 311, 911, and an automobile road service provider. Compliance might also be accomplished by multilateration LMS operators monitoring transmissions over their facilities and providing information regarding their transmissions to the Commission if requested. The Commission believes that this type of monitoring will not violate section 705 of the Communications Act because it fits within the exception for providing information regarding a transmission ''on demand of other lawful authority.'' The Commission also notes that it will, on a case-by-case basis, consider requests for confidential treatment of such information. Moreover, the interconnection limitations are not tantamount to a restriction on free speech but, rather, the interconnection limitations are necessary to define the parameters of multilateration LMS service pursuant to the Commission's authority under the Communications Act to prescribe the type of service to be offered by a particular class of radio stations. 47 U.S.C. § 303(b).

12. The interconnection issues raised by petitioners lead to the question of whether multilateration LMS is a Commercial Mobile Radio Service (CMRS). Pursuant to section 332(d) of the Communications Act, a service is classified as CMRS if it is (1) provided for profit, (2) interconnected with the PSTN, and (3) available to the public or effectively available to a substantial portion of the public. In the *CMRS Second Report and Order,* GN Docket No. 93–252, 59 FR 1285 (January 10, 1994), the Commission classified LMS as a Private Mobile Radio Service (PMRS). The Commission indicated, however, that should LMS systems offer interconnected service in the future, they would be subject to reclassification as a presumptively Commercial Mobile Radio Service (CMRS). At this juncture, it is unclear to what extent multilateration LMS providers will offer any interconnected service, notwithstanding their ability to offer some limited interconnection capabilities as discussed above. To accommodate the specific service offerings anticipated by each multilateration LMS provider, the Commission will use a case-by-case approach in determining whether a particular service offering is CMRS or PMRS.

B. Other Issues Raised on Reconsideration

Definition and licensing of nonmultilateration systems antenna height and power limitations. 13. In the *LMS Report and Order,* the Commission limited the peak effective radiated power (ERP) of non-multilateration systems to 30 watts over the licensee's authorized bandwidth. The Commission also limited the antenna height above ground of these systems to 15 meters. The *LMS Report and Order* concluded that the power and antenna height restrictions will allow non-multilateration systems to share spectrum more easily with other non-multilateration systems and with part 15 users. It also concluded that the power and antenna height limitations will permit greater frequency reuse. The Commission continues to believe that the definition and technical specifications of non-multilateration LMS systems adopted in the *LMS Report and Order* reflect a reasoned balancing of the interests of the various users of the 902–928 MHz band, and no new information has been introduced into the record of this proceeding to persuade us otherwise. The restrictions advocated by some of the commenters would unduly limit non-multilateration operations, jeopardizing future technological developments that could be crucial to the advancement of Intelligent Transportation Systems. On the other hand, the higher limitations suggested by other commenters could increase the potential for interference within the band. The Commission believes that its requirements are most conducive to continued sharing of this band, and thus the Commission declines to modify the power and antenna height restrictions the Commission adopted in the *LMS Report and Order.* The Commission believes that the antenna height and transmitting power limits in the current rule accommodate most of the common non-multilateration applications that would be appropriate for operation in this shared spectrum. However, in the event that unique practical considerations of a particular installation necessitate a higher antenna mounting height, the Commission would consider waiving the rule on a case-by-case basis to allow the higher antenna height (but not higher power), provided that other comparable technical trade-offs, such as reduced power or confined antenna radiation patterns, are employed to limit the interference potential.

Licensing issues. 14. In the LMS Report and Order, the Commission decided to license non-multilateration LMS systems on a shared basis because these systems generally cover relatively short distances, and because of its belief that licensing based on a fixed mileage separation would limit re-use of spectrum and thereby limit the potential uses of non-multilateration systems. The Commission declined to adopt a blanket licensing scheme for non-multilateration systems whereby, for example, a licensee would be permitted to locate transmitter sites anywhere within a given geographic area. The Commission instead decided to require non-multilateration systems to acquire licenses for each site, concluding that a blanket licensing approach would make it difficult for the Commission and the public to ascertain the exact location of LMS transmitters.

15. However, the Commission is persuaded by suggestions from commenters that it would be administratively expedient to establish a mechanism by which public agencies and other entities can file joint applications for non-multilateration systems for purposes of deploying a single, region-wide system with multiple sites and multiple readers at individual sites. While the Commission anticipates that this mechanism will be used primarily by municipalities and government agencies, the Commission also believes that other entities seeking to establish multiple-site systems should also be able to use a streamlined application procedure. The Commission will thus permit applicants to file a single application for a non-multilateration license covering multiple sites within a given U.S. Department of Commerce Bureau of Economic Analysis Economic Area (EA). Such an application may also be filed jointly by multiple users of a single system. In order to avoid uncertainty for other users of the band, the application must identify all planned sites and, after receiving the license, the licensee must notify the Commission if sites are deleted or if new sites are added before those sites become operational. The Commission will revise its rules accordingly. The Commission declines, however, to revise its rules to specify that the transmissions of non-multilateration systems are limited to a confined area. The Commission believes that this could unnecessarily limit such

systems' flexibility to configure their facilities for particular uses.

Accommodation of secondary users in the 902–928 MHz band. 16. To accommodate the concerns of part 15 interests regarding their secondary status vis-a-vis LMS, the *LMS Report and Order* adopted a ''safe harbor'' within which part 15 devices may operate without fear of being deemed to cause interference to LMS operators. Specifically, a part 15 device will, by definition, not be considered to be causing interference to a multilateration LMS system if it is otherwise operating in accordance with the provisions of part 15 and meets at least one of the following conditions:

(a) it is a part 15 field disturbance sensor operating in compliance with § 15.245 of the rules and it is not operating in the 904–909.750 or 919.750–928.000 MHz sub-bands; or

(b) it does not employ an outdoor antenna; or,

(c) if it does employ an outdoor antenna, then if

(1) the directional gain of the antenna does not exceed 6 dBi, or if the directional gain of the antenna exceeds 6 dBi, it reduces its transmitter output power below 1 watt by the proportional amount that the directional gain of the antenna exceeds 6 dBi; and,

(2) either

(A) the antenna is 5 meters or less in height above ground; or,

(B) the antenna is more than 5 meters in height above ground but less than or equal to 15 meters in height above ground and either:

(i) adjusts its transmitter output power below 1 watt by 20 log (h/5) dB, where h is the height above ground of the antenna in meters; or,

(ii) is providing the final link for communications of entities eligible under subparts B or C of part 90 of the rules.

17. In its *Order on Reconsideration* in this proceeding, the Commission denied requests by petitioners that the part 15 safe harbor instead be treated as a rebuttable presumption, *i.e.*, that LMS licensees be permitted to file complaints of interference regarding part 15 devices operating within the safe harbor if the LMS licensees believe those part 15 devices are causing harmful interference. The Commission concluded that the safe harbor approach represented an appropriate balancing of the interests of the various parties sharing the 902–928 MHz band. In this *Memorandum Opinion and Order*, the Commission addresses petitioners' other contentions regarding the safe harbor. Specifically, petitioners also challenged the technical parameters of the safe harbor and argued that the Commission acted in violation of the Administrative Procedure Act (APA), 5 U.S.C. § 551, *et seq.* In addition, some petitioners ask that the safe harbor apply to non-multilateration LMS operators as well as multilateration operators.

Parameters of safe harbor. 18. The Commission believes that the safe harbor rule, which was adopted after careful study of the extensive record in this proceeding, appropriately balances the interests of the various parties operating in the 902–928 MHz band so as to limit the potential for harmful interference. In the *LMS Report and Order*, the Commission affirmed that unlicensed part 15 devices in the band, as in any other band, may not cause harmful interference to and must accept interference from all other operations in the band. It also reiterated that unlicensed part 15 operations have no vested or recognizable right to continued use of any given frequency. Nonetheless, the Commission recognized the concerns of part 15 and amateur interests with respect to their secondary status. Accordingly, in order to alleviate such concerns and to provide all operators in the band with a greater degree of certainty in configuring their systems, thereby promoting competitive use of the band, the Commission adopted the safe harbor definition of non-interference.

19. The safe harbor rule is intended to identify part 15 and amateur operations that will, in all cases, be deemed not to cause harmful interference to LMS operators. The Commission emphasized in the *LMS Report and Order* that part 15 and amateur operations are not restricted from operating beyond the parameters of the safe harbor. Rather, the safe harbor specifications provide a threshold beyond which part 15 and amateur operators will not be insulated from LMS operators' claims of harmful interference. The Commission therefore does not believe it necessary to add exemptions to the safe harbor as urged by some petitioners.

20. Moreover, the technical specifications of the rule were clearly explained in the *LMS Report and Order*. In general, amateur operators or part 15 devices using outdoor antennas that are between five and 15 meters above the ground must reduce their output power concomitant with the height of their antennas in order to fit within the safe harbor. The Commission observed that an antenna less than five meters in height driven by a transmitter with one watt or less of output power (the general power limitation for part 15 devices) will only affect LMS operations that are geographically close. A higher antenna, however, has the potential to affect a larger number of LMS operations. The Commission concluded that the power adjustment assures that between 5 and 15 meters, an outdoor antenna has the equivalent effect on multilateration LMS operations of an antenna five meters high using no more than 1 watt transmitter output power. The Commission continues to believe that these specifications appropriately balance the interests of all the parties in minimizing interference.

21. The Commission does not believe, as one commenter suggests, that the term ''final link'' in § 90.361(c)(2)(ii)(B) of the Commission's rules requires much clarification. The term ''final link'' is that link in a communications system which terminates with the part 15 device used by or within the control of the subpart B or C eligible entity. The term does not apply to other links in the system used to support such communications, *e.g.*, intermediate links or links used by non-subpart B or C entities. Therefore, the Commission declines to redefine or expand the list of operations included under ''final link.''

22. The Commission is persuaded by petitioners, however, that the Commission should expand § 90.361(c)(2)(ii)(B) of the Commission's Rules to include schools, libraries and rural health care providers within the safe harbor, permitting them to employ full power with antennas up to 15 meters. It is apparent from the record that many such institutions, particularly schools, may wish to use part 15 devices that operate in this band, as well as similar devices that operate in the 5 GHz National Information Infrastructure (NII) band, to connect to the Internet and other on-line resources. The Commission believes that inexpensive access to the national information infrastructure by its nation's educational institutions is of sufficiently significant benefit to the public to warrant special protection for this limited class of part 15 devices. Further, the universal service provisions of section 254 of the Communications Act, as amended by the Telecommunications Act of 1996, single out schools, libraries and public or nonprofit health care providers serving residents of rural areas as deserving of special attention so as to enable them to satisfy their communications needs. 47 U.S.C. § 254. Accordingly, the Commission will include within the safe harbor elementary and secondary schools, libraries and health care providers for rural areas as defined by section 254.

23. Further, the Commission recognizes that unlike part 15 devices,

the vast majority of which could operate within the safe harbor, amateur radio operations typically would not fit within the safe harbor provisions. Nevertheless, to the extent that amateur operators wish to employ the 902–928 MHz band and to operate within the safe harbor provisions, they should have the same protection as part 15 devices. Further, the Commission reiterates that failure to fit within the safe harbor provisions does not prevent operations; such operations may continue exactly as before, but are not protected from LMS operators' claims of interference.

24. In addition, the Commission has been asked to clarify whether video links are included in the category of ''unprotected'' part 15 devices for purposes of determining eligibility for the safe harbor. They are not. The *LMS Report and Order* specifically provided that long-range video links will not be permitted to take advantage of the safe harbor. The Commission stated that ''because multilateration entities concur that most part 15 interference to multilateration LMS systems is likely to be from field disturbance sensors and long range video links, the Commission will not make any presumption of interference-free operations for these devices when they operate in the exclusive-use bands.'' *LMS Report and Order* at 4717.

Extend safe harbor to non-multilateration. 25. The Commission has also been asked to extend the safe harbor definition to non-multilateration systems. The safe harbor was intended as a way to reduce interference conflicts between multilateration LMS operators and part 15 devices and amateur operators in the 902–928 MHz band. Specifically, it was designed to provide parameters within which a part 15 device or amateur operator could operate without being subject to a claim that it was interfering with the signal of a multilateration LMS operator. Because non-multilateration systems generally employ narrowband technology and operate at lower power levels, it is less likely that part 15 devices and amateur operators will interfere with them, as compared with multilateration LMS systems, which use wider bandwidth emissions and operate at higher power levels. Because the range of non-multilateration devices is relatively small, there is less chance of part 15 and amateur radio devices being located within their area of operation. Moreover, the record does not reveal actual or potential interference between non-multilateration and part 15 devices. To the contrary, there appears to be substantial evidence that there is little likelihood of interference. For these reasons, the Commission does not believe that it is either necessary or appropriate to extend the definition of the safe harbor so as to insulate part 15 and amateur operators from claims of interference by non-multilateration systems.

Administrative Procedure Act. 26. Some petitioners contend that the Commission's adoption of a safe harbor was a violation of the Administrative Procedure Act (APA), because it was not proposed in the *Notice* in this proceeding and was therefore adopted without the required notice and opportunity for public comment. The Commission does not agree that the safe harbor setting forth conditions that will not be considered harmful interference from amateurs and part 15 devices violated the APA. The APA requires an agency to provide the public with ''either the terms or the substance of a proposed rule or a description of the subject and issues involved.'' 5 U.S.C. § 553(B)(3). The APA, however, ''does not require an agency to publish in advance every precise proposal which it may ultimately adopt as a rule.'' *California Citizens Band Association* v. *United States,* 375 F.2d 43, 48 (9th Cir.1967). Rather, the notice is sufficient if the final rule is a ''logical outgrowth'' of the underlying proposal. *United Steelworkers* v. *Marshall,* 647 F.2d 1189, 1221 (D.C. Cir.1980). The Commission believes that the safe harbor was a logical outgrowth of the *Notice of Proposed Rule Making* in this proceeding, PR Docket No. 93–61, 58 FR 21276 (April 20, 1993), which sought comment on ways to accommodate the various users of the 902–928 MHz band and identified specifically the problems surrounding coexistence of part 15 and licensed users of the band. Moreover, the suggestion of a part 15 safe harbor was discussed in publicly-filed *ex parte* submissions.

Spectrum Allocation Plan. 27. The *LMS Report and Order* allocated the entire 902–928 MHz frequency band for LMS systems, generally separating multilateration and non-multilateration operations, as follows:

A: 902.000–904.000 Non-Multilateration
B: 904.000–909.750 Multilateration
C: 909.750–919.750 Non-Multilateration
D: 919.750–921.750 Multilateration and Non-Multilateration
E: 921.750–927.250 Multilateration
F: 927.250–927.500 Narrow band associated with sub-band E
G: 927.500–927.750 Narrow band associated with sub-band D
H: 927.750–928.000 Narrow band associated with sub-band B

Thus, the Commission concluded that bands B and E will be assigned to multilateration systems. Bands A and C will be assigned to non-multilateration systems. Band D will be subject to both multilateration and non-multilateration use. Licensees of bands B, D and E will be assigned narrow bands H, G and F, respectively. Operators requiring additional spectrum will be permitted to aggregate bands to obtain up to eight MHz in a given region through the aggregation of bands D and G and bands E and F. The Commission concluded that licensees may not otherwise be authorized to operate on more than one of the multilateration bands in a given geographic area.

28. As the Commission stated in the *LMS Report and Order,* the Commission believes that both multilateration and non-multilateration LMS systems will play an important role in achieving a nationwide intelligent highway infrastructure. The Commission accordingly devised a band plan that, for the most part, creates separate allocations for the two types of LMS systems and takes into consideration the interference concerns of non-LMS users of the 902–928 MHz band. Upon review of parties' responses to its *Notice of Proposed Rule Making* in this proceeding, however, the Commission decided to allocate the 2 MHz of subband D to be shared by multilateration and non-multilateration users so as to provide non-multilateration users with the possibility of obtaining additional contiguous spectrum.

29. The Commission does not agree with comments that its band plan was illogical or that sharing between multilateration and non-multilateration operators is not feasible. Because the Commission agrees that it is preferable that multilateration and non-multilateration facilities do not operate in the same spectrum, the Commission adopted a band plan that, for the most part, allocated separate blocks of spectrum for multilateration and non-multilateration systems. Its modification to the proposed band plan represented an effort to respond to the concern that some non-multilateration systems might need additional spectrum, without taking any spectrum away from multilateration users. The Commission concluded that it would be appropriate to permit those few multilateration users the opportunity to obtain additional spectrum by permitting them to share the 2 MHz of subband D.

30. In addition, the Commission declines to adopt the proposal that it allocate an additional 2 MHz of contiguous spectrum for non-

multilateration providers. The Commission believes that the band plan adopted in the *LMS Report and Order* appropriately balances the needs and interests of multilateration and non-multilateration operators, as well as part 15 and amateur users of the band. For this reason, the Commission also declines to adopt exclusive subbands for parties willing to time share, or for part 15 users. Doing so would upset the equilibrium among users of the band. Such an allocation would also ignore the secondary status of part 15 providers in that it would afford unlicensed devices co-primary status vis-a-vis licensed operators.

Geographic areas for exclusive licenses. 31. Rand McNally organizes the 50 states and the District of Columbia into 47 Major Trading Areas (MTAs) and 487 Basic Trading Areas (BTAs). In the *LMS Report and Order,* the Commission concluded that MTAs and fits additional MTA-like service areas provide a more suitable regulatory construct for multilateration licensing than the smaller BTAs. The Commission determined that use of MTAs, as defined in the Rand McNally Commercial Atlas and Marketing Guide, will give systems greater capacity to accommodate large number of prospective users which, in turn, will promote competition and encourage advancement of new technologies. The rules adopted in the *LMS Report and Order* provide for one exclusive multilateration system license in each MTA in each of the sub-bands identified for exclusive assignments (B and H, D and G, E and F).

32. After a thorough review of the record in this proceeding and upon further reflection regarding this issue, the Commission concludes that the relevant geographic areas for multilateration LMS licenses should be based on U.S. Department of Commerce Bureau of Economic Analysis Economic Areas (EAs). There are 172 EAs covering the continental United States.

33. Because EAs have not been established for the five U.S. possessions (Guam, Northern Mariana Islands, Puerto Rico, U.S. Virgin Islands, American Samoa), the Commission will create additional licensing regions for systems operating in these territories as well as for the Gulf of Mexico. Specifically, the Commission will designate the following additional licensing regions: (1) Guam and the Northern Mariana Islands (to be licensed as a single area); (2) Puerto Rico and the U.S. Virgin Islands (to be licensed as a single area); and (3) American Samoa. In addition, Alaska will be licensed as a single area. The Commission believes that EAs are large enough to give systems sufficient capacity to accommodate large numbers of prospective users, which will promote competition, encourage new technologies and result in superior service to the public. At the same time, EAs are small enough to alleviate any BTA/MTA warehousing concerns noted in the comments. Further, use of smaller geographic units could result in a more diverse group of prospective licensees because EA-based licenses may be more affordable for small and medium-sized businesses than would MTA-based licenses. The Commission concludes that such an outcome not only is desirable but furthers the public interest and one of the goals enunciated in section 309(j) of the Communications Act. 47 U.S.C. 309(j). Moreover, EAs are better suited than MTAs to a service aimed at improving the nation's transportation infrastructure because EAs are based on urban, suburban and rural traffic patterns. Further, use of EAs solves the copyright problem raised by Rand McNally, because EAs are published by the U.S. Department of Commerce.

Multilateration system operations—wideband forward links

34. In the *LMS Report and Order* the Commission allowed LMS multilateration systems to use wideband forward links. A forward link refers to the signal path from the LMS system's fixed base site to its mobile units. The Commission noted that unlike a narrowband forward link, a wideband forward link can operate over a multilateration system's entire authorized sub-band. This concerned part 15 interests, who, the Commission pointed out, opposed authorization of wideband forward links because they believed that wideband forward links are likely to cause interference to part 15 devices. The Commission emphasized that grant of multilateration licenses will be conditioned on the applicant's ability to demonstrate through field testing that its system does not cause unacceptable levels of interference to part 15 devices. It also limited the maximum power of wideband forward links to 30 watts ERP.

35. The Commission believes that elimination of wideband forward links would preclude certain LMS technology options from being developed, to the detriment of consumers. At the same time, the Commission continues to believe that the power limitation of 30 watts ERP is necessary and appropriate to minimize interference to other operators sharing the 902–928 MHz band. As the Commission noted in the *LMS Report and Order,* limiting base and mobile stations' power levels will lessen the potential for interference between co-channel multilateration systems and will reduce the likelihood of interference to other operations in the 902–928 MHz band. Further, pre-authorization testing will be a condition on the license of multilateration LMS operators seeking to employ wideband forward links. The Commission does not agree with with comments that adoption of a duty cycle limitation would allow increased power for wideband forward links without increasing the interference potential. With wideband forward link technology, each vehicular unit to be located must be able to receive transmissions from at least four different forward link transmitters. These transmitters operate sequentially, passing a ''token'' packet. Consequently, although a duty cycle limitation could be applied to each individual forward link transmitter, considered collectively, there would almost always be at least one transmitter transmitting in an area at any given time. Taking into consideration the greater range of a base transmitter, as compared to a mobile transmitter, and the amount of spectrum occupied by the wideband forward link, the Commission believes allowing higher power for wideband forward links would unacceptably increase band congestion.

36. Also, the Commission declines to permit grandfathered systems to deploy additional transmitters on the basis of a 30-mile radius. The rationale for this is essentially to allow comparable coverage for its particular technology as compared to technologies using narrowband forward links. The Commission has found that, in the 902–928 MHz band, it is necessary to have a common set of technical limits in order to facilitate co-occupancy among the various band users. Each different technology operating within these limits, however, will likely have advantages and disadvantages as compared to the others, including the matter of coverage. The Commission does not have sufficient experience with operating LMS systems to craft a rule that would be appropriate for all potential LMS technologies. To the extent that grandfathered systems seek to add fill-in sites that do not increase their coverage footprint, the Commission believes such requests should be handled on a case-by-case basis.

37. The comments have raised the issue of whether LMS technology may be used to track individuals as well as vehicles. The rules adopted in the *LMS Report and Order* permit a

multilateration LMS system to provide non-vehicular location services as long as the system's primary operations involve the provision of vehicle location services. 47 CFR 90.353(a)(7). The Commission does not share the concern that LMS will become a paging service. The rule clearly provides that such non-vehicular location functions may not be an LMS operation's primary function. To afford multilateration LMS operators maximum flexibility in designing their systems, the Commission also declines to adopt a specific cap on non-vehicular location services. Non-multilateration LMS operators, on the other hand, are specifically prohibited from offering non-vehicular location services. The Commission adopted this restriction because the spectrum occupied by non-multilateration LMS operators has a heavier concentration of amateur radio operators, part 15 devices and federal government radiolocation operations than do other portions of the band. The Commission continues to believe that this approach minimizes the potential for interference and the Commission therefore declines to revise its rules.

Petitions for reconsideration of Order on Reconsideration. 38. On May 30, 1996, three parties filed petitions for reconsideration of the *Order on Reconsideration,* which, as noted above, had resolved certain issues regarding grandfathering of existing LMS systems that had been raised on reconsideration of the *LMS Report and Order.* Those petitioners, Amtech Corporation, Pinpoint Communication Networks, Inc., and Teletrac License, Inc., seek reconsideration of different aspects of the *Order on Reconsideration.* For the reasons detailed below, each of these petitions is denied, except that the Commission will make a technical correction to the rules requested by Amtech.

39. *Amtech Petition.* Amtech, a non-multilateration LMS provider, asserts that the Commission should revise the emission mask specifications of section 90.209 as applied to transmitters with less than two watts output power. Specifically, Amtech proposes that the attenuation for out-of-band emissions produced by non-multilateration transmitters of two watts or less be specified as 43+10 Log(P) rather than 55+10 Log(P). Amtech contends that it has employed this limit for a number of years and that it is the same limit applied in other contexts for systems that can have greater height and power than non-multilateration systems. Amtech argues that use of the stricter 55+10 Log(P) standard imposes significant costs and is not necessary due to the limited interference potential of non-multilateration systems. The Commission is not persuaded that Amtech has presented sufficient evidence to support its contention that the standard adopted in the *LMS Report and Order* is overly restrictive. The Commission continues to believe that that standard is the most appropriate given the disparate users of the 902–928 MHz band.

40. Amtech also urges the Commission to revise the relevant emission mask rule (formerly section 90.209, now section 90.210) to conform with the rule as originally adopted in the *LMS Report and Order,* wherein the attenuation applied at the edge of the licensee's LMS subband rather than at the edge of the ''authorized bandwidth.'' The Commission did not intend in the *Order on Reconsideration* to revise the emission mask for non-multilateration LMS licensees and the Commission will make appropriate changes to section 90.210 to make that clear.

41. *Pinpoint Petition.* Pinpoint, a multilateration LMS licensee, takes issue with the statement in the *Order on Reconsideration* that

[T]he Commission seeks to ensure not only that part 15 operators refrain from causing harmful interference to LMS systems, but also that LMS systems are not operated in such a manner as to degrade, obstruct or interrupt part 15 devices to such an extent that part 15 operations will be negatively affected.

Pinpoint contends that this language is inconsistent with part 15 devices' secondary status in the LMS band and that it constitutes a ''new standard'' with respect to LMS operators' obligations vis-a-vis part 15 devices. Pinpoint argues that this ''new standard'' conflicts with the statement in the *LMS Report and Order* that unlicensed part 15 devices ''may not cause harmful interference to and must accept interference from all other operations in the band.''

42. The language in the *Order on Reconsideration* cited by Pinpoint does not mean that part 15 devices are entitled to protection from interference. They are not. Rather, the Commission was explaining its decision to place a testing condition on multilateration LMS licenses. The purpose of the testing condition is to insure that multilateration LMS licensees, when designing and constructing their systems, take into consideration a goal of minimizing interference to existing deployments or systems of part 15 devices in their area, and to verify through cooperative testing that this goal has been served.

43. *Teletrac Petition.* Teletrac seeks reconsideration of the restriction in § 90.363(a) of the Commission's Rules, originally adopted in the *LMS Report and Order* and affirmed in the *Order on Reconsideration,* that limits site relocation for grandfathered LMS licensees to within two kilometers of their authorized site. Teletrac submits that removing this restriction would be in the public interest because it would permit grandfathered multilateration LMS operators to improve the efficiency of their systems. The Commission is not persuaded that Teletrac has raised any new arguments to justify its further reconsideration of this rule. The Commission notes that it has granted Teletrac waivers of this rule with respect to three specific sites.

44. Teletrac also urges the Commission to clarify that the part 15 safe harbor only applies to part 15 operations authorized pursuant to the part 15 rules in effect at the time the safe harbor rule was adopted. Teletrac submits that the presumption of non-interference in the safe harbor rule assumes that the part 15 rules as they existed when the safe harbor rule was adopted will remain in place. Teletrac notes that the Commission has proposed changes to the rules. Since the time Teletrac raised this point, the Commission has adopted changes to the part 15 rules. The Commission does not believe that the modified rules conflict with the safe harbor. Amendment of parts 2 and 15 of the Commission's Rules Regarding Spread Spectrum Transmitters, *Report and Order,* ET Docket 96–8, 62 FR 26239 (May 13, 1997). To the extent Teletrac continues to have concerns that the new rules are incompatible with the safe harbor, it should detail those concerns with the Commission.

II. Procedural Matters

Ex Parte Rules—Non-Restricted Proceeding

45. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission Rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206.

Final Regulatory Flexibility Analysis

46. The Final Regulatory Flexibility Analysis for this *Memorandum Opinion and Order,* as required by section 604 of the Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 604, is as follows:

Need For and Purpose of the Action

47. The revised rules adopted in this *Memorandum Opinion and Order* will enhance use of the 902–928 MHz band

for the Location and Monitoring Service. The revised rules will create a more stable environment for LMS licensees and will provide much needed flexibility for operators of such systems. The two changes made to the LMS rules in this item (1) change the basis for wide-area licensing of LMS systems to EAs rather than MTAs, and (2) add schools, libraries and rural health care providers to the list of entities exempt from the antenna height and operating power requirements of the part 15 safe harbor.

48. *Issues raised in response to the IRFA:* No comments were submitted in response to the IRFA.

49. *Description and number of small entities involved:* The Commission has not adopted a definition of small business specific to LMS systems, which are defined in § 90.7 of the Commission's Rules. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing fewer than 1,500 persons. We anticipate that most LMS licensees will fit the definition of small business provided by the SBA. No auctions have been held for the LMS service.

The Commission expects to award three licenses in each of 176 EAs or EA-like areas, for a total of 528 licenses.

50. *Reporting, recordkeeping and other compliance requirements:* The rules adopted in this do not impose any additional reporting, recordkeeping, or other compliance requirements.

51. *Steps taken to minimize burdens on small entities:* This *Memorandum Opinion and Order* concludes that the relevant geographic areas for multilateration LMS licenses should be based on U.S. Department of Commerce Bureau of Economic Analysis Economic Areas (EAs) rather than Major Trading Areas (MTAs). The record indicates that existing and planned multilateration systems better approximate an EA than the geographically larger MTA. Use of smaller geographic units could ultimately result in a more diverse group of prospective bidders by creating more opportunities for small businesses. The *Memorandum Opinion and Order* also modifies the ''part 15 safe harbor'' by expanding the list of entities exempt from applicable height and power restrictions, to include health care providers in rural areas, schools and libraries. In many instances, the rooftop antennas of these entities would not fit within the parameters of the safe harbor. The record of this proceeding indicates that such institutions use part 15 technology as a low-cost means to connect to the Internet and other valuable on-line resources; this rule change would facilitate their ability to do so without raising concerns about interference to LMS providers in the same area.

52. *Significant alternatives considered and rejected:* The *Memorandum Opinion and Order* considers the remaining issues raised in petitions for reconsideration of the *Report and Order* in PR Docket No. 93–61 that established licensing and operational rules for the Location and Monitoring Services (LMS). An *Order on Reconsideration* adopted in March 1996 resolved a limited set of issues relating to rights and obligations of existing multilateration LMS licensees. This *Memorandum Opinion and Order* resolves the remaining issues raised by petitioners. The *Memorandum and Order* concludes that restrictions on the ability of multilateration LMS licensees to offer interconnected service should be maintained to minimize interference between LMS and part 15 and amateur operations. The *Memorandum Opinion and Order* also denies requests that antenna height and power limitations for non-multilateration operators be either relaxed or further restricted, and denies a request that we adopt a blanket authorization procedure for extensive non-multilateration LMS systems licensed to local government or public safety eligibles.

53. In addition, the *Memorandum Opinion and Order* denies requests to modify the ''safe harbor'' provisions for part 15 devices and amateur operators, and denies requests to extend the definition of the safe harbor to apply to claims of interference by non-multilateration systems. The *Memorandum Opinion and Order* does, however, adopt a rule provision specifically including schools, libraries and rural health care providers within the safe harbor regardless of their antenna height and operating power. The item also denies requests to change the band plan for LMS, but does conclude that multilateration LMS systems will be licensed on an EA basis rather than an MTA basis. Finally, the *Memorandum Opinion and Order* denies requests that wideband forward links be prohibited.

54. *Report to Congress:* The Commission shall send a copy of this Final Regulatory Flexibility Analysis with this *Memorandum Opinion and Order* in a report to Congress pursuant to section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A).

55. *Paperwork Reduction.* This matter has been analyzed with respect to the Paperwork Reduction Act of 1995 and was found to impose no new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act.

III. Ordering Clauses

56. It is ordered that, pursuant to the authority of Sections 4(i), 302, 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302, 303(r), and 332(a), the rule changes specified in this *Memorandum Opinion and Order* are adopted.

57. *It is further ordered* that the rule changes set forth in this *Memorandum Opinion & Order* will become effective December 5, 1997.

58. It is further ordered that the petitions for reconsideration filed by the parties listed in the original text of the *Memorandum Opinion & Order* are granted to the extent discussed herein, and are otherwise denied.

59. It is further ordered that the petitions for reconsideration of the *Order on Reconsideration* filed by Pinpoint Communication Networks, Inc. and Teletrac License, Inc., are denied.

60. It is further ordered that the petition for reconsideration of the *Order on Reconsideration* filed by Amtech Corporation is granted to the extent specified herein and is otherwise denied.

List of Subjects in 47 CFR Part 90

Common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 332, unless otherwise noted.

2. The heading for subpart M of part 90 is revised to read ''Intelligent Transportation Systems Radio Service.''

3. Section 90.7 is amended by revising the definition for ''EA-based or EA license'' to read as follows:

§ 90.7 Definitions.

* * * * *

EA-based or EA license. A license authorizing the right to use a specified block of SMR or LMS spectrum within one of the 175 Economic Areas (EAs) as defined by the Department of Commerce Bureau of Economic Analysis. The EA Listings and the EA Map are available for public inspection at the Wireless Telecommunications Bureau's public reference room, Room 5608, 2025 M Street, NW, Washington, DC 20554 and Office of Operations—Gettysburg, 1270 Fairfield Road, Gettysburg, PA 17325.

* * * * *

4. Section 90.155 is amended by revising paragraph (d) to read as follows:

§ 90.155 Time in which station must be placed in operation.

* * * * *

(d) Multilateration LMS systems authorized in accordance with Section 90.353 must be constructed and placed in operation within twelve (12) months from the date of grant or the authorization cancels automatically and must be returned to the Commission. EA-licensed multilateration LMS systems will be considered constructed and placed in operation if such systems construct a sufficient number of base stations that utilize multilateration technology (see paragraph (e) of this section) to provide multilateration location service to at least ⅓ of the counties in the EA.

* * * * *

5. Section 90.210 is amended by revising paragraph (k)(3) and adding paragraph (k)(6) to read as follows:

§ 90.210 Emission masks.

* * * * *

(k) * * *

(3) *Other transmitters.* For all other transmitters authorized under Subpart M, the peak power of any emission shall be attenuated below the power of the highest emission contained within the licensee's LMS sub-band in accordance with the following schedule:

(i) On any frequency within the authorized bandwidth: Zero dB;

(ii) On any frequency outside the licensee's LMS sub-band edges: 55+10log(P) dB where (P) is the highest emission (watts) of the transmitter inside the licensee's LMS sub-band.

* * * * *

(6) The LMS sub-band edges for non-multilateration systems for which emissions must be attenuated are 902.00, 904.00, 909.5 and 921.75 MHz.

§ 90.350 [Amended]

6. Section 90.350 is amended by replacing the two occurrences of the phrase ''Transportation Infrastructure Radio Service'' with ''Intelligent Transportation Systems Radio Service.''

7. Section 90.353 is amended by revising paragraphs (d), (e) and (f) and by adding paragraph (i) to read as follows:

§ 90.353 LMS operations in the 902–928 MHz band.

* * * * *

(d) Multilateration LMS systems will be authorized on a primary basis within the bands 904–909.75 MHz and 921.75–927.25 MHz. Additionally, multilateration and non-multilateration systems will share the 919.75–921.75 MHz band on a co-equal basis. Licensing will be on the basis of Economic Areas (EAs) for multilateration systems, with one exclusive EA license being issued for each of these three sub-bands. Except as provided in paragraph (f) of this section, multilateration EA licensees may be authorized to operate on only one of the three multilateration bands within a given EA. Additionally, EA multilateration LMS licenses will be conditioned upon the licensee's ability to demonstrate through actual field tests that their systems do not cause unacceptable levels of interference to 47 CFR part 15 devices.

(e) Multilateration EA-licensed systems and grandfathered AVM systems (see § 90.363) are authorized on a shared basis and must cooperate in the selection and use of frequencies in accordance with Section 90.173(b).

(f) Multilateration EA licensees may be authorized to operate on both the 919.75–921.75 MHz and 921.75–927.25 MHz bands within a given EA (see § 90.209(b)(10)).

* * * * *

(i) Non-multilateration LMS licenses will be issued on a site-by-site basis, except that municipalities or other governmental operatives may file jointly for a non-multilateration license covering a given U.S. Department of Commerce Bureau of Economic Analysis Economic Area (EA). Such an application must identify all planned sites. After receiving the license, the non-multilateration EA licensee must notify the Commission if sites are deleted or if new sites are added, before those sites may be put into operation.

8. Section 90.359 is revised to read as follows:

§ 90.359 Field strength limits for EA-licensed LMS systems.

EA-licensed multilateration systems shall limit the field strength of signals transmitted from their base stations to 47 dBuV/m at their EA boundary.

9. Section 90.361 is amended by revising the introductory text and paragraph (c)(2)(ii)(B) to read as follows:

§ 90.361 Interference from part 15 and Amateur operations.

Operations authorized under Parts 15 and 97 of this chapter may not cause harmful interference to LMS systems in the 902–928 MHz band. These operations will not be considered to be causing harmful interference to a multilateration LMS system operating in one of the three EA sub-bands (see § 90.357(a)) if they are non-video links operating in accordance with the provisions of Parts 15 or 97 of this chapter and at least one of the following conditions are met:

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(B) Is providing the final link for communications of entities eligible under subpart B or C of this Part, or is providing the final link for communications of health care providers that serve rural areas, elementary schools, secondary schools or libraries.

[FR Doc. 97–26415 Filed 10–3–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. 97–038; Notice 02]

RIN 2127–AG71

Final Listing of High-Theft Lines for 1998 Model Year; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors in the final listing of high-theft lines for the 1998 Model Year (MY), that was published on July 31, 1997 (62 FR 40949) by incorporating information that manufacturers brought to the agency's attention subsequent to the final listing. In the amended list in this document, one Honda line, the Civic, is removed from Appendix A; errors in the name of two Nissan lines, the Sentra /200SX and the Infiniti I30 are corrected; and an error in the vehicle class of one Subaru line, the Forester, is corrected.

EFFECTIVE DATE: The amendment made by this final rule is effective October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA is correcting errors in the final list of high-theft vehicle lines for Model Year (MY) 1998, that appeared in the **Federal Register** on July 31, 1997 (62 FR 40949). This correction document incorporates updated information brought to NHTSA's attention subsequent to the publication of the final list for MY 1998. The following are corrections to Appendix A of 49 CFR Part 541, the Theft Prevention Standard:

Comments were received from American Honda Motor Co., Inc., requesting that the ''Honda Civic'' line, which was erroneously listed in Appendix A, be deleted from the listing because it was also listed in Appendix B. The Honda Civic, a line subject to the requirements of this standard but whose theft rate fell below the 1990/91 median, will be deleted from Appendix A but will remain listed in Appendix B. (See 59 FR 64164.)

Comments were also received from Nissan requesting that two vehicle lines be deleted from the Appendix A listing because they are no longer being produced. Those lines are the ''300ZX'' and the ''Infiniti M30''. The agency understands Nissan's reasons for requesting deletion of the ''300ZX'' and the ''Infiniti M30'' from the list of vehicles subject to the parts-marking requirements of the Theft Prevention Standard. However, NHTSA cannot delete the ''300ZX'' from the list because it has been covered by the Theft Prevention Standard since MY 1988, and the ''Infiniti M30'' has been covered since the MY 1990. Pursuant to 49 U.S.C. § 33104(d), a vehicle line on the list of lines subject to parts marking cannot be removed from that list unless the manufacturer has obtained an exemption from the parts-marking requirement based on the installation of a qualified antitheft device as standard equipment on the entire line.

Nissan also informed the agency that two of its lines were incorrectly identified. The Nissan line, erroneously listed in Appendix A as ''Sentra [1]'', has been identified respectively ''Sentra/200SX [1]'' and ''Infiniti I'' erroneously listed in Appendix A–I has been identified respectively ''Infiniti I30''.

Comments were also received from Subaru of America, Inc. informing the agency that the vehicle class for one of its lines was incorrectly identified. The Subaru line, erroneously listed as ''Forester (MPV) [2]'', has been identified respectively ''Forester [2]'', as a passenger car.

Since the corrections made by this document only inform the public of previous agency actions, and do not impose any additional obligations on any party, NHTSA finds for good cause that the revisions made by this notice should be effective as soon as it is published in the **Federal Register**.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

Appendix A—[Amended]

2. Appendix A is amended as follows:

a. In the entry for ''Honda'', the ''Civic'' is removed.

b. In the entry for ''Nissan'', ''Sentra [1]'' is revised to read ''Sentra/200SX [1]''.

c. In the entry for ''Subaru'', ''Forester (MPV) [2]'' is revised to read ''Forester [2]''.

Appendix A–I—[Amended]

3. Appendix A–I is amended as follows:

a. In the entry for ''Nissan'', ''Infiniti I'' is revised to read ''Infiniti I30''.

Issued: September 29, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–26392 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970730185–7206–02; I.D. 093097A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the annual commercial quota for red snapper will be reached on October 6, 1997. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATE: Closure is effective noon, local time, October 6, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (m lb) (2.11 million kg (m kg)) for the current fishing year, January 1 through December 31, 1997. The 1997 commercial quota was split between two seasons, the first beginning on February 1 with a quota of 3.06 m lb (1.39 m kg) and the second beginning with an initial period of September 2 to September 15 and thereafter from the first to the 15th of each month until the annual commercial quota is reached. Openings and closings in the fall 1997 season are at noon on the date indicated.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing notification to that effect in the **Federal Register**. Based on current statistics, NMFS has projected

that the annual commercial quota of 4.65 m lb (2.34 m kg) for red snapper will be reached on October 6, 1997. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective noon, local time, October 6, 1997, through December 31, 1997. The operator of a vessel with a valid reef fish permit having red snapper on board must land and sell such red snapper prior to noon, local time, October 6, 1997.

During the closure, the bag limit applies to all harvest of red snapper in or from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is five per person. From noon, local time, October 6, 1997, through December 31, 1997, the sale or purchase of red snapper taken from the EEZ is prohibited. This prohibition does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, October 6, 1997, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

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

Dated: September 30, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26383 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7052–02; I.D. 092997A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific cod in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–587–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(6)(iii), the allowance for the Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area was established by the Final 1997 Harvest Specifications of Groundfish for the GOA and subsequent reserve apportionment (62 FR 8179, February 24, 1997; 62 FR 19062, April 18, 1997) as 39,321 metric tons (mt).

The Administrator, Alaska Region, NMFS, has established a directed fishing allowance of 38,321 mt, and set aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on March 11, 1997 (62 FR 11770, March 13, 1997), in order to reserve amounts anticipated to be needed for incidental catch in other fisheries.

NMFS has determined that as of September 20, 1997, 930 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA effective 1200 hrs, A.l.t., October 1, 1997.

Classification

All closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. Further delay would only disrupt the FMP's objective of providing a portion of the Pacific cod TAC for processing by the inshore component in the Central Regulatory Area of the GOA. Without this action, the Pacific cod allocation for vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA would be underharvested. The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 30, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–26429 Filed 10–1–97; 1:36 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 193
Monday, October 6, 1997

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966 and 7 CFR Part 980

[Docket No. FV97–966–1 PR]

Tomatoes Grown in Florida and Imported Tomatoes; Proposed Rule To Change Minimum Size and Size Designation Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would increase the minimum diameter size requirement for Florida and imported tomatoes. For Florida tomatoes alone, the rule would change the size designations from Medium, Large, and Extra Large to numeric size designations of 6 × 7, 6 × 6, and 5 × 6. The rule also would slightly increase the diameter size ranges for the designated sizes. The marketing order regulates the handling of tomatoes grown in Florida, and is administered locally by the Florida Tomato Committee (Committee). This proposed rule would help the Florida tomato industry meet domestic market and industry demands, provide handlers more marketing flexibility, and increase returns to producers, as well as provide consumers with slightly larger, more mature tomatoes. Application of the size requirement increase to imported tomatoes is required under section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by October 16, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christian Nissen, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 301 Third Street, N.W., Suite 206, Winter Haven, Florida 33881; telephone: (941) 299–4770, Fax: (941) 299–5169; and George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456,Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in certain designated counties in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 8e of the Act specifies that whenever certain specified commodities, including tomatoes, are regulated under a Federal marketing order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements are specified in § 966.323 of the handling regulations issued under the order. These requirements apply during the period October 10 through June 15 each year. The regulated area is the entire State of Florida, except the panhandle. The production area is part of the regulated area. Specialty packed red ripe tomatoes, yellow meated tomatoes, and single and double layer place packed tomatoes are exempt from container net weight requirements.

Under § 966.323, all tomatoes, except for pear shaped, paste, cherry, hydroponic, and greenhouse tomatoes, must be inspected as specified in the United States Standards for Grades of Fresh Tomatoes (7 CFR part 51.1855 through 51.1877; standards). Such tomatoes also must be at least 28/32 inches in diameter, and sized with proper equipment in one or more of the following ranges of diameters.

Size Designation	Inches minimum diameter	Inches maximum diameter
Medium	2 8/32	2 17/32
Large	2 16/32	2 25/32
Extra Large	2 24/32	.....

These size designations and diameter ranges are the same as specified in § 51.1859 of the standards. All tomatoes in the Medium size designation are required to grade at least a U.S. No. 2, while tomatoes in the larger size designations are only required to grade at least a U.S. No. 3. Section 966.52 of the order provides authority for the establishment and modification of regulations applicable to the handling of particular sizes and size designations of tomatoes.

This rule would increase the minimum diameter size requirement for Florida tomatoes from 2 8/32 inches to 2 9/32 inches and would make conforming changes to container marking requirements and the regulation for special packed tomatoes. This rule would also rename the size designations from Medium, Large, and Extra Large to numeric size designations of 6 X 7, 6 X 6, and 5 X 6 (respectively), and increase the diameter size ranges for the designated sizes. These size ranges are different from those specified in § 51.1859 of the standards. On September 5, 1997, the Committee met and unanimously recommended these changes. At the same meeting, the Committee recommended by a vote of 10 to 2 to eliminate shipments of U.S. No. 3 grade tomatoes from the regulated area. That proposal will be addressed in a separate rulemaking action.

Based on an analysis of markets and demands of buyers, the Committee believes that the increase in minimum size would improve the marketing of Florida tomatoes. By increasing the minimum size, the tomatoes would be slightly larger and, thus, more mature when packed. This follows recent industry trends to ship larger and more mature tomatoes. New commercial tomato varieties also have resulted in larger sized tomatoes being shipped in response to a strong consumer demand. Because of this demand, production of larger tomatoes has been a popular method of improving returns among producers as it also increases total yields.

The Committee also recommended the increase in minimum size requirements to improve the uniformity and appearance of tomato packs. The slightly smaller tomatoes in the Medium packs increase the size variability of the pack and are more likely to be immature and have less taste. The current minimum size of 2 8/32 inches allows these tomatoes to be combined with more mature tomatoes, which lowers the overall quality and price of the pack. This has resulted in complaints from buyers throughout the market.

In the mid-1980's, Dr. Jeffrey K. Brecht, at the University of Florida, did a study of smaller tomatoes. According to his findings, fully mature green tomatoes begin coloring within a few days of harvesting and ripen at 68 degrees Fahrenheit. Since they are not easily identified by a surface indicator (color) of full maturity in green fruit, pickers are forced to rely on size rather than maturity when harvesting tomatoes. The result of this is that tomatoes of 2 8/32 of an inch may require two weeks or more to begin ripening. Attainment of the full ripe stage requires on average a week to 10 days additional time. Hence, the full ripening process could take as long as four weeks. Tomatoes that take this long to ripen after harvest have been shown to have poor taste. Hence, increasing the minimum size to 2 9/32 inches for Medium tomatoes is expected to help reduce this problem. Also, consumers are demanding a slightly larger tomato and smaller tomatoes with a less uniform pack have poor consumer acceptance especially in chain stores.

The increase in the minimum size from 2 8/32 inches to 2 9/32 inches is not expected to significantly affect the total number of shipments. During the 1996–1997 season, of the 47,879,084 containers of 25,000 pound equivalent shipments, approximately 15 percent or about 7,023,239 shipments of 25,000 pound equivalents from Florida were of the Medium size designation. The Medium size covers a range of 2 8/32 to 2 17/32 inches or about 9/32 of an inch. The 1/32 increase in size requirements is only expected to reduce total shipments by approximately 1.5 percent.

The Committee also recommended the following new designations and tomato diameter size ranges:

Size designation	Inches minimum diameter	Inches maximum diameter
6 × 7 (Currently Medium)	2 9/32	2 19/32
6 × 6 (Currently Large)	2 17/32	2 27/32
5 × 6 (Currently Extra Large)	2 25/32	

The current size designations have been in place since 1991, and were designed to provide a uniform basis for marketing tomatoes. However, the numeric designations have continued to be used by marketers and retailers of tomatoes and are an important factor in negotiating price and other terms of trade. Committee members stated that numeric designations are used in negotiating price and other terms of trade and is the terminology used primarily in marketing tomatoes. Florida tomato handlers found that this difference in terminology hindered their negotiations with buyers, and adversely affected handler and producer returns. The handlers believe that buyers tend to discount Florida tomatoes because the buyers do not have confidence that the Medium, Large, and Extra Large designations correctly correspond with the industry recognized size designations of 6 × 7, 6 × 6, and 5 × 6. Thus, the change in size designations would put the Florida tomato industry on the same terminology basis as the marketers of tomatoes from other growing areas. This also would reduce the chances of market confusion and possible problems with market pricing.

This rule would also increase the minimum and maximum diameter ranges of the three size designations. The net increase for the maximum diameters for the Medium (6 × 7) and Large (6 × 6) size designations would be 1/32 inch. This would result in a 2/32's overlap in the maximum diameters in these size designations to the next larger size. According to the Committee, this would provide a more even distribution of tomato shipments throughout the three size designations, which would enable handlers to make better decisions on which size of tomatoes to pack. For instance, tomatoes that measure at the top end of the Medium size can either be packed with Medium size tomatoes or as a smaller tomato with Large tomatoes. The same increased flexibility would exist for Large tomatoes packed with Extra Large (5 × 6) tomatoes. Such decisions could depend on specific buyer or market demands, on general crop size, and on condition of the tomatoes and prices on each day of packing.

According to the Committee, problems have evolved in sizing some of the newer varieties that are slightly more oblong. To better accommodate sizing of the new varieties, the Committee recommended the changes to the diameter size ranges for the three size designations.

Due to strong consumer demand, during the 1996–1997 season approximately 80 percent of the tomatoes sold were in the Extra Large (5 × 6) size designation. This rule would increase the minimum diameter of the Extra Large (5 × 6) designation to 2 25/32 inches from 2 24/32 inches with no maximum. Increasing the minimum diameter size of this designation by 1/32 inch for Extra Large (5 × 6) packs, would reduce the number of smaller sized tomatoes for that size designation. Hence, this is expected to decrease size

variability and improve uniformity of this premium pack. Thus, improvements in this size category are expected to further enhance consumer demand resulting in increased returns to producers.

Also, a study conducted by Dr. John J. VanSickle at the University of Florida, estimates that size increases could result in an increase in the overall price of Florida tomatoes. The study indicates that if increasing the size limits shifted 1 percent of the Extra Large (5 × 6) tomatoes into the smaller size categories then prices for Extra Large (5 × 6) tomatoes would increase. The price of Extra Large (5 × 6) tomatoes could increase by .25 percent, the price of Large (6 × 6) tomatoes by .15 percent, and the price of Medium (6 × 7) tomatoes by .07 percent. The increase in price would occur because of the redistribution of larger sized tomatoes into the smaller size designations which responds to consumer demand for a more consistent pack and slightly larger tomatoes.

This rule would also make conforming changes to § 966.323 paragraphs (a)(2)(iii) concerning container marking requirements and (d)(3) for special packed tomatoes. This would increase the currently applied minimum size of 2 8/32 to 2 9/32 inches in diameter.

Thus, these changes are expected to increase returns to producers by improving size consistency, quality, and maturity, and, thus, encourage repeat purchases from consumers. The new size designations would allow handlers to respond better to market preferences which is expected to benefit producers and handlers of Florida tomatoes.

Section 8e of the Act requires that when certain domestically produced commodities, including tomatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. The current import regulations are specified in 7 CFR 980.212. Similar to the order, regulations apply during the period October 10 through June 15 when the Florida handling requirements are in effect. Because this proposal would increase the minimum size for domestic tomato shipments, this increase would be applicable to imported tomatoes.

Florida tomatoes must be packed in accordance with three specified size designations, and tomatoes falling into different size designations may not be commingled in a single container. These pack restrictions do not apply to imported tomatoes. Because pack requirements do not apply, different sizes of imported tomatoes may be commingled in the same container.

However, the handling requirements also specify that tomatoes that are designated as Medium (6 X 7) must meet a U.S. No. 2 grade, while the larger sizes are required to meet a U.S. No. 3 grade. The more stringent grade requirements are applied to the Medium (6 X 7) size designation because of quality problems with smaller tomatoes.

Similarly, current import requirements specify that all lots with a minimum diameter of 2 17/32 inches and larger shall meet at least a U.S. No. 3 grade. All other tomatoes shall meet at least a U.S. No. 2 grade. Any lot with more than 10 percent of its tomatoes less than 2 17/32 inches in diameter is required to grade at least U.S. No. 2. This proposed rule would change these requirements to reflect the changes to the handling requirements by requiring that all lots with a minimum diameter of 2 19/32 inches and larger meet at least a U.S. No. 3 grade. All other tomatoes would need to meet at least a U.S. No. 2 grade. Any lot with more than 10 percent of its tomatoes less than 2 19/32 inches in diameter would have to grade at least U.S. No. 2.

These changes are expected to benefit the marketers of both Florida and imported tomatoes by providing consumers with better quality, higher maturity, and slightly larger tomatoes. The Department has contacted a few tomato importers concerning imports. The importers indicated that they are importing larger sizes of tomatoes. Thus, the Department believes that the proposed increase will not limit the quantity of imported tomatoes or place an undue burden on exporters, or importers of tomatoes. The expected increase in customer satisfaction should benefit all tomato importers regardless of size.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders which regulate the handling of domestically produced products.

There are approximately 65 handlers of Florida tomatoes who are subject to regulation under the order and approximately 75 tomato producers in the regulated area. In addition, at least 170 importers of tomatoes are subject to import regulations and would be affected by this proposed rule. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Committee data indicates that approximately 20 percent of the Florida handlers handle 80 percent of the total volume. Based on this information, the shipment information for the 1996–97 season, and the 1996–97 season average price of $7.97 per 25,000 pound equivalent carton, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes may be classified as small entities. The Department also believes that most importers may be classified as small entities.

Under § 966.52 of the Florida tomato marketing order, the Committee has authority to increase the minimum size requirement and change the size designations for Florida tomatoes grown in the defined production area and handled under the order. This proposed rule, unanimously recommended by the Committee at its September 5, 1997, meeting, would increase the minimum size, change size designations and corresponding diameter size ranges. As provided under the Agricultural Marketing Agreement Act of 1937, the proposed increases in the minimum diameter size requirements would apply to imported tomatoes.

Based on analysis of markets and demands of buyers, the Committee recommended increasing the minimum size from 2 8/32 inches to 2 9/32 inches in diameter and the corresponding minimum sizes for the other two size designations. The Committee believes these size increases will improve the marketing of Florida tomatoes. By increasing the minimum sizes, the tomatoes would be slightly larger and, thus, more mature when packed. This follows recent industry trends to ship larger and more mature tomatoes. Current trends in cultural practices and new commercial tomato varieties also have resulted in larger sized tomatoes being shipped in response to consumer demand for such tomatoes. Because of

this demand, production of larger tomatoes has been a popular method of improving returns among producers as it also increases total yields and total pounds. While yields increase with larger fruit, the labor costs associated with picking these tomatoes remains fairly constant because producers pick relatively the same number of fruit.

The change in the minimum size was recommended because demand for larger tomatoes has increased over the last five years. This in part is due to the fact that size continues to be a major influence on price. According to Dr. John J. VanSickle of the University of Florida, the percent of Extra Large (5 X 6) tomatoes shipped has increased steadily since 1992–1993 from 43.2 percent to 50 percent in 1996–1997 for mature green tomatoes. Mature green tomatoes are green but are developed enough to continue to fully ripen. Meanwhile, the percent marketed in the Extra Large (5 X 6) size for vine ripe tomatoes has increased from 66.6 percent to 79.2 percent. Vine ripe tomatoes have at least started to break into color from green to tannish-yellow, pink, or red.

The increase in the minimum size from 2 8/32 inches to 2 9/32 inches is not expected to significantly affect the total number of Florida shipments. During the 1996–1997 season, of the 47,879,084 shipments of 25,000 pound equivalents, approximately 15 percent or about 7,023,239 shipments of 25,000 pound equivalents from Florida were in the minimum size designation of Medium. The Medium size currently covers a range of 2 8/32 to 2 17/32 inches or about 9/32 of an inch. Because Florida tomatoes are sizing larger than in the past, the proposed increase in size requirements is expected to have a minimal impact on total shipments. As mentioned earlier, the expected decrease is only about 1.5 percent.

Also, this rule would change the size designations from Medium, Large, and Extra Large to numeric size designations of 6 X 7, 6 X 6, and 5 X 6. The rule also would slightly increase the diameter size ranges for the designated sizes.

The Committee stated that, absent a change in the regulations, the erosion of market confidence and producer income could occur. Furthermore, the majority of Committee members stated that voluntary measures had not been effective.

Direct costs associated with this rule would be the purchase of new sizing belts. Sizing belts convey and size fruit during the packing process. Sizing belts, depending on the amount of use, can last a season or may need to be replaced two to three times a season. Estimated prices associated with these purchases could range from $450.00 for a small handler to $19,000 for very large handlers. While there are short-term costs associated with the new sizing designations, the benefits are expected to outweigh the costs.

A study conducted by Dr. John J. VanSickle at the University of Florida, estimates that size increases would result in an increase in the overall price for Florida tomatoes, and better returns to producers. The study indicates that increasing the size limits would shift some of the Extra Large (5 × 6) tomatoes into the smaller size categories. As a result, a 1 percent decline in the volume of Extra Large (5 × 6) tomatoes would increase in price by .25 percent, the price of Large (6 × 6) tomatoes by .15 percent, and the price of Medium (6 × 7) tomatoes by .07 percent. The increase in price would occur because of the redistribution of larger sized tomatoes into the smaller size designations which responds to consumer demand for a more consistent pack with slightly larger tomatoes. The costs to the industry associated with the minimum size and size designation changes would include purchases of new equipment and adjustments to operate under the new requirements. These costs are expected to be minimal relative to the benefits expected.

Returning to the previously used numeric size designations should not have a negative impact on any packer regardless of size. This is a return to common size designations (6 × 7, 6 × 6, and 5 × 6) used throughout the industry, and would help Florida handlers respond to market and consumer demand. The more standard size designations should benefit both small and large businesses in the industry.

This proposed rule may impose some additional costs on handlers, and producers. However, the costs are expected to be minimal, and would be offset by the benefits of the proposal. This proposal is expected to similarly impact importers of tomatoes as far as the slight increase in minimum size is concerned. The Committee believes that this proposed modification would benefit consumers, producers, handlers, and importers. The benefits of this rule are not expected to be disproportionately greater or lesser for small entities than for large entities.

The Committee discussed alternatives to this recommendation, including leaving the regulations as currently issued. All Committee members agreed that some change to the size designations was necessary to improve pack appearance and compete in the present market. The amount of change became a concern, with a portion of the Committee favoring a larger size increase and another portion favoring small incremental moves over a period of time. The Committee recommended a compromise to allow individual packing houses leeway to implement the amount of change through a 2/32 overlap in sizes.

Mexico is the largest exporter of tomatoes to the United States. Over the last 10 years, Mexican exports to the United States averaged 32,527 containers of 25,000 pound equivalents per season (October 5–July 5) and comprised about 99 percent of all imported tomatoes to the United States during that time. Total imports during that period averaged 32,752 containers of 25,000 pound equivalents (October 5–July 5). Some of the imports from Mexico may have been transhipped to Canada. Domestic shipments or consumption for the past 10 years averaged 108,577 containers of 25,000 pound equivalents (October 5–July 5). Florida shipments averaged 52,977 containers of 25 pound equivalents or approximately 48 percent of the total shipments or domestic consumption for the same period. This information is from AMS Market News Branch data that most closely approximates the Florida shipping season.

These changes are expected to benefit the marketers of both Florida and imported tomatoes by providing consumers with better quality, higher maturity, and slightly larger tomatoes. The Department has contacted a few tomato importers concerning imports. The importers indicated that they are importing larger sizes of tomatoes. Thus, the Department believes that the proposed increase will not limit the quantity of imported tomatoes or place an undue burden on exporters, or importers of tomatoes. The expected increase in customer satisfaction should benefit all tomato importers regardless of size.

This action would not impose any additional reporting or record keeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues.

Like all Committee meetings, the September 5, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 10-day comment period is provided to allow interested persons to respond to this proposal. Ten days is deemed appropriate because this rule, if adopted, needs to be in place as soon as possible since handlers will begin shipping tomatoes in October. In addition, because of the nature of this rule, handlers need time to adjust their equipment and purchase new equipment to accommodate the new size ranges and designations. Florida tomato handlers are aware of this issue, which has been widely discussed at various industry and association meetings and was unanimously recommended by the Committee. All comments received in a timely manner will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 966 and 7 CFR Part 980

Marketing agreements, Reporting and record keeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR parts 966 and 980 are proposed to be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising paragraphs (a)(1), (a)(2)(i) and the table immediately following it, (a)(2)(iii), and (d)(3) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(a) *Grade, size, container, and inspection requirements.*

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes, except that all shipments of 6 × 7 size tomatoes must grade U.S. No. 2 or better. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) All tomatoes packed by a registered handler shall be at least 2 9/32 inches in diameter and shall be sized with proper equipment in one or more of the following ranges of diameters. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in § 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size Designation	Inches Minimum diameter	Inches Maximum diameter
6 × 7	2 9/32	2 19/32
6 × 6	2 17/32	2 27/32
5 × 6	2 25/32	.....

* * * * *

(iii) Only 6 × 7, 6 × 6, 5 × 6, may be used to indicate the above listed size designations or containers of tomatoes.

* * * * *

(d) * * *

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) of this section which are resorted, regraded, and repacked by a handler who has been designated as a ''Certified Tomato Repacker'' by the committee are exempt from:

(i) The tomato grade classifications of paragraph (a)(1) of this section;

(ii) The size classifications of paragraph (a)(2) of this section, except that the tomatoes shall be at least 2 9/32 inches in diameter; and

(iii) The container weight requirements of paragraph (a)(3) of this section.

* * * * *

§ 980.212 [Amended]

3. Section 980.212 is amended by revising paragraph (b)(1) to read as follows:

* * * * *

(b) * * *

(1) From October 10 through June 15 of each season, tomatoes offered for importation shall be at least 2 9/32 inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter. All lots with a minimum diameter of 2 19/32 inches and larger shall be at least U.S. No. 3 grade. All other tomatoes shall be at least U.S. No. 2 grade. Any lot with more than 10 percent of its tomatoes less than 2 19/32 inches in diameter shall grade at least U.S. No. 2.

* * * * *

Dated: October 2, 1997.

Robert C. Kenney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–26510 Filed 10–3–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; De Havilland Model DHC–8–100, –200, and –300 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 de Havilland Model DHC–8–100, –200, and –300 series airplanes. This proposal would require repetitive inspections of certain refuel/defuel tube assemblies in the engine nacelles for fuel leakage, and corrective action, if necessary. It would also require eventual modification of all tube assemblies, which would terminate the repetitive inspections. 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 fuel leaks and consequent increased risk of engine fires.

DATES: Comments must be received by November 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT:

Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7504; fax (516) 256–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–120–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–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–8–100, –200, and –300 series airplanes. TCA advises that it received reports of fuel leaks from the shroud drain line located adjacent to the refuel/defuel adapter in the engine nacelles. Investigation has revealed that some of the welds between the outer shroud and the inner tube of the refuel/defuel assemblies may be of poor quality. Relative motion between the shroud and the tube can result in cracking of both the tube and the shroud. This condition, if not corrected, could result in fuel leaks and consequent increased risk of engine fires.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin S.B. A8–28–20, Revision 'A,' dated September 10, 1996, which describes procedures for repetitive inspections of the refuel/defuel tube assemblies in the engine nacelles for fuel leakage, and replacement of tube assemblies that leak with improved tube assemblies.

The alert service bulletin also describes procedures for eventual modification of all tube assemblies to prevent potential future leakage, which would eliminate the need for the repetitive inspections. Part 2 of the Accomplishment Instructions of the alert service bulletin describes replacement of the tube assembly located in the most critical area of the engine nacelle. Part 3 of the Accomplishment Instructions of the alert service bulletin describes replacement of the remaining tube assemblies. Accomplishment of the actions specified in the alert service bulletin are intended to adequately address the identified unsafe condition.

TCA classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–96–14, dated August 20, 1996, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, 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 alert service bulletin described previously.

Cost Impact

The FAA estimates that 95 de Havilland Model DHC–8–100, –200, and –300 series airplanes of U.S. registry would be affected by this proposed AD.

The proposed inspection would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $34,200, or $360 per airplane, per inspection cycle.

The proposed modification (specified in Part 2 of the Accomplishment Instructions in the referenced alert service bulletin), would take approximately 15 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $500. Based on these figures, the cost impact of this modification as proposed by this AD on U.S. operators is estimated to be $133,000, or $1,400 per airplane.

The proposed modification (specified in Part 3 of the Accomplishment Instructions in the referenced service bulletin), would take approximately 36 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,600 per airplane. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $357,200, or $3,760 per airplane.

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

Regulatory Impact

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

12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

De Havilland, Inc.: Docket 97–NM–120–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes; as listed in Bombardier Alert Service Bulletin S.B. A8–28–20, Revision 'A,' dated September 10, 1996; 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 (f) 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 fuel leaks and consequent increased risk of engine fires, accomplish the following:

(a) Within 30 days after the effective date of this AD, inspect the five refuel/defuel tube assemblies in the engine nacelles to detect fuel leaks, in accordance with Part 1 of the Accomplishment Instructions of Bombardier Alert Service Bulletin S.B. A8–28–20, Revision 'A', dated September 10, 1996. If any fuel leak is found, prior to further flight, replace the refuel/defuel tube assembly with an improved assembly, in accordance with the alert service bulletin. Thereafter, repeat the inspection at intervals not to exceed 6 months.

(b) Within 12 months after the effective date of this AD, modify the refuel/defuel tube assembly located under the exhaust fingernail on the engine nacelle, as specified in Part 2 of the Accomplishment Instructions of Bombardier Alert Service Bulletin S.B. A8–28–20, Revision 'A,' dated September 10, 1996, in accordance with the procedures specified in the alert service bulletin.

(c) Within 24 months after the effective date of this AD, modify the remaining refuel/defuel tube assemblies, as specified in Part 3 of the Accomplishment Instructions of Bombardier Alert Service Bulletin S.B. A8–28–20, Revision 'A,' dated September 10, 1996, in accordance with the procedures specified in the alert service bulletin.

(d) Accomplishment of the modifications required by paragraphs (b) and (c) of this AD constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(e) As of the effective date of this AD, no person shall install a refuel/defuel tube assembly having part number 82820107–007, 82821015–003, 82820108–005, 82820245–001, 82820246–001, 82820247–001, or 82821014–001, on any airplane.

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

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

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

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–96–14, dated August 20, 1996.

Issued in Renton, Washington, on September 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–26376 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–106–AD]

Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–60 series airplanes. This proposal would require repetitive inspections to detect corrosion and/or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the main landing gear (MLG), and repair, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct corrosion and/or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the MLG, which could result in failure of the MLG to extend or retract.

DATES: Comments must be received by November 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–106–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. 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 97–NM–106–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–106–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 all Short Brothers Model SD3–60 series airplanes. The CAA advises that it has received reports of corrosion and/or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the main landing gear (MLG). The corrosion and/or wear was attributed to migration of the retaining pin of the forward pintle pin of the MLG due to loss of the retaining pin's circlip. Such corrosion or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the MLG, if not detected and corrected in a timely manner, could result in failure of the MLG to extend or retract.

Explanation of Relevant Service Information

Short Brothers has issued Service Bulletin SD360–53–42, dated September 1996, which describes procedures for repetitive inspections to detect corrosion and/or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the MLG, and repair, if necessary. For airplanes on which certain depths of corrosion or wear is detected, the service bulletin describes procedures for a visual inspection to detect any discrepancy of the pintle pin and sleeve. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 005–09–96 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 § 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, the proposed AD would require repetitive inspections to detect and correct corrosion and/or wear of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the MLG, and repair of any corrosion and/or wear. Those actions are required to be accomplished in accordance with the service bulletin described previously.

Differences Between the Proposal and the related CAA AD

Operators should note that for certain depths of corrosion and/or wear detected that require an inspection of the pintle pin and sleeve, this AD requires the repair of any discrepancy of the pintle pin or sleeve to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 88 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 13 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 $68,640, or $780 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:

Short Brothers, PLC: Docket 97-NM–106-AD.

Applicability: All Model SD3–60 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) 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 prevent failure of the main landing gear (MLG) to extend or retract due to corrosion and/or wear of the left and right stub wings in the area of the forward pintle pin of the MLG, accomplish the following:

(a) Within 90 days after the effective date of this AD, conduct an inspection for corrosion of the top and bottom shear decks of the left and right stub wings in the area of the forward pintle pin of the MLG, and measure the retaining pin holes of the pintle pin for wear; in accordance with Part A. of the Accomplishment Instructions of Short Brothers Service Bulletin SD360–53–42, dated September 1996.

(1) If any corrosion, wear, or measurement of the holes for the retaining pin of the pintle pin is found that is within the limits specified in Part A. of the Accomplishment Instructions of the service bulletin, prior to further flight, repair the discrepancy in accordance with the service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 6 months.

(2) If any corrosion, wear, or measurement of the holes for the retaining pin of the pintle pin is found that is beyond the limits specified in Part A. of the Accomplishment Instructions of the service bulletin, prior to further flight, perform the actions required by paragraph (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Remove the corrosion and install bushings on the upper and lower shear webs in the retaining pin holes for the pintle pin in accordance with Part B. (left MLG) and/or Part C. (right MLG), as applicable, of the Accomplishment Instructions of the service bulletin.

(ii) Perform a visual inspection of the pintle pin and the sleeve for any discrepancy, in accordance with Part B. and/or Part C., as applicable, of the Accomplishment Instructions of the service bulletin.

(A) If no discrepancy is detected, the pintle pin and the sleeve of the pintle pin may be returned to service.

(B) If any discrepancy of the pintle pin and sleeve is detected, prior to further flight, repair the pintle pin and sleeve in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) Removal of corrosion and installation of bushings in accordance with Part B. and/or Part C., as applicable, of the Accomplishment Instructions of Short Brothers Service Bulletin SD360–53–42, dated September 1996, constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Note 3: The subject of this AD is addressed in British airworthiness directive 005–09–96.

Issued in Renton, Wash., on September 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–26377 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed action would require inspecting the aileron tie-rod jam nuts for looseness, tightening any loose jam nuts, and installing a locking sleeve on both ends of the aileron tie-rod in the chain-drive of the aileron system. The proposed AD results from an incident where the aileron tie-rod jam nuts on the chain-drive of the aileron system became loose. This caused a differential of aileron control between the pilot's control wheel and the co-pilot's control wheel. The actions specified by the proposed AD are intended to prevent such aileron control differential caused by the aileron tie-rod jam nuts becoming loose, which could result in loss of aileron control and consequent loss of control of the airplane.

DATES: Comments must be received on or before November 7, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-CE–45-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of

the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97-CE–45-AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97-CE–45-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA of Switzerland reports an incident where the aileron tie-rod jam nuts on the chain-drive of the aileron system became loose. This caused a differential of aileron control between the pilot's control wheel and the co-pilot's control wheel. This condition, if not corrected in a timely manner, could result in loss of aileron control and consequent loss of control of the airplane.

Applicable Service Information

Pilatus has issued Service Bulletin No. 27–001, dated March 25, 1997, which includes procedures for the following on Pilatus Models PC–12 and PC–12/45 airplanes:

—inspecting the aileron tie-rod jam nuts for looseness and tightening any loose jam nuts; and

—installing a locking sleeve on both ends of the aileron tie-rod in the chain-drive of the aileron system.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss FOCA AD HB 97–174, dated April 30, 1997, in order to assure the continued airworthiness of these airplanes in Switzerland.

Evaluation of All Applicable Information

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design that are registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the aileron tie-rod jam nuts for looseness, tightening any loose jam nuts, and installing a locking sleeve on both ends of the aileron tie-rod in the chain-drive of the aileron system. Accomplishment of the proposed actions would be in accordance with Pilatus Service Bulletin No. 27–001, dated March 25, 1997.

Cost Impact

The FAA estimates that 40 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owner/operator of the affected airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $12,000 or $300 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft Ltd.: Docket No. 97–CE–45–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, serial numbers 101 through 169, certificated in any category.

Note 1: The modification required by this AD is incorporated at manufacture on Models PC–12 and PC-12/45 airplanes, beginning with serial number 170. Airplanes with this modification are not affected by this AD.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent a differential of aileron control between the pilot's control wheel and the co-pilot's control wheel caused by the aileron tie-rod jam nuts becoming loose, which could result in loss of aileron control and consequent loss of control of the airplane, accomplish the following:

(a) Inspect the aileron tie-rod jam nuts for looseness in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–001, dated March 25, 1997. Prior to further flight, tighten any loose jam nuts in accordance with this service bulletin.

(b) Install a locking sleeve on both ends of the aileron tie-rod in the chain-drive of the aileron system in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–001, dated March 25, 1997.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD addresses the actions specified in Swiss AD FOCA AD HB 97–174, dated April 30, 1997.

Issued in Kansas City, Missouri, on September 30, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–26411 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 161, and 501

[Docket No. 92P–0441]

Food Labeling; Net Quantity of Contents; Compliance; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until December 1, 1997, the comment period on a proposed rule that was published in the **Federal Register** of March 4, 1997 (62 FR 9826). The document proposed to revise the agency's human and animal food labeling regulations that pertain to declarations of net quantity of contents on food packages. This action is being taking to allow interested persons additional time to submit comments to FDA on a survey sponsored by the Federal Trade Commission on the accuracy of net content labeling of milk and other products.

DATES: Written comments by December 1, 1997.

ADDRESSES: Submit 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: Loretta A. Carey, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 4, 1997 (62 FR 9826), FDA published a proposed rule to revise its human and animal food labeling regulations that pertain to declarations of net quantity of contents on food packages. That proposal set out procedures for determining whether net quantity of contents declarations accurately reflect the amount of product in food packages. Interested persons were given until June 2, 1997, to comment on the proposed rule. In the **Federal Register** of May 30, 1997 (62 FR 29313), the agency extended the comment period for an additional 90 days. The comment period closed on September 2, 1997.

FDA has received two requests for a second 90-day extension of the comment period on its proposed rule on net quantity of contents on food packages. The requests were from trade associations that represent major segments of both the food and feed industries. Both requests stated that industry representatives would need this extension in light of the national 20-State survey regarding the accuracy of net content labeling of milk and, to a lesser extent, of other dairy products (such as yogurt and cottage cheese) and of juice. The survey was conducted because of State and local reports of short-filling in packages of milk served in schools or sold in retail stores. The survey was made available on July 17, 1997. The requests for extension of the comment period stated that the industry representatives needed additional time to review and analyze this study before they could complete their comments.

FDA informally granted an extension of 28 days until September 30, 1997, under the provisions in 21 CFR 10.40(b)(3)(ii). The agency has now decided, however, that extending the comment period until December 1, 1997, as requested, will allow interested persons to fully review and analyze the data from the national survey. This extension will ensure that there is full consideration of all data and issues relating to the agency's net quantity of contents proposal.

Interested persons may, on or before December 1, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal. 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.

Dated: September 30, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26450 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

46 CFR Parts 25, 27, and 32

[CGD 97–064]

RIN 2115–AF–53

Towing Vessel Safety

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to improve towing vessel and tank-barge safety measures by requiring the installation of equipment to suppress fires on towing vessels and to enhance existing standards for anchoring or retrieving a drifting tank barge. This proposal was developed in cooperation with the Towing Vessel Safety Advisory Committee (TSAC). The Coast Guard is addressing the human element through muster lists, training, drills, and performance-based requirements, as well as recommended practices. Regulations are required by the Coast Guard Authorization Act of 1996. This action is expected to reduce the number of oil spills causing damage to marine life and the environment from single hull, non-self-propelled tank vessels.

DATES: Comments must reach the Coast Guard on or before January 5, 1998. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before December 5, 1997.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–064), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477. You must also mail comments on the collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Morgan J. Hurley, P.E., Project Manager (Fire Protection) (202) 267–0172 or E-mail <mhurley@comdt.uscg.mil>; or LTJG Patrick J. DeShon, Project Manager (Emergency Control Systems) (202) 267–0864 or E-mail <pdeshon@comdt.uscg.mil>.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. You should include your name and address, identify this rulemaking (CGD 97–064) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard is also soliciting comments on the question and answer format used in part 27. This format is intended to make regulations more readable. We are interested in your feedback on its effectiveness and your suggestions for possible improvements. The Coast Guard will consider all comments received during the comment period and may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. You may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. Your request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On January 19, 1996, the tugboat SCANDIA, towing the oil barge, NORTH CAPE, caught fire five miles off the coast of Rhode Island. The crew could not control the fire, and without power they were unable to prevent the barge carrying 4 million gallons of oil from grounding and spilling its contents into the coastal waters. The North Cape Spill led Congress to amend 46 U.S.C. 3719, in § 901 of the 1996 Coast Guard Authorization Act (Pub. L. 104–324) (the Authorization Act) to direct the Secretary of Transportation to prescribe regulations necessary to reduce oil spills from single-hull non-self-propelled tank vessels. Additionally, Congress in § 902 of the Authorization Act amended 46 U.S.C. 4102 to direct the Coast Guard to require the use of a fire suppression system or other fire suppression measures on vessels that tow non-self-propelled tank vessels. Section 902 of the Authorization Act also provides that the Coast Guard, after consultation with TSAC, may require fire suppression measures on all towing vessels, not just those towing non-self-propelled tank vessels.

Statutory Mandate

Section 901 of the Authorization Act mandates that single hull, non-self-propelled tank vessels operating in the open ocean or coastal waters, or the vessels towing them, employ at least one of three safety options. Under reasonably foreseeable sea conditions, without additional assistance, either the barge or the vessel towing it must:

(1) have on board a crew member and an operable anchor that together can stop the tank barge; or

(2) have an emergency system that will allow the tank barge to be retrieved by the towing vessel if the tow line ruptures.

(3) If neither of these two measures are viable, then the tank barge or vessel towing it must have on board another measure or combination of measures comparable to measures (1) and (2) of this paragraph that the Coast Guard (as authorized by the Secretary of Transportation) determines will provide protection against grounding.

Section 902 of the Authorization Act gave the Coast Guard the authority to require ''the installation, maintenance, and use of a fire suppression system or other measures * * * on board towing vessels.'' However, for vessels which tow non-self-propelled tank vessels, the Authorization Act mandated that the Coast Guard require a fire suppression system or other measures by October 1, 1997. The Authorization Act also required that the Coast Guard develop these rules in consultation with the Towing Safety Advisory Committee (TSAC). The requirements that the Coast Guard is proposing in this rulemaking are based on recommendations by TSAC.

Regulatory Approach

Human Element

Many of the requirements of this rule go beyond design and equipment. It is important to acknowledge the roles and responsibilities of the people operating the equipment installed on these vessels. The training and performance of the crew members may be the critical element in avoiding the actions that contribute to a casualty. Our Prevention Through People program depends on owners, operators, and other people in positions of responsibility to take an active role in developing and enforcing these safety measures.

Establishing the Lower Limit of Acceptable Safety Practice

For many requirements in this rule, vessels already carry most or all of the equipment and have adequate operational procedures. Many companies maintain and inspect their equipment with regularity and provide training beyond that required by these rules. However, the safety level of the industry can be jeopardized by a single

poor operator. The necessity still exists for identifying minimum standards that define the lower limit of acceptable practice.

Open Ocean and Coastal Waters

Section 901 of the Authorization Act specified that these rules apply to vessels operating in the open ocean or coastal waters. The Coast Guard determined this language to be equivalent to the high seas and territorial sea as defined in 33 CFR part 2. Under this approach the inner boundary of coastal waters is the territorial sea baseline. This line represents the separation between internal and external waters and defines the coastal area more strictly than the boundary line previously applied to offshore barges in 33 CFR part 155. Internal waters inherently offer semi-sheltered conditions or opportunity for quick haven and therefore have been excluded from the applicability. Vessels in external waters are subject to more severe weather and ocean effects that create an environment more likely to contribute to an incident resulting in separation of the barge from the towing vessel.

Double Hull Tank Barges

The proposed requirements do not apply solely to single-hulled vessels, as specified by the Authorization Act. The existing requirements in 33 CFR section 155.230 already require emergency towing capability for both single and double hull vessels and we did not wish to detract from the existing requirements of OPA 90. Double hull tank barges that currently satisfy 33 CFR section 155.230 also meet the requirements of the new 33 CFR section 155.230 proposed in this rulemaking.

Grandfathering Provisions for Anchor Systems

The Coast Guard will continue to allow the grandfathering established for tankships and manned seagoing barges constructed prior to June 15, 1987, by 46 CFR section 32.15–15. However, manned barges equipped with an anchor to comply with 33 CFR section 155.230(b)(1) will be excluded from any of the grandfathering provisions in 46 CFR section 32.15–15. The effectiveness of the emergency control system using anchors is highly dependent upon the design standard and equipment arrangement. The Coast Guard will only accept anchoring standards established by the American Bureau of Shipping or another recognized classification society. This will not require manned seagoing barges currently accepted under the grandfathering provisions to change their arrangements, if they choose to install a retrieval system as their emergency control system.

Application of Fire Protection Rules to All Towing Vessels

The Coast Guard is proposing that these rules apply to all towing vessels, not just towing vessels which tow non-self-propelled tank vessels. There were 188 reported fires on towing vessels from 1992–1996; almost all of which occurred in the engine room. Each of these fires was a potential obstruction to maritime commerce and each resulted in property damage. Many of these fires resulted in a total constructive loss of the vessel, and several required the use of outside resources to bring under control. Also, TSAC recommended application to all towing vessels so that operators could maintain flexibility over the cargoes that they may tow.

The Towing Safety Advisory Committee recommended that these rules only be applied to vessels which are 12 meters in length or *longer.* However, application only to vessels which are greater than 12 meters in length would not meet the intent of the mandate in the Authorization Act, which did not make any differentiation based on vessel length. The Authorization Act mandated the installation of fire suppression measures on vessels which tow non-self-propelled tank vessels, and vessels which are less than 12 meters in length could be engaged in towing tank barges. Also, the Coast Guard is concerned an engine room fire which results in loss of propulsion and navigation capability, could occur on any towing vessel, regardless of length.

Requirement for a Suppression System

The Coast Guard is proposing to require a combination of fire protection measures. This system would include the capability to detect small incipient fires, quickly communicate the presence of these small fires to the crew, and suppress these fires before they jeopardize navigation capability. Also, the Coast Guard recognizes that proper preparation and response by vessel crew is more important than requiring the installation of additional equipment on the vessel. Therefore, the Coast Guard is proposing crew training, both ashore and afloat, and muster lists to identify and practice crew fire fighting roles before a fire emergency.

Although requiring a suppression system on new and existing vessels meets the mandate in the Authorization Act, the Coast Guard does not solely require the installation of a suppression system. Gaseous suppression systems may not be effective on all existing vessels. A gaseous suppression system requires a relatively air tight enclosure to maintain an extinguishing concentration. Many existing towing vessels are constructed with engine rooms that would not be sufficiently air tight. Furthermore, installation of a total flooding suppression system may not meet the intent of the mandate in the Authorization Act—to prevent casualties involving barges which are the result of a loss of propulsion of the towing vessel. Although a machinery space fire would result in loss of propulsion, discharge of a total flooding suppression system would also result in loss of propulsion.

The Towing Safety Advisory Committee conducted a survey of the towing vessel fleet in conjunction with developing their recommendations to the Coast Guard. This survey revealed that the provisions which would be required by this rulemaking are presently installed on most towing vessels.

Discussion of Proposed Rule

Emergency Control Systems

33 CFR Part 155

The proposed rules in 33 CFR part 155 require an emergency control system to ensure an adequate response to prevent a grounding. The Coast Guard will require only one of three response measures for tank vessels as mandated by the Authorization Act. The following methodologies define what the Coast Guard will accept as an emergency control system:

Manned with an operable anchor. To consider anchoring as a response option it is first necessary to define the design and operational capabilities of an ''operable'' anchor. This was done using minimum performance standards for in-service operation by the crew. The crew member is a vital component in the anchoring system. Training, maintenance, and inspection provisions support the operational availability of the anchoring system. Performance requirements will be added in 46 CFR section 32.15–15 and 33 CFR section 155.230.

The Coast Guard believes that additional requirements are needed in an anchoring system intended for use as an emergency response measure because an emergency often presents higher stress conditions than routine service anchoring. One crew member must be able to deploy the anchor within a reasonable response time and must confer with the master in determining the appropriate length of chain to be used.

The objective of an emergency anchoring operation is for a drifting barge to self-anchor in water deep enough that its stern (presumably the closest point to shore) will not ground. This requires that only enough chain be let out for the anchor to properly imbed itself (typically 5 to 7 times the water depth), but no longer length. The Coast Guard recognizes that not every point along the barge's route will necessarily be far enough from shore to prevent grounding. However, we believe that most routes are far enough from shore for this to be a viable strategy. Crew members should be trained to deploy the anchor, and a means for measuring the proper chain pay-out should be employed (such as marking the chain). The length of chain constraint ensures that excessive chain will not be let out and allow a grounding as the barge swings toward shore. We solicit your comments on whether or not the Coast Guard should provide more specific guidance or requirements concerning emergency anchoring training and operations.

The constraint on reasonable response time was added to ensure that control of the barge is established during the period of intentional separation described under the *Safety Analysis* section of this preamble. It is important that the barge is under control before the developing emergency renders the towing vessel unable to provide control. We are considering basing this performance criteria on casualty development times. We solicit comments on what would be a reasonable response time.

The Coast Guard chose not to include the recommendation of TSAC for an operable anchor to be considered as a viable safety option for an unmanned barge. Along with the American Waterways Operators, the Coast Guard has determined that falls overboard represent the highest cause of fatalities in the towing industry. Requiring an anchor on an unmanned barge encourages attempted placement of mariners onto the barge in an emergency situation. This represents an unacceptable risk.

The requirements presented only represent a minimum standard for safe operation of the anchoring system. Companies should assess whether more stringent individual requirements are necessary to maintain safe practices under their operational conditions.

Emergency retrieval system. For the second option, retrieval systems, we recognize that the conditions in your operating area will determine the most effective system for retrieval and that various acceptable systems exist. The Coast Guard proposes minimum performance characteristics to ensure a reasonable margin of safety.

The training requirements ensure that one person onboard the towing vessel is familiar with operation of the retrieval system and has hands-on experience. All licensed personnel and crew members should understand operation of the system but, because of crew rotation and operational constraints, it is not practicable to require that all personnel have hands-on experience.

The term ''master'' is used in this NPRM to be consistent with its proposed use in Licensing and Manning for Officers of Towing Vessels (CGD 94–055) published June 19, 1996 in the **Federal Register** (61 FR 31332).

Retrieval drills should not be conducted with barges containing any cargo which would pose an environmental threat in the event of a mishap.

Safety response measures. Option three allows us to recognize future developments in safety response measures that may provide a comparable level of safety.

Permissively manned barges. Permissively manned barges must be able to meet all operation and performance requirements of 33 CFR part 155 and 46 CFR part 32, unless specifically instructed otherwise by the cognizant Officer in Charge of Marine Inspection (OCMI). Since permissively manned barges operate under provisional authority of the OCMI, these requirements should apply on a case by case basis.

Dual certificated barges. Certain tank barges may be certificated or load lined for both manned and unmanned voyages. As such, they may already be equipped with an anchoring system. However, owners/operators may not rely on the anchor system whenever the barge sails on an unmanned voyage (because it would require a tug-to-barge personnel transfer to operate the system). For such voyages, the towing vessel and barge will have to be equipped with the emergency retrieval system.

Fire Suppression

46 CFR Part 25

The Coast Guard proposes to revise table 25.30–10(c) in 46 CFR section 25.30–10(c) to add a listing for B–V semi-portable extinguishers. The capacities proposed for the new B–V entry are consistent with the values used in other subchapters and currently available approved equipment. This modification is necessary because of the proposed requirement in part 27 for B–V extinguishers on vessels 24 meters or *longer* in length.

46 CFR Part 27

Except as otherwise noted, each of the proposed requirements in this part was recommended by TSAC.

If you are an owner of a commercial towing vessel, your vessel would be required to comply with requirements under a newly added part 27. However, your vessel must meet these requirements in addition to those found in other parts of Subchapter C for towing vessels.

The proposed requirements of this part minimize the possibility of a fire affecting the propulsion and navigation capability of your towing vessel. As a result of reducing the possibility of such fires, we expect a decrease in barge casualties.

We expect this reduction in fires that cause propulsion loss to be achieved by: (1) detecting fires while they are small and by providing means to immediately alert the crew; (2) providing means to extinguish or control small fires in a manner that avoids permanently disabling operation of the propulsion machinery; and (3) conducting training to ensure that personnel are prepared to engage in fire fighting operations. Additionally, if your towing vessel is new, we expect the proposed requirements to decrease the possibility of fuel system fires starting in the engine room.

Most of the provisions proposed in part 27 address fire fighting equipment and measures. However, we recognize fire prevention is more important than fire fighting and suppression. Proper housekeeping and maintenance on your vessel, especially in the engine room, can help prevent many fires from starting. You can find guidance on this issue in the ''Responsible Carrier Program'' from the American Waterway's Operators under its partnership with the Coast Guard.

The Coast Guard has decided to apply this proposed rule to two separate categories of towing vessels. One category is for existing vessels and another category is for new vessels. We intend for this two-tier approach to achieve the goals mandated by Congress, while giving consideration to the practicality, appropriateness, or cost effectiveness of installing certain equipment on existing or small vessels (i.e. those *less* than 24 meters (79 feet)). The 24 meter (79 feet) breakpoint was proposed by TSAC and corresponds to a breakpoint used to differentiate between ''small'' and ''large'' vessels in

the commercial fishing industry vessel regulations contained in part 28.

Section 27.100. The proposed applicability of this part is similar to that used in 33 CFR part 164 concerning navigation safety equipment for towing vessels, except these rules apply to all towing vessels, regardless of length. Exceptions are similar to those found in 33 CFR part 164, including vessels that are used solely within a limited geographic area, are used only for assistance towing or pollution response, or are exempted by the OCMI.

Vessels which solely operate within a limited geographic area were exempted from the requirements of these rules. The intent of the Authorization Act could be interpreted as applying to vessels which only operate in a limited geographic area. However, the Coast Guard believes that the risk of a vessel which only operates in a limited geographic area losing control of a barge is low enough that it is not necessary to require fire suppression measures. These vessels would be close enough to shore or pier facilities that they could reasonably be expected to control barges long enough in the event of a fire on the towing vessel to avoid grounding the barge. Also, many of these limited geographic areas such as fleeting or industrial facilities have multiple towing vessels operating in a small area; in the event of a fire on a towing vessel, another vessel could quickly render assistance.

Five definitions are proposed in § 27.101.

We propose to apply the definition of towing vessel, as used in the navigation safety equipment rules in 33 CFR part 164, for this part.

Definitions for new and existing vessels are proposed to differentiate between application of the proposed rules to vessels the construction of which was contracted for *before* the applicability date of these rules and vessels contracted for *after* the applicability date of these rules. These definitions were derived from the definitions used for small passenger vessels in 46 CFR subchapter T. Contracting date was used instead of build date to ensure that vessel builders and designers are allowed the opportunity to familiarize themselves with the requirements of these rules prior to beginning construction.

For the purposes of this proposed rule, the Coast Guard provided a definition for the personal pronouns *you* and *we*. *You* is defined as the owner of a towing vessel. *We* is defined as the United States Coast Guard.

Sections 27.205 and 27.305. We are proposing that you must ensure a general alarm system is installed on your new vessel or on your existing vessel within two years of the effective date of these rules. This requirement would apply to all towing vessels, regardless of length. A general alarm provides a means of quickly alerting all persons on board of a fire so they can take appropriate suppression actions. An option for audible or visual alarms is proposed for existing vessels to allow for the continued use of existing systems, although visual alarms are required in high ambient noise areas, even if audible alarms were already installed. However, both audible and visual alarms are proposed for new vessels to ensure that the alarm would be sensed if a person can't hear audible alarms (e.g., is wearing headphones outside the machinery space) or can't see visual alarms (e.g., is sleeping, looking elsewhere.)

The proposed requirements were derived from the TSAC recommendations and the requirements in the commercial fishing industry regulations contained in 46 CFR section 28.240.

Sections 27.210 and 27.310. We are proposing that you ensure a fire detection system is installed in the engine room on new vessels; and within two years of the effective date of these regulations on existing vessels. The fire detection system provides a means of detecting a fire in the early stages. TSAC did not recommend standards for the fire detection system. The proposed requirements are based on those contained in 46 CFR section 76.27, although they have been modified to allow for heat or smoke detection and to account for differences between passenger vessels and towing vessels. TSAC recommended continuous manning be permitted as an alternative to the requirement for heat or smoke detectors. However, we have determined that reliance on human beings to detect a fire is not as effective as an automated system, people could be on rounds, asleep, or otherwise occupied and not notice the smoke or fire.

Sections 27.215 and 27.315. We are proposing that you ensure a communication system is installed on your new vessel or within two years of the effective date of these regulations on your existing vessel. The communications system enables communication between the engine room and the wheel house. On your existing towing vessel, the communication system can be either fixed or portable; however, if your towing vessel is new, the communications system must be a permanent installation. Some small vessels may only have an unattended engine compartment and no occupied spaces other than the wheel house, and would not be required to comply with this section. TSAC did not recommend standards for the communications system, so the proposed requirements were derived from 46 CFR section 113.30.

Sections 27.220, 27.221, 27.320 and 27.321. We are proposing that you ensure fire pump and fire main systems are installed on your vessel. Fire pump and fire main systems are proposed to augment the capability to suppress small fires in the engine room before they jeopardize propulsion capability. Differing requirements are proposed for existing and new towing vessels, as well as vessels 24 meters (79 feet) or *longer* in length and those that are *less* than 24 meters (79 feet) in length. This differentiation recognizes the space limitations and the difficulty installing equipment on smaller existing vessels.

For new and existing vessels 24 meters (79 feet) or *longer* in length, a fixed fire pump and fire main system are proposed. You must ensure the fire pump and fire main system are capable of delivering two streams of water at a flow of 300 liters per minute (80 gpm) and 344 kPa (50 psi) pressure. If your vessel is new, the fire pump must be independent of the bilge and ballast system. This difference accounts for the difficulty of installing a new pump on existing vessels.

Although TSAC recommended requiring a fixed fire pump and fire main system on new vessels and within two years on existing vessels of this length, they did not recommend a performance standard for the system. Therefore, the proposed performance is based on the requirements contained in 46 CFR section 28.315 for commercial fishing industry vessels of similar size.

If your *new* vessel is *less* than 24 meters (79 feet) in length, a fixed or portable fire pump is required. If your *existing* vessel is *less* than 24 meters (79 feet) in length, you must ensure a fixed or portable fire pump is installed within two years. Since the recommendation from TSAC did not contain performance requirements, the proposed performance requirements are based on those contained in 46 CFR section 181.300 pertaining to small passenger vessels of a similar length.

Sections 27.225, 27.325, and 27.326. We are proposing that you ensure that additional portable or semi-portable fire extinguishers are installed on your new vessel, or on your existing vessel within two years after the effective date of these regulations. Differing requirements are

proposed for vessels 24 meters (79 feet) or *longer* in length and those that are *less* than 24 meters (79 feet) in length. We intend for these extinguishers to suppress a fire in the engine room prior to the fire jeopardizing propulsion or navigation capability.

For vessels 24 meters (79 feet) or *longer* in length, a B–V semi-portable fire extinguisher is proposed. For vessels *less* than 24 meters (79 feet) in length, a B–III semi-portable extinguisher is proposed.

An option for a fixed extinguishing system is proposed as an alternative on existing vessels. If you previously installed a fixed system that meets the requirements of 46 CFR section 76.15, you will not be required to install additional equipment. This option is also available on new vessels *less* than 24 meters (79 feet) in length. However, a fixed extinguishing system is proposed as a requirement for new vessels 24 meters (79 feet) or *longer* in length.

Sections 27.230 and 27.340(f). We propose requiring the installation of a remote engine shutdown or fuel shutoff for existing vessels within two years of the effective date of these regulations. We propose requiring the installation of a remote fuel shutoff for new vessels. A fuel shutoff or an engine shutdown is proposed for controlling a fire within the engine room to prevent permanent loss of propulsion capability. A fuel shutoff is the preferred installation because the flow of fuel into the engine room is stopped in the event of a fire. However, an engine shutoff is also acceptable for existing vessels in recognition of fuel piping arrangements that make installing a fuel shutoff valve impractical.

Section 27.340. We are proposing fuel system standards for new vessels. These requirements are not applicable to existing vessels because of the possible difficulty in applying these standards to existing installations.

An analysis we conducted on towing vessel casualties occurring between 1992 and 1995 indicated that approximately 40 percent of all towing vessel fires involve a fuel system failure. By applying minimum standards to the fuel systems on towing vessels, the number of fires should decrease. The proposed rules are based on the requirements contained in 46 CFR section 28.335 for commercial fishing industry vessels.

Portable fuel systems would be prohibited, except where used for portable bilge pumps or outboard engines. This prohibition would not apply to fuel tanks which are permanently attached to portable equipment, such as portable fire pumps. Portable fuel tanks are proposed to be prohibited to eliminate potential fuel spills resulting from tanks being knocked over, fuel lines severed or worn, etc. Where used, portable fuel tanks would be required to meet the requirements of American Boat and Yacht Council (ABYC) H–25, ''Portable Fuel Systems and Portable Containers for Flammable Liquids.''

Fuel restrictions are proposed to lower the fire and explosion hazard in machinery spaces by limiting fuels used to those which have a high flash point. Since Bunker C is often heated to lower its viscosity and make it easier to pump, installations would be required to meet subchapter F. Other fuels, for example compressed natural gas, could be used where accepted by Commandant (G–MSE).

Vent pipe requirements are proposed to prevent overpressurization during filling.

Fuel piping is proposed to be required to be at least 0.9 millimeters (0.035 inches) in thickness, seamless, and constructed of steel, annealed copper, copper-nickel, or nickel-copper. Aluminum piping, with its relatively low melting point, would be permitted outside of machinery spaces. Also, flexible piping would be permitted in short lengths to provide flexibility in fuel lines, for example where a fuel line connects to an engine. These requirements are proposed to ensure piping is relatively robust.

Instead of the fuel piping requirements of this section, vessels which are less than 24 meters in length would be permitted to meet either ABYC H–33, ''Diesel Fuel Systems'', chapter 5 of National Fire Protection Association (NFPA) 302, ''Pleasure and Commercial Motor Craft'' or 33 CFR Subchapter S, ''Boating Safety'', since the requirements of these standards are appropriate for smaller vessels.

Section 27.230 and 27.345. We are proposing that you ensure a fire axe is on board your new vessel, or is on board your existing vessel within 90 days after the effective date of this regulation. The fire axe should speed up entry into enclosed spaces for fire fighting efforts.

Section 27.240 and 27.350. We are proposing that you ensure a muster list is developed within 90 days of the effective date of this regulation. The requirement for a muster list addresses the human element in marine casualties by identifying crew responsibilities and fire fighting procedures before a fire emergency. By identifying responsibilities and procedures before a fire emergency, the crew should be more efficient and timely in initiating fire fighting efforts. This increased efficiency should increase the likelihood that a small fire can be suppressed before propulsion and navigation capabilities are jeopardized.

You must ensure that the fire and emergency signal and the fire fighting responsibilities of all personnel are included on the muster list.

The requirement for a muster list was recommended by TSAC; however, the recommendation did not contain specific criteria for the muster list. The proposed criteria for the muster list are derived from those found in the commercial fishing industry vessel regulations in 46 CFR section 28.270.

Section 27.245 and 27.355. We are proposing that you ensure instruction, drills, and safety orientations are conducted in accordance with these sections. The towing vessel master or person-in-charge, or other qualified person may actually conduct the training mentioned above. These requirements should improve fire fighting capabilities of the vessel crew by ensuring they are prepared for fire emergencies. Increased efficiency will improve the chances of suppressing small fires before propulsion and navigation capabilities are endangered.

We are proposing that you ensure all drills and instruction are conducted at least once a month. In addition to ensuring that fire fighting evolutions are regularly practiced and equipment is regularly used, the proposed requirements will ensure training covers the contents of the muster list.

The proposed instruction requirement could be met in conjunction with drills or by other means, such as viewing videotapes. If the instruction is given during the course of a drill, it could cover one of the drilled topics in depth, such as fighting fires involving propulsion machinery, use of fire extinguishers, use of the fire main, etc. Also, the instruction could be given in conjunction with other company functions such as picnics, dinners, etc.

The recommendations of TSAC refer to the Navigation and Vessel Inspection Circular 6–91, containing international guidelines. However, towing vessels more closely resemble fishing industry vessels than vessels which travel internationally. Therefore, the proposed requirements are based on the requirements for commercial fishing industry vessels contained in 46 CFR section 28.270.

Enforcement of the requirements proposed in Part 27. Towing vessels are typically uninspected. No new inspection program is proposed for these vessels. Compliance with these rules will be the responsibility of vessel

owners, and would only be spotchecked by the Coast Guard during vessel boardings.

Support for Emergency Control Systems

TSAC Recommendations

As required by the Authorization Act, we developed our regulations in consultation with TSAC. They agreed that the most appropriate way to address the problem of barges and tugs separating during transit is to consider methods that prevent the separation from occurring, and should separation occur, actions that might be taken to prevent the barge from drifting ashore. They noted that the key link between the tug and the barge is the tow line. To prevent the units from separating, tow wire maintenance and voyage planning analysis must be factored into every voyage. We have already given guidance for tow wire maintenance in the Navigation and Vessel Inspection Circular (NVIC) 5–92, entitled Guidelines for Wire Rope Towing Hawsers. TSAC recommended that we provide guidance in the area of voyage planning through the development of another NVIC. For details of their recommendation, see the *voyage planning* section of this preamble. The suggested NVIC will be developed in conjunction with this rulemaking.

TSAC also recommended that regulatory measures require two of three response measures for unmanned barges:

(1) An operable anchor system on the barge that should:

(a) Be of appropriate size for the barge;

(b) Be deployed at least once per quarter;

(c) Have a functioning means for releasing the anchor that does not endanger operating personnel; and

(d) Be inspected prior to getting underway. This inspection should ensure that all devices required to release and drop the anchor are operational;

(2) Each tug should carry a backup towline/hawser onboard, sized for the bollard pull of the towing vessel, that can be readily deployed with the barge's emergency towline; and

(3) Each tug should carry a backup towline/hawser onboard, sized for the bollard pull of the towing vessel, that can be readily deployed with the hook retrieval device.

As explained previously in this preamble, the Coast Guard proposes to require only one of three response measures for tank vessels as mandated by the Authorization Act.

TSAC also provided their recommendations to the Regional Risk Assessment Team (RRAT), in New England, that formed to provide safety recommendations following the grounding and oil spill of the tank barge NORTH CAPE on January 19, 1996, off Moonstone Beach on the Rhode Island coast.

Regional Risk Assessment Team

The Regional Risk Assessment Team, composed of representatives from the public and private sectors, developed recommendations for the First Coast Guard District. They provided these recommendations to the Assistant Commandant for Marine Safety and Environmental Protection on June 19, 1997, with the intent that the recommendations be used when drafting these rules. The Coast Guard considered both the statutory mandate and the recommendations from TSAC and the RRAT in developing these rules.

Certain elements of the RRAT recommendation were excluded from the rule. One such recommendation included both an anchor and a retrieval system on a tank barge. The Authorization Act provided that one method or another may be used and the Coast Guard decided that requiring both an anchor and a retrieval system would impose unwarranted costs on the industry. Other sections of RRAT either are or have been addressed in other rulemakings or exceeded the scope of the rulemaking. The RRAT report is available in the docket for this rulemaking.

Voyage Planning Analysis

We request comments on principles of voyage planning for development of a NVIC. As stated in the recommendation of TSAC, voyage planning is an essential element of prevention and has the potential to interrupt the accident chain at its earliest links.

TSAC recommended that voyage planning analysis should include the following:

(1) Companies should have documented policies and procedures in place to address decision making criteria related to risk and route analysis of voyages. Company management should ensure that the following items have been considered:

(a) Current and long range (72 hour where available) weather forecasts;

(b) ''Stay at sea vs. Come in to harbor'' policy decisions under adverse weather and sea conditions (this should include consideration of crew experience and training); and

(c) Equipment size, suitability, special equipment needs, and manning under given weather conditions.

(2) Companies should establish a culture evidenced by formally conveyed, documented policies and procedures stressing that safe transit of people and equipment is paramount and takes precedence over meeting schedules and financial considerations. Management should ensure these policies permeate operations via personnel training and management support.

The RRAT specified the minimum contents of a voyage plan to include:

(1) type and volume of cargo transported;

(2) navigation charts for the intended route, applicable extracts from publications including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the area;

(3) applicable current and forecasted weather conditions for the duration of the voyage including visibility, wind, and sea state;

(4) extracts from tide and tidal current tables;

(5) forward and aft drafts for the tank barge;

(6) under-keel and air clearances for the port and/or berthing area;

(7) pre-departure checklists to ensure that the vessel is ready for the voyage;

(8) intended speed and estimated time of arrival at the anticipated waypoints;

(9) communication contacts at Vessel Traffic Service, bridges, facilities and VHF requirements specified to the port; and

(10) master's standing orders for closest points of approach, special conditions, and critical maneuvers.

Safety Analysis

Risk is a function of the consequence of an event and the likelihood of that event's occurrence. Safety measures aimed at reducing high risk events can be grouped as either prevention or response. Preventive measures interrupt the accident chain early in the sequence of events, usually when the likelihood of an undesired consequence is low. Response measures reduce undesired consequences when the likelihood of an incident becomes high or once the incident has occurred. Risk analysis tools help determine the appropriate measures that should be used in given scenarios.

In each scenario, the failure mode is a barge running aground. The undesired consequences are potentially serious injury to personnel, environmental damage from spilled cargo, and economic costs resulting from damage to vessels and equipment.

Three possible incident scenarios were considered. They were developed assuming a fully loaded barge, since this

is the highest consequence condition. These scenarios occur under reasonably foreseeable sea conditions. The first two scenarios occur late in the accident chain when the likelihood of an incident is high. This limits the analysis to response measures.

The first scenario involves a barge intentionally separated under developing emergency conditions. The intentional separation may allow the towing vessel to slow and take the way from the barge before releasing control. Under these conditions, a crew member on board the barge can deploy a conventional anchor to keep the barge from drifting into shore and grounding.

The second scenario results when a towing vessel loses control of a barge because of a ruptured tow line or tow wire. The loss of control is unintentional and immediate and will result in run-away conditions for the barge. A towing vessel with a retrieval system able to regain control of the barge is the safest response measure for these conditions. A conventional anchor is not capable of stopping a barge with appreciable momentum. Deployment will probably result in damage to the vessel and increase the likelihood of injury to the crew or damage to the environment. However, the presence of a crew member on the barge may facilitate the use of other means to regain control of the barge.

The last scenario involves a disabled towing vessel that has lost control of an unmanned barge. These conditions are similar to those experienced in the NORTH CAPE incident. In this case, only outside assistance can mitigate the consequences. Preventive measures taken by the towing vessel to avoid this scenario are the only reasonable alternative. The fire prevention measures in this rule address one of the most likely events which will disable a towing vessel underway. Vessel owners are cautioned that fires are not the only failure mode which can disable the vessel. Vessels towing unmanned barges should take all reasonable precautions to avoid finding themselves in such circumstances.

Incorporation by Reference

Material that would be incorporated by reference is noted as follows: ABYC H–25 in § 27.340(b); and, ABYC H–33 and Chapter 5 of NFPA 302 in § 27.340(g). The material is available for inspection where indicated under **ADDRESSES**. Copies of the material are available from: ABYC, 3069 Solomon's Island Road, Edgewater, Maryland 21037; and, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269.

Before publishing a binding rule, the Coast Guard will submit this material to the Director of the **Federal Register** for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, l979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket for inspection or copying where indicated under **ADDRESSES**. A summary of the Evaluation follows:

Summary of Benefits

The principal benefits of this proposed rule are reduced environmental damage and human casualties and environmental damage caused by tank barge groundings resulting from a loss of propulsion or tow line rupturings between a towing vessel and a tank barge. The quantifiable benefits will accrue in the following areas: avoided vessel and property damage, avoided injuries, avoided deaths and missing persons, and avoided pollution. We realize the measures of the proposed rule will not prevent all pollution, injuries, and damage. Reality dictates that human error and environmental conditions will result in future casualties, regardless of the new regulations. Further, much of the required equipment is reactive, not preventative, in nature and will not eliminate fires or breakaways altogether. Therefore, an effectiveness range of avoided costs (benefits) was determined for both fire protection and emergency control systems.

Using Coast Guard Marine Safety Management System database information from the last 5 years, casualty information was reviewed for the 172 cases indicating that fires broke out on towing vessels. The casualty information was also reviewed for the 22 cases indicating a towing wire rupture, which led to a break away tank barge. The estimated benefit for each measure was calculated by reviewing the casualty report and assessing if the casualty could have been prevented through the proposed equipment. The actual amounts of oil spilled, the number of deaths and injuries, and the actual dollar amount of damage done to the vessel, pier, or other structures were tabulated.

The assessment indicated that over the 17 year period of the analysis (1997 dollars), the fire suppression requirements will result in benefits in an effectiveness range of $45.4 million to $68.2 million in avoided vessel and property damage; an effectiveness range of $5.3 million to $7.9 million in avoided injuries; an effectiveness range of $2.6 million to $4.0 million in avoided deaths and missing persons; and an effectiveness range of 811,736 to 1.2 million gallons of unspilled oil. During the period of time preceding the phaseout of single hull tank vessels (4115 (a) of OPA 90), the emergency control system requirements will result in benefits in a range of $190,301 to $285,452 in avoided vessel and property damage (1997 dollars); and a range of 11,529 to 17,293 gallons of unspilled oil.

There are other societal benefits. For example, it is impossible to statistically quantify or assess a dollar value for the preservation of the environment's integrity. Although these benefits are significant, we cannot quantify them from the available data.

If the new equipment is effective on the low end of the range, the total benefits are $53.6 million for avoided vessel and property damage, injuries, deaths, and missing persons and 823,146 gallons (20,582 barrels) of unspilled oil; if the equipment is effective on the high end of the range, the total benefits are $80.4 million for avoided vessel and property damage, injuries, deaths, and missing persons and 1.3 million gallons (30,872 barrels) of unspilled oil.

Summary of Costs

The present value of the one-time costs to the towing and barge industries of installing the required fire suppression and anchoring equipment is just over $19 million. This estimate is based on Coast Guard research, as well as a TSAC questionnaire that identified the proportion of vessels without the necessary equipment installed.

On average, if you own a towing vessel *less* than 24 meters (79 feet) in length, you will incur a cost of $2,300 to install the equipment. If you own a vessel 24 meters (79 feet) or longer in length, you will incur an installation cost of $3,500. These anticipated costs recognize that most of the proposed requirements of this rulemaking are presently installed on most towing vessels. For vessels which do not have any of the equipment proposed by this rulemaking, the costs for a towing vessel which is *less* than 24 meters in length

would be approximately $11,000, and the cost for a vessel which is 24 meters (79 feet) or *longer* in length would be approximately $21,000.

These costs assume that the vessel crew conducts a ½ hour annual inspection of the detection system, engine shutdown, and fire pump/fire main system. These costs assume no maintenance will be required in conjunction with these annual inspections, which would be expected if quality equipment is used and properly installed, which the estimated installation costs reflect. No recurring costs were calculated for the general alarm, communications system, fire axe, station bill, or fire drills and training.

No costs are anticipated for these requirements expected since theyse are either expected to be equipment typically used on a regular basis, items that normally do not expected to need maintenance, or, in the case of fire drills and training, be activities conducted during the course of normal activities operations. Also, these costs assume that a professional servicing firm is contracted annually to inspect, test, and maintain the fire extinguishers or fire extinguishing system, whichever is installed.

If your vessel is one of the few not currently meeting one of the anchoring or retrieval requirements, you will incur installation costs estimated at $5,000. In the following years, there will be a reoccurring annual maintenance, inspection, and repair costs of $55.00 per vessel (1997 dollars).

The total costs of this program are the combination of the industry and governmental costs. The total present cost of this program (1997 dollars) is $26.0 million ($19.4 million initial industry cost + $5.5 million reoccurring industry costs + $1.1 million government costs). Spread out over the 17 years of this rule analysis, the annual costs are $1.5 million in 1997 dollars.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. Under sections 202 and 205 of the UMRA, the Coast Guard generally must prepare a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate,'' is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandate causes those entities, to spend, in the aggregate, $100 million or more in any one year the UMRA analysis is required.

This action does not impose Federal mandates on any State, local or tribal governments. This action does impose Federal mandates on the private sector. However, the requirements in this proposed action will not result in annual expenditures of $100 million or more. Therefore, sections 202 and 205 of the UMRA do not apply.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

An Initial Regulatory Flexibility Analysis discussing the impact of this proposed rule on small entities is available in the docket for inspection or copying where indicated under **ADDRESSES**.

We are also proposing a two year phase in for most of the requirements. This will allow small entities to explore the market, plan and schedule installations during normal downtime periods, and would provide some flexibility and accommodation for those affected by the rulemaking.

Use of the proposed equipment is presently virtually a voluntary industry standard, and vessels without the equipment are the exception, not the norm. The costs of this proposal would consist of those incurred by the marginal operators to achieve compliance. If you have to purchase and install the equipment, the costs are low in comparison to the value of your towing vessel and the costs associated with damage caused by an accident and a resultant spill.

We certify that this proposed rulemaking will not result in a significant economic impact on a substantial number of small entities. There are exemptions for: certain yard and fleeting craft, pollution response towing vessels, and rescue and assistance towing vessels from this rulemaking. Furthermore, a large number of vessels are already in compliance, and we provided phase-in periods for several provisions.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 847), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Morgan J. Hurley, P.E., (Fire Protection) (202) 267–0172 or E-mail <mhurley@comdt.uscg.mil≤; LTJG Pat DeShon, (Emergency Control Systems) (202) 267–0864 or E-mail <pdeshon@comdt.uscg.mil>.

Collection of Information

The proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR section 1320.3(c), ''collection of information'' includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Towing Vessel Safety.

Summary of the Collection of Information: This proposal contains collection-of-information requirements in the following sections: 46 CFR sections 27.240 and 27.350.

OMB Control No.: 2115–0628.

Administration: U.S. Coast Guard.

Title: Navigation Safety Equipment for Towing Vessels.

Need for Information: Preparation of muster lists (station bills) are intended to provide both an effective plan for assigning vessel personnel stations and duties to perform in the event of an emergency and a quick visual reference which a crew member can view to find out where to go in emergency situations. To prepare and post these documents, an amendment to existing OMB Control No. 2115–0628 is required.

Burden of Response: It is estimated that masters or persons in charge of towing vessels will expend the following personnel hours to prepare and post muster lists:

- Review NVIC 7–82 (sample format of vessel station bill): ¼ hour
- Prepare a muster list and post it on the vessel: 2 hours

Number of Respondents: Masters or persons in charge of affected towing vessels operating in U.S. navigable waters.

Estimated Total Annual Burden: We estimate that the following annual hours are required to complete the recordkeeping required by this proposal:

• Towing vessels—3,300 hours to develop and post muster lists (we estimate only 20% of vessels affected do not presently have completed muster lists posted).

• Coast Guard—62 hours for check that muster lists are completed and posted on vessels as required (we estimate 10% of affected vessels checked annually).

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

The Coast Guard solicits public comment on the proposed collection of information to (1) Evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to comply, as by providing additional guidance in the preparation of muster lists or suggesting suitable alternatives.

Persons submitting comments on the collection of information should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. There is the possibility that this rulemaking will result in federal regulations that preempt portions of state law on towing vessels and tank barges. For instance, on June 30, 1997, the State of Rhode Island enacted a State law entitled the ''Oil Spill Pollution Prevention and Control Act.'' That Act promulgated the recommendations of the RRAT. The recommendations of the RRAT and the provisions of the Rhode Island State law cover areas that are addressed by the applicable provisions in the Coast Guard Authorization Act of 1996 or the measures in this proposed rule. Consequently, when these rules are published as final and go into effect, they may preempt certain provisions of the Rhode Island State law, or other State laws, that differ from or exceed Coast Guard regulations. A complete preemption analysis will be conducted in conjunction with publication of the Final Rule, which may reflect changes from this proposal because of comment by the public.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under paragraph 2.B.2.e.(34) (c) and (d) of Commandant Instruction M16475.lB, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 27

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 155, and 46 CFR parts 25 and 32, and to add 46 CFR part 27, as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for part 155 and the note following it are revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715, 3719; sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

Sections 155.110–155.130, 155.350–155.400, 155.430, 155.440, 155.470, 155.1030 (j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and §§ 155.1110–155.1150 also issued under 33 U.S.C. 2735.

Note: Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR parts 30 through 36, 150, 151, and 153.

2. Revise § 155.230 to read as follows:

§ 155.230 Emergency control systems for tank barges.

(a) *Application.* This section applies to tank barges and vessels towing them on the territorial sea, high seas [these waters are defined in part 2 of this chapter], or in Great Lakes service.

(b) *Safety program.* The vessels described in paragraph (a) of this section must use at least one of the three following response measures:

(1) *Measure 1.* Barges may be manned and equipped with an operable anchor system as required by 46 CFR 32.15–15. Because the anchoring system is also to be used as the emergency control system, the owner of the vessel towing a manned barge must ensure that—

(i) *Operation and performance.* The anchor is ready to be deployed by one person within a reasonable response time and that the operator of the anchoring system confers with the vessel master regarding appropriate length of chain to be used.

(ii) *Maintenance and inspections.* Anchors, chains, and hawsers must be inspected at the time of class survey or inspection for certification. Scope of the inspection must include the *operation and performance* criteria described in paragraph (b)(1)(i) of this section.

(iii) *Training.* All barge crew members must be thoroughly familiar with the operation of the anchor.

(2) *Measure 2.* Vessels described in paragraph (a) may use an emergency retrieval system that includes—

(i) *Design.* An emergency tow wire or tow line with the same towing characteristics as the primary tow wire or tow line. The emergency tow wire or tow line must be available on either the barge or the vessel towing it. In addition, equipment to regain control of the barge and continue towing (using the emergency tow wire or tow line) without having to place personnel on the barge must be available on the towing vessel.

(ii) *Operation and performance.* A stowage arrangement that ensures the emergency tow wire or tow line is ready for immediate use in an emergency, and all retrieval equipment is readily available throughout the voyage.

(iii) *Maintenance and inspection.* The emergency towing and retrieval system

must be inspected annually or at the time of class survey or inspection for certification. The inspection must test the availability of the retrieval system and verify maintenance of the emergency tow wire or tow line.

(iv) *Training.* Towing vessel masters shall conduct a retrieval drill annually. Drills must include actual operation of retrieval systems but should be conducted so as to minimize risk to personnel and the environment.

(3) *Measure 3.* Vessels described in paragraph (a) that do not meet the requirements of paragraphs (b)(1) or (b)(2) must use another measure, system, or combination of measures, approved by the Commandant (G-MSE), that provides protection against grounding of the tank vessel comparable to that provided by the systems and measures described in paragraphs (b)(1) or (b)(2).

46 CFR PART 25—REQUIREMENTS

3. The authority citation for part 25 is revised to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; 49 CFR 1.46.

4. In § 25.30–10, revise paragraph (c) and Table 25.30–10(c) to read as follows:

§ 25.30–10 Hand portable fire extinguishers and semiportable fire extinguishing systems.

* * * * *

(c) The number designations for size start with ''I'' for the smallest to ''V'' for the largest. Sizes I and II are considered hand portable fire extinguishers and sizes III and V are considered semi-portable fire extinguishing systems, which must be fitted with suitable hose and nozzle or other practical means so that all portions of the space concerned may be covered. Examples of the size graduations for some of the typical hand portable fire extinguishers and semi-portable fire extinguishing systems are set forth in this table.

TABLE 25.30–10(C)

Classification	Foam, liters (gallons)	Carbon dioxide, kilograms (pounds)	Dry chemical, kilograms (pounds)
B–I	6.5 (1¾)	2 (4)	1 (2)
B–II	9.5 (2½)	7 (15)	4.5 (10)
B–III	45 (12)	16 (35)	9 (20)
B–V	150 (40)	45 (100)	23 (50)

5. Add part 27, consisting of §§ 27.100 through 27.355, to read as follows:

PART 27—TOWING VESSELS

Subpart A—General Provisions for Fire Protection on Towing Vessels

Sec.
27.100 What towing vessels are affected by this part?
27.101 Definitions.

Subpart B—If the Construction of a Towing Vessel Was Contracted Before [Date 90 Days After the Effective Date of the Final Rule], What Are the Required Fire Suppression Measures?

27.200 What are the requirements for an existing towing vessel?
27.205 What are the general alarm system requirements for an existing towing vessel?
27.210 What are the fire detection requirements for an existing towing vessel?
27.215 What are the internal communication requirements for an existing towing vessel?
27.220 If an existing towing vessel is 24 meters (79 feet) or *longer* in length, what are the fire pump, fire main, and fire hose requirements?
27.221 If an existing towing vessel is *less* than 24 meters (79 feet) in length, what are the fire pump and fire hose requirements?
27.225 What type of portable fire extinguishers are required on an existing towing vessel, in addition to the requirements of 46 CFR subpart 25.30?
27.230 What are the remote engine shutdown or fuel shutoff requirements for an existing towing vessel?
27.235 Is a fire axe required on an existing towing vessel?
27.240 What are the muster list requirements on an existing towing vessel?
27.245 What are the requirements for the instruction, drills, and safety orientations conducted on an existing towing vessel?

Subpart C—If the Construction of a Towing Vessel Was Contracted After [Date 90 days from After the Effective Date of the Final Rule], What are the Required Fire Suppression Measures?

27.300 What are the requirements for a new towing vessel?
27.305 What are the general alarm system requirements for a new towing vessel?
27.310 What are the fire detection requirements for a new towing vessel?
27.315 What are the internal communication requirements a new towing vessel?
27.320 If a new towing vessel is 24 meters (79 feet) or *longer* in length, what are the fire pump, fire main, and fire hose requirements?
27.321 If a new towing vessel is *less* than 24 meters (79 feet) in length, what are the fire pump and fire hose requirements?
27.325 If a new towing vessel is 24 meters or *longer* in length, what type of fire extinguishing equipment is required, in addition to the requirements of 46 CFR subpart 25.30?
27.326 If a new towing vessel is *less* than 24 meters in length, what type of fire extinguishing equipment is required, in addition to the requirements of 46 CFR subpart 25.30?
27.340 What are the fuel system requirements for a new towing vessel?
27.345 Is a fire axe required on a new towing vessel?
27.350 What are the muster list requirements on a new towing vessel?
27.355 What are the requirements for the instruction, drills, and safety orientations conducted on a new towing vessel?

Authority: (46 U.S.C. 3306, 4102) Pub. L. 104–324, 110 Stat. 3901; 49 CFR 1.46.

Subpart A—General Provisions for Fire Protection on Towing Vessels

§ 27.100 What towing vessels are affected by this part?

(a) You must comply with this part if your towing vessel operates on the navigable waters of the United States, unless your towing vessel is described in paragraph (b) of this section.

(b) This part does not apply to you if your towing vessel is—

(1) Used solely within a limited geographic area, such as a fleeting-area for barges or a commercial facility, and used solely for restricted service, such as making up or breaking up larger tows;

(2) Used solely for assistance towing as defined by 46 CFR 10.103;

(3) Used solely for pollution response; or,

(4) Exempted by the Captain of the Port (COTP). If you think your towing

vessel should be exempt from these requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your exemption. The COTP will consider the extent of unsafe conditions that would result if your towing vessel lost propulsion as a result of an engine room fire.

§ 27.101 Definitions.

As used in this part—

Existing vessel means a towing vessel that is not a new towing vessel.

New vessel means a towing vessel the initial construction of which was contracted for on or after [date 90 days from after the effective date of the final rule.]

Towing vessel means a commercial vessel engaged in, or intending to engage in, pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

We means the United States Coast Guard.

You means the owner of a towing vessel, unless otherwise specified.

Subpart B—If the construction of a towing vessel was contracted before [date 90 days after from the effective date of the final rule], what are the required fire suppression measures?

§ 27.200 What are the requirements for an existing towing vessel?

You must ensure your towing vessel described in § 27.100(a) complies with §§ 27.205 through 27.245.

§ 27.205 What are the general alarm system requirements for an existing towing vessel?

(a) By [date 2 years after the effective date of the final rule], you must ensure your towing vessel is fitted with an audible or visual general alarm system that—

(1) Has a contact-maker at the operating station that can notify persons on board in the event of an emergency.

(2) Is capable of notifying persons in any accommodation or work space.

(3) In a work space where background noise makes a general alarm system hard to hear, has a flashing red light that is identified with a sign that reads:

(i) Attention.

(ii) General Alarm—When Alarm Sounds or This Light Flashes Go to Your Station.

(4) Is tested at least once each week.

(b) You may use a public address system or other means of alerting all persons on your towing vessel instead of a general alarm system, provided the equipment is capable of notifying persons in any accommodation or work space or the engine room, is tested at least once each week, and can be activated from the pilot house.

§ 27.210 What are the fire detection requirements for an existing towing vessel?

By [date 2 years after the effective date of the final rule], a fire detection system must be installed on your existing towing vessel to protect the engine room. You must ensure that—

(a) The detectors are located on the overhead in the engine room and that they are suitably protected, if they can be physically damaged.

(b) All points on the engine room overhead are within 3 meters (10 feet) of a detector.

(c) The system is arranged and installed so a fire in the engine room automatically alarms visibly and audibly in the pilot house.

(d) Detectors, detecting cabinets, and alarms are approved under 46 CFR 161.002.

(e) Heat detectors are rated between 57 and 74 degrees Celsius (135 and 165 degrees Fahrenheit). In spaces where a high ambient temperature may be expected, detectors must be rated between 74 and 107 degrees Celsius (165 and 225 degrees Fahrenheit).

(f) The fire detection system is used for no other purpose.

§ 27.215 What are the internal communication requirements for an existing towing vessel?

By [date 2 years after the effective date of the final rule], you must ensure your existing towing vessel is fitted with a communication system between the engine room and wheel house that—

(a) Is comprised of either fixed or portable equipment, such as a sound-powered telephone or other reliable voice communication method, that is independent of the electrical system on your towing vessel; and

(b) Provides two-way voice communication and calling between the pilot house and either—

(1) The engine room, or

(2) A location immediately adjacent to an exit from the engine room.

§ 27.220 If an existing towing vessel is 24 meters (79 feet) or longer in length, what are the fire pump, fire main, and fire hose requirements?

By date 2 years after the effective date of the final rule], you must ensure a self priming, power driven, fixed fire pump and fire main are installed on your existing towing vessel as follows:

(a) The fire pump must be capable of—

(1) Delivering water simultaneously from the two highest hydrants, or from both branches of the fitting if the highest hydrant has a Siamese fitting, at a pitot tube pressure of at least 344 kPa (50 psi) and a flow rate of at least 300 liters per minute (80 gpm).

(2) Being energized from the operating station and from the pump.

(b) The fire main must have a sufficient number of fire hydrants to reach any part of the machinery space using a single length of fire hose.

(c) A fire hose on your towing vessel must be—

(1) Connected to each fire hydrant at all times the vessel is operating.

(2) Lined commercial fire hose at least 40mm (1½ inches) in diameter, 15 meters (50 feet) in length and fitted with a nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

§ 27.221 If an existing towing vessel is less than 24 meters (79 feet) in length, what are the fire pump and fire hose requirements?

By [date 2 years after the effective date of the final rule], you must ensure a fire pump and hose are installed on your existing towing vessel as follows:

(a) Your towing vessel must have a self-priming, power-driven, fixed or portable fire pump that has—

(1) A minimum capacity of 189 liters (50 gallons) per minute at a pitot tube pressure of not less than 414 kPa (60 psi), as measured at the pump discharge,

(2) A hydrant with a sufficient amount of hose attached, or if using a portable pump, a sufficient amount of hose immediately available to attach to the pump, so that a stream of water from the fire pump and hose will reach any part of the vessel, and

(3) An attached hose must be at least 16 millimeters (⅝ inch) nominal diameter, of good commercial grade and fitted with a nozzle of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(b) You must stow the fire pump and hose outside of the machinery space.

§ 27.225 What type of portable fire extinguishers are required on an existing towing vessel, in addition to the requirements of 46 CFR subpart 25.30.30?

By [date 2 years after the effective date of the final rule], you must have portable fire extinguishers on your existing towing vessel as follows:

(a) If your vessel is 24 meters (79 feet) or longer in length, you need an approved B–V semi-portable fire extinguisher.

(b) If your vessel is less than 24 meters (79 feet) in length, you need an approved B-III portable fire extinguisher.

(c) You may use a fixed fire extinguishing system that satisfies 46 CFR subpart 76.15 instead of the extinguishers required by this section.

§ 27.230 What are the remote engine shutdown or fuel shutoff requirements for an existing towing vessel?

By [date 2 years after the effective date of the final rule], you must have a remote main engine shutdown or fuel shutoff valve installed on your vessel that is located outside of the machinery space.

§ 27.235 Is a fire axe required on a an existing towing vessel?

By [date 90 days after the effective date of the final rule], you must ensure a fire axe is on board your towing vessel.

§ 27.240 What are the muster list requirements on an existing towing vessel?

By [date 90 days after the effective date of the final rule], your existing towing vessel must have a muster list satisfying § 27.350.

§ 27.245 What are the requirements for the instruction, drills, and safety orientations conducted on an existing towing vessel?

You must ensure on-board drills and instruction comply with § 27.355.

Subpart C-If the Construction of a A Towing Vessel Was Contracted After [90 days from after the effective date of the final rule], What Are the Required Fire Suppression Measures?

§ 27.300 What are the requirements for a new towing vessel?

If this subpart applies to your towing vessel as described in § 27.100(a), then you must ensure your new towing vessel complies with §§ 27.300 through 27.355.

§ 27.305 What are the general alarm system requirements for a new towing vessel?

(a) You must ensure your new towing vessel is fitted with an audible and visual general alarm system that—

(1) Has a contact-maker at the operating station that can notify persons on board in the event of an emergency.

(2) Is capable of notifying persons in any accommodation or work space.

(3) Is tested before operation of the vessel and at least once each week thereafter.

(b) The system's general alarm bells must be—

(1) Fitted in accommodation spaces, work spaces, and the engine room, and

(2) Identified with a flashing red light and a sign with red lettering at least 13 millimeters (½ inch high) as follows:

(i) Attention.

(ii) General Alarm—When Alarm Sounds or This Light Flashes Go to Your Station.

(c) You may use a public address system or other means of alerting all persons on your towing vessel instead of a general alarm system, provided the equipment is capable of notifying persons in any accommodation or work space or the engine room, is tested at least once each week, and can be activated from the pilot house.

§ 27.310 What are the fire detection requirements for a new towing vessel?

A fire detection system must be installed on your new towing vessel to protect the engine room. You must ensure that—

(a) The detectors are located on the overhead in the engine room and that they are suitably protected if they can be physically damaged.

(b) All points on the engine room overhead are within 3 meters (10 feet) of a detector.

(c) The system is arranged and installed so a fire in the engine room is automatically alarmed visibly and audibly in the pilot house.

(d) Detectors, detecting cabinets, and alarms are approved under 46 CFR 161.002.

(e) Heat detectors are rated between 57 and 74 degrees Celsius (135 and 165 degrees Fahrenheit) except in spaces where a high ambient temperature may be expected, where detectors must be rated between 74 and 107 degrees Celsius (165 and 225 degrees Fahrenheit).

(f) The fire detection system is used for no other purpose.

§ 27.315 What are the internal communication requirements for a new towing vessel?

You must ensure your new towing vessel is fitted with a communication system between the engine room and wheel house that—

(a) Is permanently installed and uses a means of communication and calling such as a sound-powered telephone or other reliable voice communication method that is independent of the electrical system on your towing vessel; and

(b) Provides two-way voice communication and calling between the pilot house and either—

(1) The engine room, or

(2) A location immediately adjacent to an exit from the engine room.

§ 27.320 If a new towing vessel is 24 meters (79 feet) or longer in length, what are the fire pump, fire main, and fire hose requirements?

You must ensure a self priming, power driven, fixed fire pump and fire main are installed on your towing vessel as follows:

(a) The fire pump must be capable of—

(1) Delivering water simultaneously from the two highest hydrants, or from both branches of the fitting if the highest hydrant has a Siamese fitting, at a pitot tube pressure of at least 344 kPa (50 psi) and a flow rate of at least 300 liters per minute (80 gpm).

(2) Being energized from the operating station and from the pump.

(b) The fire main must have a sufficient number of fire hydrants to reach any part of the machinery space using a single length of fire hose.

(c) Each fire hose on your towing vessel must be—

(1) Connected to each fire hydrant at all times the vessel is operating.

(2) Lined commercial fire hose at least 40mm (1½ inches) in diameter, 15 meters (50 feet) in length and fitted with a nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(d) The fire pump and fire main must be independent of the bilge and ballast system.

§ 27.321 If a new towing vessel is less than 24 meters (79 feet) in length, what are the fire pump and fire hose requirements?

(a) Your new towing vessel must have a self-priming, power-driven, fixed or portable fire pump that has—

(1) A minimum capacity of 189 liters (50 gallon) per minute at a pitot tube pressure of not less than 414 kPa (60 psi) as measured at the pump discharge,

(2) A hydrant with sufficient amount of hose attached, or if using a portable pump, a sufficient amount of hose immediately available to attach to the pump, so that a stream of water from the fire pump and hose will reach any part of the vessel, and

(3) An attached hose of at least 16 millimeters (⅝ inch) nominal diameter, of good commercial grade, and fitted with a nozzle of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(b) The fire pump and hose are stowed outside of the machinery space.

§ 27.325 If a new towing vessel is 24 meters or longer in length, what type of fire extinguishing equipment is required in addition to the requirements of 46 CFR subpart 25.30?

You must ensure the following additional fire extinguishing equipment is on board the vessel:

(a) An approved B–V semi portable fire extinguisher, or

(b) A fixed fire extinguishing system that satisfies 46 CFR 76.15.

§ 27.326 If a new towing vessel is less than 24 meters in length, what type of fire extinguishing equipment is required in addition to the requirements of 46 CFR subpart 25.30?

You must ensure an additional one of the following is on the new towing vessel:

(a) An approved B–III portable fire extinguisher, or

(b) A fixed extinguishing system that satisfies 46 CFR 76.15.

§ 27.340 What are the fuel system requirements for a new towing vessel?

(a) Except for the components of an outboard engine or portable bilge pump or fire pumps, you must ensure that each fuel system installed on board the vessel meets the requirements of this section.

(b) *Portable fuel systems.* Portable fuel systems, including portable tanks and related fuel lines and accessories, are prohibited on the vessel, except where used for outboard engines, or are permanently attached to portable equipment such as portable bilge or fire pumps. The design, construction, and stowage of portable tanks and related fuel lines and accessories must meet the requirements of ABYC H–25.

(c) *Fuel restrictions.* Except for outboard engines, or where otherwise accepted by the Commandant (G-MSE), you may not use fuel other than bunker C or diesel. An installation using bunker C must comply with the requirements of subchapter F of this chapter.

(d) *Vent pipes for integral fuel tanks.* Each integral fuel tank must meet the requirements of this paragraph as follows:

(1) Each fuel tank must be fitted with a vent pipe connected to the highest point of the tank terminating in a 3.14 radian (180 degree) bend on a weather deck and fitted with a 30×30 mesh flame screen.

(2) Except when provision is made to fill a tank under pressure, the net cross-sectional area of the vent pipe for a fuel tank must not be less than 312.3 square millimeters (0.484 square inches).

(3) When provision is made to fill a tank under pressure, the net cross-sectional area of the vent pipe must not be less than that of the fill pipe.

(e) *Fuel piping.* Except as permitted in paragraphs (e)(1) and (e)(2) of this section, each fuel line must be seamless and made of steel, annealed copper, nickel-copper, or copper-nickel. Each fuel line must have a wall thickness of not less than 0.9 millimeters (0.035 inch) except that:

(1) Aluminum piping is acceptable on an aluminum hull vessel provided it is installed outside the machinery space and is at least Schedule 80 in thickness; and

(2) Nonmetallic flexible hose is acceptable but must—

(i) Not be used in lengths of more than 0.82 meters (30 inches);

(ii) Be visible and easily accessible;

(iii) Must not penetrate a watertight bulkhead;

(iv) Be fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid.

(v) Be fitted with suitable, corrosion-resistant, compression fittings; and

(vi) Be installed with two clamps at each end of the hose, if designed for use with clamps. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting.

(f) A fuel line subject to internal head pressure from fuel in the tank must be fitted with a positive shutoff valve, located at the tank that is operable from a safe location outside the space in which the valve is located.

(g) New towing vessels less than 24 meters (79 feet) in length may comply with one of the following standards instead of the requirements of paragraphs (e) and (f) of this section.

(1) ABYC H–33.

(2) Chapter 5 of NFPA 302.

(3) 33 CFR Chapter I, subchapter S (Boating Safety).

§ 27.345 Is a fire axe required on a new towing vessel?

You must ensure a fire axe is on your new towing vessel.

§ 27.350 What are the muster list requirements on a new towing vessel?

You must ensure the new towing vessel has a muster list posted in conspicuous location accessible to the crew that, at a minimum, fulfills the requirements of this section. The muster list must identify at least the following information:

(a) The fire and emergency signal;

(b) Fire fighting responsibilities for each crew member such as—

(1) Mustering of personnel.

(2) Manning of fire parties.

(3) Special duties required for the operation of fire fighting equipment.

(4) Guidelines for fighting a fire, such as—

(i) Use portable fire extinguishers only for small fires.

(ii) Deenergize the electrical systems supplying the affected space, if possible.

(iii) Use water for fires involving ordinary combustible materials. Do not use water on electrical fires.

(iv) If unable to control an engine room fire using portable extinguishers, evacuate the space and activate the fixed extinguishing system, if installed.

(v) Maneuver the vessel to minimize the effect of wind on the fire.

(vi) Immediately notify the Coast Guard and other vessels in the vicinity.

§ 27.355 What are the requirements for instruction, drills, and safety orientations conducted on a new towing vessel?

(a) *Drills and instruction.* You must ensure that drills are conducted and instruction is given to each person on board at least once each month. Instruction may be provided in conjunction with drills or at other times and places, provided the instruction ensures that persons are familiar with their duties and their responses to at least the following contingencies:

(1) Fighting a fire in the engine room and other locations on board the vessel;

(2) Activating the general alarm;

(3) Reporting inoperative alarm systems and fire detection systems; and

(4) Putting on a fireman's outfit and a self-contained breathing apparatus, if the vessel is so equipped.

(b) *Participation in drills.* Drills must be conducted on board the towing vessel, as if there were an actual emergency. These drills must include:

(1) Participation by all persons on board,

(2) Breaking out and using emergency equipment,

(3) Testing of all alarm and detection systems, and

(4) Individuals putting on protective clothing, if the vessel is so equipped.

(c) *Training.* The instruction and drills conducted on your towing vessel, as required by this section, must be performed by an individual trained in the proper procedures for conducting the activity. Anyone licensed for operation of inspected vessels of 100 gross tons or more meets this requirement.

(d) You may substitute the requirement for instruction in paragraph (a) of this section by the viewing of videotapes concerning at least the contingencies listed in paragraph (a), followed by a discussion led by someone familiar with these contingencies. This instruction can may be conducted on or off the vessel. However, this does not satisfy the requirement for drills in paragraph (b) of this section or for the safety orientation in paragraph (e) of this section.

(e) *Safety orientation.* The master or person in charge of a vessel must ensure that a safety orientation is given to each person on board who has not received the instruction and has not participated in the drills required by paragraph (a) before the vessel may be operated.

(f) The safety orientation must explain the muster list required by § 27.350 and cover the specific evolutions listed in paragraph (a).

Note to § 27.355: The person conducting the drills and instruction need not be the master, person in charge of the vessel, or a member of the crew.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIRMENTS

6. The authority citation for part 32 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

7. In § 32.15–15, revise paragraphs (a) and (d); and add new paragraphs (e) and (f) to read as follows:

§ 32.15–15 Anchors, Chains, and Hawsers–TB/ALL.

(a) *Application.* The provisions of this section, with the exception of paragraphs (d) and (e), apply to every tankship and manned seagoing barge constructed on or after June 15, 1987. Tankships and manned seagoing barges constructed prior to June 15, 1987 must meet the requirements of paragraphs (d) and (f) of this section. Manned barges equipped with anchors to comply with 33 CFR 155.230(b)(1) must meet the requirements of paragraphs (e) and (f) of this section.

* * * * *

(d) *Tankships and barges constructed prior to June 15, 1987.* For tankships and manned seagoing barges constructed prior to June 15, 1987, with the exception of manned barges equipped with anchors to comply with 33 CFR 155.230(b)(1), the installations previously accepted or approved will be considered satisfactory for the same service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. If the service of the tank vessel is changed, the suitability of the equipment will be evaluated by the Officer in Charge, Marine Inspection.

(e) *Manned barges equipped with anchors to comply with 33 CFR 155.230(b)(1).* Manned barges equipped with anchors to comply with 33 CFR 155.230(b)(1) must be fitted with operable anchor systems that include anchors, chains, and hawsers in general agreement with the standards established by the American Bureau of Shipping. The current standards of other recognized classification societies may also be accepted upon approval by the Commandant.

(f) *Operation and performance.* Anchors, exposed portions of chain, and hawsers must be visually inspected prior to getting underway and stowed so that the anchor is ready for immediate use in an emergency. The vessel must have a functioning means for releasing the anchor that does not endanger operating personnel.

Dated: September 30, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–26304 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–5901–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires reasonably available control technology for major stationary sources of nitrogen oxides. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before November 5, 1997.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp at (617) 565–2773, or E-mail at Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 22, 1997.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 97–26435 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX–89–1–7359, FRL–5904–9]

Clean Air Act Reclassification, Texas; Dallas/Fort Worth Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is extending the public comment period from October 2, 1997, to December 1, 1997, on the proposed rule to reclassify the Dallas/Fort Worth ozone nonattainment area from moderate to serious. The extension to the public comment period is being granted by EPA in response to the area's Congressional delegation request to permit the area's constituents to have adequate time to assess the proposal and submit comments before a final decision is published. For additional information please refer to the proposed redesignation notice published in the **Federal Register** on September 2, 1997 (62 FR 46238).

DATES: Comments on the proposed redesignation must be received in writing by December 1, 1997.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the State ozone air quality monitoring data and EPA policy concerning attainment findings are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following locations:

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt Sonderman, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas, 75202, telephone (214) 665–7205.

Dated: September 29, 1997.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 97–26440 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5899–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Delete Monsanto Superfund Site from the National Priorities List (NPL): Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA), Region 4 announces its intent to delete the Monsanto Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA and the State of Georgia (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the state have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment and that the remaining groundwater monitoring and treatment are adequately being addressed by the State under the Resource Conservation and Recovery Act (RCRA).

DATES: Comments concerning the proposed deletion of this Site will be accepted until November 5, 1997.

ADDRESSES: Comments may be mailed to: John A. McKeown, Remedial Project Manager, South Site Management Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, Telephone No.: (404) 562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Augusta Richmond County Public Library, 902 Green Street, Augusta, Georgia 30901, Telephone No.: (706) 821–2600.

FOR FURTHER INFORMATION CONTACT: John A. McKeown, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8913.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA announces its intent to delete the Monsanto Superfund Site, in Richmond County, Georgia from the National Priorities List (NPL) which constitutes Appendix B on the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this proposed deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action. EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for the deletion of sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e). releases may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, taking or remedial measures is not appropriate; or

(iv) The site is a regulated treatment, storage, or disposal facility (TSD) regulated under the authority of the Resource Conservation and Recovery Act (RCRA).

Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

(1) EPA has recommended deletion and has prepared the relevant documents.

(2) The State has concurred with the deletion decision.

(3) A local notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties.

(4) EPA has made all relevant documents available in the Regional Office and local site information repository.

Deletion of a site from the NPL does not itself, create, alter, or revoke any

individual rights or obligations. The NPL is designated primarily for information purposes and to assist EPA management. As mentioned in Section II of this document, 40 CFR 300.425 (e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

Any comments received during the notice and comment period will be evaluated before the final decision to delete. EPA will prepare a Responsiveness Summary, if necessary, which will address any comments received during the public comment period.

A deletion occurs after the EPA Region 4 Regional Administrator places a document in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Site Deletion

The Monsanto Superfund site is located approximately three miles southeast of Augusta, Georgia. The site is bordered on the north by Marvin Griffin Road, on the east by the Norfolk and Southern railroad, on the south by Butler Creek and on the west by other industrial properties. Phinizy Swamp is located approximately 4,570 feet northeast of the site. The Monsanto plant covers approximately 75 acres. Within the plant's boundary, there are two landfills covering 0.2 acres that were used to dispose of phosphoric acid sludge. The landfills are located along the eastern boundary of the Monsanto plant property. The site is located in an industrial park which is zoned for heavy industrial use. Within a three mile radius of the site, land is zoned commercial, residential and industrial. The nearest residential area is one-half mile northwest of the site. Surface elevations across the site range from 140 to 146 feet above Mean Sea Level (MSL).

The Monsanto-Augusta Plant has been in operation since 1962. From 1966 to 1974, two landfills (0.1 acre each), approximately six feet deep, were used to dispose of solid waste and sludges which contain arsenic trisulfide. Arsenic trisulfide is a waste resulting from the preparation of food grade phosphoric acid. Plant officials estimate approximately 1500 pounds of arsenic were placed in these landfills. In 1971, Landfill #1 was covered with soil, crowned with gravel and seeded with grass. In 1977, Landfill #2 was closed by Monsanto in the same manner as Landfill #1.

The site was first identified by the Georgia Environmental Protection Division (EPD) in August 1975. In June 1979, Monsanto, under the supervision of the EPD, began monitoring the quality of the groundwater south of the site. In February 1980, at the request of EPD, Monsanto installed additional monitoring wells and collected twenty-three soil samples on the site. The groundwater monitoring program revealed arsenic levels in the surficial aquifer exceeding the Maximum Contaminant Level (MCL) for arsenic of .05 mg/l.

During November 1983, Monsanto, under the supervision of EPD, excavated the waste from both of the landfills. The material excavated from the landfills was transported to a RCRA permitted landfill in Emelle, Alabama. After the contents of the landfills were removed, soil samples were collected from the bottom of the excavated area and tested for Extraction Procedure (EP) toxicity for arsenic and other metals. EP toxicity is a test used to identify wastes that are likely to leach hazardous concentrations of toxic substances and to determine if a contaminant is a characteristic hazardous waste. The soil from the bottom of the excavated area did not exceed the EP toxicity standard for arsenic of 5.0 ppm.

In September of 1984, the Monsanto site was added to the National Priorities List (NPL). In September of 1986, Georgia EPD requested EPA to initiate a delisting process. This request was based on RCRA permitting at the site and the site's status as a Treatment, Storage and Disposal (TSD) facility. Later, in 1989, a RCRA permit for the facility was approved by the Georgia EPD.

On January 18, 1989, EPA issued a special notice letter to Monsanto to give Monsanto the opportunity to conduct, with EPA oversight, the Remedial Investigation (RI) and Feasibility Study (FS). Monsanto entered into an Administrative Order on Consent for performance of the RI/FS, with an effective date of April 27, 1989.

Fieldwork for the RI was initiated by Monsanto in October 1989 and completed in January 1990. The final RI report was accepted by EPA on August 20, 1990. The FS report was submitted to EPA by Monsanto on September 16, 1990.

On December 7, 1990, the Regional Administrator signed a Record of Decision (ROD) selecting the following remedy:

- Continued quarterly monitoring of the surficial aquifer groundwater to evaluate compliance with groundwater protection achievement levels (GPALs) and drinking water standard or MCL of 50 µg/l through natural attenuation. If monitoring results indicated noncompliance with these standards, a contingency remedy of pumping the contaminated ground water and discharging to the Publicly Owned Treatment Works (POTW) would be initiated.

The performance standard for arsenic in groundwater is the reduction to the MCL of 50 µg/l through natural attenuation and meeting of interim GPALs resulting in attainment of the MCL. This remedy and the contingency remedy addressed environmental concerns presented by the contaminated groundwater and eliminated the principal threats posed by this media. The contingency remedy was initiated in May of 1992 upon non-attainment of the performance standards for natural attenuation. Sampling results, verified by EPA, determined that arsenic was present at levels above ROD specified performance standards in several shallow water monitoring wells.

The contingency remedy was formally initiated on December 30, 1992, upon EPA's approval of the Remedial Design. Construction was accomplished by the Monsanto Corporation under the provisions of a consent decree. Monsanto's contractor, Dames and Moore, began work in February of 1993. EPA and the Georgia Environmental Protection Division conducted a final inspection on April 16, 1993 and on May 5, 1993, the Region IV Waste Management Division Director approved the Preliminary Closeout Report which documents construction completion.

Two extraction wells and piping for discharge into the POTW were constructed as part of the Remedial Design. Due to the relatively low levels of arsenic contamination, the arsenic concentration was less than the POTW's pretreatment standard of 1 mg/l. Groundwater extraction and discharge, was initiated on a quarterly basis and will continue until the arsenic performance standard of 50 µg/l is met for a period of 6 months or 2 monitoring periods.

Since the Remedial Action was initiated in 1993, significant reduction in the arsenic concentration levels in the groundwater has been achieved. Quarterly sampling reports, along with monthly progress reports and appropriate technical memorandums documenting any modification have been submitted by Monsanto to EPA as specified in the 1991 Record of Decision. The same information is submitted to the Georgia EPD in compliance with Monsanto's Hazardous Waste Facility Permit HW–074(S) under the authority of the Resource Conservation and Recovery Act (RCRA).

The **Federal Register** published on March 20, 1995 at 60 FR 14641, announced a notice of policy statement entitled ''The National Priorities List for Uncontrolled Hazardous Waste Sties; Deletion Policy for Resource Conservation and Recovery Act Facilities''. According to the notice, a National Priorities List site may be eligible for deletion based upon deferral to RCRA corrective action authorities if a site satisfies the following four criteria:

1. If evaluated under EPA's current RCRA/NPL deferral policy, the site would be eligible for deferral from listing on the NPL.
2. The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions.
3. Response under RCRA is progressing adequately.
4. Deletion would not disrupt an ongoing CERCLA response action.

The first criterion requires that the site meet requirements of eligibility for RCRA/NPL deferral. The RCRA/NPL deferral policy as cited in the March 20, 1995 **Federal Register** provides that RCRA facilities subject to RCRA Subtitle C corrective action requirements may be deferred from listing on the NPL. Monsanto's Hazardous Waste Facility Permit HW–074(S) contains HSWA provisions for the investigation and corrective action of releases from solid waste management units and provides conditions for corrective action of contaminated groundwater. Thus, the facility is and will be subject to Subpart C corrective action requirements until cleanup of contamination is complete.

The second criterion requires that the site be addressed by RCRA corrective action authorities under an existing permit or order. Hazardous Waste Facility Permit HW–074(S) was issued to the Monsanto Company by the Georgia EPD's Hazardous Waste Management Branch in August of 1989 and subsequently modified in September of 1991 to incorporate the corrective action of contaminated groundwater resulting from the disposal of the Arsenic trisulfide sludge in the two onsite landfills. Requirements stated within the corrective action permit are consistent with the remedy stated in the 1991 CERCLA Record of Decision.

The third criterion evaluates whether response under RCRA is progressing adequately. This criterion is met with a letter dated 27 May 1997 from Mr. Jim Ussery, Program Manager of the Georgia EPD's Hazardous Waste Management Branch to Mr. Mario Villamarzo of EPA. The contents of the letter indicate that corrective action has been effective in remediating contamination and that Monsanto has been very cooperative and pro-active in meeting the requirements of their corrective action permit.

The fourth criterion evaluates whether deletion of a site from the NPL would disrupt an on-going CERCLA response. The groundwater cleanup that is occurring under CERCLA is essentially the same as the RCRA Corrective Action Program, therefore, delisting would not disrupt any ongoing CERCLA response action.

In summary, the Monsanto Superfund site easily meets all the criteria for deletion from the NPL based on RCRA deferral. This site is being addressed adequately under the Hazardous Waste Facility Permit enforced by the Georgia EPD. All parties involved approve of this action (see attached Documentation Record) which will have no adverse affects to any ongoing groundwater extraction or monitoring scheduled to take place at the Monsanto Superfund site. Since all waste has been removed from the site, a five year review will not be required in the future.

EPA, with concurrence of the Georgia Environmental Protection Division, has determined that all appropriate response under the Comprehensive Environmental Response Compensation and Liability Act have been completed, and that no further action by responsible parties is necessary. Therefore, EPA proposes to delete the Site from the NPL and requests public comments on the proposed deletion.

Dated: September 15, 1997.

Phyllis P. Harris,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 4.

[FR Doc. 97–26193 Filed 10–3–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5898–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the Prewitt Abandoned Refinery Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (''EPA'') Region 6 announces its intent to delete the surface portion of the Prewitt Abandoned Refinery Superfund Site (''Site'') from the National Priorities List (''NPL'') and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). This partial deletion of the Site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. (60 FR 55466, November 1, 1995).

This proposal for partial deletion pertains to the surface portion, which includes all surface soils and former separator area and does not pertain to the subsurface portion (ground water and subsurface soils) of the Site. The subsurface portions of the Site will remain on the NPL, and response activities will continue at that portion. The Responsible Parties have implemented all appropriate response actions required for the surface portion of the Site. EPA bases its proposal to delete this portion of the Site on the determination by EPA, the State of New Mexico, through the New Mexico Environment Department (''NMED'') and the Navajo Nation through the Navajo Nation Superfund Office (''NSO''), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment for the surface portion of the Site.

DATES: The EPA will accept comments concerning its proposal for partial deletion until November 5, 1997.

ADDRESSES: Comments may be mailed to: Ms. Olivia Balandran, Community Relations Coordinator, U.S. EPA, Region 6 (6SF–PO), 1445 Ross Avenue, Dallas, Texas 75202–2733, 1–800–533–3508 or (214) 665–6484.

Information Repositories: Comprehensive information on the Prewitt Abandoned Refinery Site as well as information specific to this proposed partial deletion is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Records for Prewitt Abandoned Refinery Site and the Deletion Docket for this partial deletion are maintained at the following Prewitt Abandoned Refinery Site document/information repositories:

U.S. EPA, Region 6, Library, 12th Floor (6MD–II), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 or

665–6427, Hours of Operation: M–F 8:00 a.m. to 4:30 p.m.

Prewitt Fire House, PO Box 472, Prewitt, New Mexico 87045, (505) 876–4068.

New Mexico Environment Department , 1190 St. Francis Dr., Santa Fe, New Mexico 87502, (505) 827–2908, Hours of Operation: M–F 8:30 a.m.–5:00 p.m.

Navajo Nation Superfund Office, 43 Crest Road, St. Michaels, AZ 86511, (520) 871–6859, Hours of Operation: M–F 8:00 a.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Ms. Monica Smith, Project Manager, U.S. EPA, Region 6 (6SF–PB), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6780.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

Appendix

A. Docket Information
B. Site Coordinates

I. Introduction

The USEPA Region 6 announces its intent to delete a portion of the Prewitt Abandoned Refinery Superfund Site (''Site'') located in, Prewitt, McKinley County, New Mexico from the NPL, which constitutes Appendix B of the NCP, 40 CFR Part 300, and requests comments on this proposal. This proposal for partial deletion pertains to the surface portion of the Site, which consists of all surface soils and the former separator area. The Site is bounded on the south by Interstate Highway 40. Tracks owned and operated by the Burlington Northern, Santa Fe Railway run through the northern part of the Site. Old U.S. Highway 66 runs through the middle of the Site.

The El Paso Natural Gas Company (''EPNG'') and Atlantic Richfield Company (''ARCO'') are the Responsible Parties for this Site. The Responsible Parties have implemented all appropriate response actions required for the surface portion of the Site. Based on the completion of the response actions for the surface portion of the Site, on January 23, 1997, EPA notified the Responsible Parties that the Remedial Action for the surface soils had been completed. EPA proposes to delete the surface portion of the Site because all appropriate CERCLA response activities have been completed for that portion of the Site. However, response activities for the subsurface portion of the Site are not yet complete; thus, the subsurface portion of the Site will remain on the NPL and is not the subject of this partial deletion.

The NPL is a list maintained by EPA of sites that EPA has determined have the highest priority releases of hazardous substances, pollutants, or contaminants under the criteria established by CERCLA and the National Contingency Plan (NCP). Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (''Fund''). Pursuant to 40 CFR 300.425(e) of the NCP, any site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if conditions at the site warrant such action.

EPA will accept comments concerning its intent for partial deletion for thirty (30) days after publication of this notice in the **Federal Register**, the Gallup Independent, the Albuquerque Journal, and the Navajo Times.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a portion of a site from the NPL does not preclude eligibility for subsequent Fund-financed action at the area deleted if future site conditions warrant such action. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities at areas not deleted and remaining on the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede Agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

The following procedures were used for the proposed deletion of the surface portion of the Site:

(1) EPA has recommended the partial deletion and has prepared the relevant documents.

(2) The State of Mexico through NMED concurred by letter dated November 12, 1996, with this partial deletion.

(3) The Navajo Nation through the NSO concurred by letter dated March 4, 1997, with this partial deletion.

(4) Concurrent with this national Notice of Intent for Partial Deletion, a notice has been published in the Gallup Independent, the Albuquerque Journal, and Navajo Times which are major local newspapers of general circulation and a notice has been distributed to appropriate Federal, State, and local officials, and other interested parties. These notices announce a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the **Federal Register** and in the newspaper.

(5) EPA has made all relevant documents available at the information repositories listed above in this notice.

This **Federal Register** notice, and a concurrent notice in the newspaper, announce the initiation of a thirty (30) day public comment period and the availability of the Notice of Intent for Partial Deletion. The public is asked to comment on EPA's proposal to delete the surface portions of the Site from the NPL. All critical documents needed to evaluate EPA's decision are included in the Deletion Docket and are available for review at the information repositories.

Upon completion of the thirty (30) day public comment period, EPA will evaluate all comments received before issuing the final decision on the partial deletion. EPA will prepare a Responsiveness Summary for comments received during the public comment period and will address concerns presented in the comments. The Responsiveness Summary will be made available to the public at the information repositories listed above. Members of the public are encouraged to contact Ms. Smith at EPA Region 6 to obtain a copy of the Responsiveness Summary. If, after review of all public

comments, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the **Federal Register**. Deletion of the surface portion of the Site does not actually occur until the final Notice of Partial Deletion is published in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following provides EPA's rationale for deletion of the surface portion of the Site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied:

Background

The Prewitt Abandoned Refinery Site once contained an abandoned crude oil refinery. The Site occupies approximately 70 acres located near the town of Prewitt, New Mexico. The area in which the Site is located is rural, with a cluster of four homes about one thousand feet east of the Site. Contamination at the Site originated from the refinery operations which began in 1938 and ended in July 1957. The contaminants of concern with regard to the Site surface include, lead, asbestos, benzo(a)pyrene, benzo(a)anthracene, benzene, toluene, xylene, and ethylbenzene. The main processing units at the refinery were a distillation plant, a thermal cracker, and a reformer. Auxiliary facilities at the refinery included crude storage tanks, intermediate storage tanks, final product storage tanks, product caustic washing facilities, boilers, power generation station, heaters, cooling towers, receiving and loadout facilities; lead additive stations; maintenance facilities, laboratory facilities, and an office.

Crude oil was delivered to storage tanks at the Site. From the crude oil storage tanks the raw material was pumped to the distillation tower where various fractions were recovered from various levels of the tower, based upon boiling point .

Wastes spilled or disposed of at the Site include leaded tank bottoms which have been listed as a hazardous waste by EPA in 40 CFR Part 261, pursuant to its authority under Section 3001 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6921, as hazardous waste number K052, leaded tank bottoms from the petroleum refining industry. Other such RCRA listed hazardous wastes, spilled or disposed of at the Site, include slop tank contents (KO49), primary separator sludges (FO37), and secondary separator sludges (FO38). These wastes exhibit the characteristic of toxicity (T). Material spilled or disposed of onto surface soil at the Site includes high concentrations of lead (RCRA hazardous waste number D008) and asbestos. The leaded tank bottoms, the slop, the primary separator sludges, and the secondary separator floats have been disposed of or spilled onto the surface and have contaminated the surface soils at the Site. The leaded tank bottoms, the slop tank contents, the primary separator sludges, and the secondary separator floats have also contaminated the ground water beneath the Site by leaching benzene, toluene, ethylbenzene, and xylene (''BTEX'') and lead into the subsurface area as pockets of non-aqueous phase liquids (''NAPL'') which in turn have leached BTEX into the ground water as dissolved phase BTEX. Chlorinated hydrocarbons, including 1,2-dichloroethane, contained in solvents disposed of at the Site have leached into groundwater and appear in concentrations above Maximum Contaminant Levels (''MCL'') established under the Safe Drinking Water Act, 42 U.S.C. 300f-300j-26.

Wastes, including leaded tank bottoms, the slop tank contents, the primary separator sludges, and the secondary separator floats, were generally disposed at, or near, the point of generation at the Site, and not in designated waste management units. Thus, waste materials known to have been spilled, dumped and spread at the Site including leaded tank bottoms, the slop tank contents, the primary separator sludges, and the secondary separator floats, have become intermingled with each other and with the spills of petroleum products, also known to have occurred.

Wastewaters at Prewitt were routinely discharged into unlined, earthen ditches throughout the refinery area. In addition to accidental spills, these ditches are known to have carried off-specification petroleum products, hydrocarbon-laden wastewaters such as those generated from the cleaning of the distillation unit, cooling tower overflow, tank bottoms, and spent caustic materials from the cleaning of gasoline. The separator, into which many of these ditches flowed, was a compartmentalized concrete tank, providing reduced flow conditions which allowed the organics to float to the surface of the material in the tank. These organics were pumped off the water surface and returned to the process system. The water and heavier primary separator sludges (RCRA listed hazardous waste FO37) were drawn from the bottom of the separator and discharged into an arroyo leading to the north edge of the Site and into an area of the Site known as the North Pit. Separator floats that passed through or over the separator and onto Site soils are listed as RCRA hazardous waste number FO38.

An area located on the west side of the Site, known as the West Pits area was originally used as an emergency relief system. During the early years of operation, when a situation in the processing plant arose that required a process unit to be quickly shut down, the contents of the unit were directed through underground pipes to these bermed areas in the West Pits for containment. Analysis of aerial photographs taken of the plant in 1958 indicates drainage, from spills or disposal in the storage and process areas, leading to the West Pits. This material, spilled or disposed of at the Site, included leaded tank bottoms, the slop tank contents, the primary separator sludges, and the secondary separator floats. Shallow ground water underlying the Site has been contaminated with leachates from materials spilled or disposed of at the Site, including leaded tank bottoms, slop tank contents, primary separator sludges, and secondary separator floats. BTEX from material spilled or disposed of at the Site, including leaded tank bottoms, slop tank contents, primary separator sludges, and the secondary separator floats has been transported into the ground water. NAPL, including this transported BTEX, has accumulated on the ground water surface.

On June 24, 1988, EPA proposed to add the Prewitt Abandoned Refinery Site to the NPL of Superfund sites (53 FR 23988, 23998). The final listing was published in the **Federal Register** on August 30, 1990, (55 FR 33502, 33508).

Surface Response Actions

The Responsible Parties undertook a Remedial Investigation (''RI'') and Feasibility Study (''FS'') for the Site, pursuant to CERCLA and the NCP, and pursuant to an Administrative Order on Consent (CERCLA Docket No. VI–06–22–89). The RI was conducted in two defined Phases during 1990 and 1991 to determine the nature and extent of the problem presented by the release of contamination at the Site. Phase I was the initial sampling and analysis phase. The purpose of the Phase II activities was to resolve outstanding issues and fill data gaps remaining at the conclusion of Phase I. During the RI, contamination was detected in the surface soils and the shallow ground water. Utilizing the findings of the RI, the FS was initiated to develop and assess various remediation measures for the areas of contamination at the Site.

Using the data gathered during the RI, the Responsible Parties conducted a risk assessment to characterize the existing and potential threats to human health and the environment that could have been posed by the contamination at the Site under various possible exposure scenarios including future residential use of the property.

As part of the RI, a baseline risk assessment was conducted for the Site. This assessment indicated that, if not addressed, contamination existing in the surface soils and ground water at the Site would pose unacceptable health risks to persons living on the former Site, if the Site was redeveloped for residential purposes. Contaminants in on-site waste ponds posed an additional lifetime cancer risk of approximately 1.4×10^{-3}. Contaminants outside the fence, but inside the Site, posed an additional cancer risk of approximately 3.6×10^{-3}. The target additional cancer risk range for Superfund actions is 1×10^{-4} to 1×10^{-6}. The overall risk at the Site was driven by ''hotspots.'' These ''hotspots'' contained contaminant concentrations above health-based action levels. These areas were the areas which were targeted for remediation. The vertical tank and former office areas contained lead hotspots, with concentrations of lead in soil as high as 129,000 parts per million (ppm). This concentration exceeded both residential and industrial cleanup standards. Lead concentrations ranged from 3 to 129,000 ppm in soil samples throughout the Site. Most lead concentrations diminished to background concentrations at soil depths below 2 feet.

The baseline risk assessment also indicated that the additional cancer risks associated with exposure to surface soils at the Site are caused primarily by Polynuclear Aromatic Hydrocarbons (''PAH'') at or near the ground surface, particularly:

- Benzo(a)pyrene
- Benzo(a)anthracene
- Benzo(b)fluoranthene
- Benzo(k)fluoranthene

The projected additional lifetime cancer risk, assuming future residential land use, posed by the PAHs in the soil in the area outside the fence, inclusive of the North Pit area and tarry areas along the railroad track, was estimated to be 6×10^{-3}.

Asbestos in soil had been observed at and near the ground surface in the central portion of the Site. An extensive asbestos abatement program was performed by the Responsible Parties in 1990. The abatement was conducted for purposes of protecting workers during RI field activities. Approximately 800 cubic yards of asbestos-containing soils were removed from the Site and buried in an off-site landfill permitted for the disposal of asbestos. Upon completion of the 1990 asbestos abatement, limited amounts of asbestos-contaminated materials remained in the Process and Compressor areas of the Site.

In the risk assessment, an evaluation of the risks associated with inhalation exposure to contaminated wind-borne particulates at the Site, again assuming that the Site was developed for residential use, was also performed. The resulting additional carcinogenic risk was calculated at less than 10^{-7}, below the target additional risk range set in the NCP.

Overall, contaminants of potential concern found at the Site and identified by the Risk Assessment represent constituents common to materials handled at petroleum refineries. The contaminants were used in the risk evaluation based upon their toxicity, the frequency of detection, and the concentrations found at the Site. The contaminants that contribute most significantly to human health risks at the Site are: (1) for ground water: BTEX, lead and 1, 2 dichloroethane; and (2) for soils: lead, PAHs, and asbestos. Other contaminants detected at the Site above background concentrations included chromium, beryllium, antimony, mercury, nickel, and cadmium. Each of these constituents were included in risk calculations, but it was determined that these other constituents do not contribute significantly to carcinogenic or noncarcinogenic health risks at the concentration levels detected at the Site.

On September 30, 1992, based on the results of these studies, EPA issued a Record of Decision (''ROD'') for the entire Site presenting EPA's decision to remediate the surface by: (1) excavation and off-site disposal of lead contaminated soils; (2) excavation and off-site disposal of asbestos-containing materials and soils; (3) excavation and landfarming of hydrocarbon-contaminated soils and sludges; and (4) excavation and off-site disposal of the separator and its contents. The ROD also required that the subsurface be remediated through soil vapor extraction and ground water extraction and reinjection.

All of the response actions at the entire Site were conducted by the Responsible Parties with oversight by the EPA, NMED and the NSO.

Community Involvement

The requirements of CERCLA Sections 113(k)(2)(B) (i) through (v) and 117, 42 U.S.C. §§ 9613(k)(2)(B) (i) through (v) and 9617, were met during the remedy selection process, as illustrated in the following discussion.

A series of community interviews near the Site was conducted prior to, and upon, listing of the Site on the NPL. Fact sheets summarizing the progress of the RI/FS at the Site were mailed out in September 1990 and July 1991. These fact sheets were mailed out to all individuals on the Site mailing list, which has been continually updated as Site activities progress.

The RI and FS Reports and the Proposed Plan for the Prewitt Abandoned Refinery Site were released to the public on July 18, 1992. These documents were made available to the public in the Administrative Record and the information repositories which are maintained at the Prewitt Fire House, Prewitt, New Mexico, at the New Mexico Environment Department, Santa Fe, New Mexico, the Navajo Superfund Office in Window Rock, Arizona, and at the EPA Region 6 Library in Dallas, Texas. A summary of the Proposed Plan and the notice of availability of these documents and the Administrative Record was published in the Gallup Independent and Navajo Times newspapers on July 16, 1992. EPA held a public comment period regarding the Proposed Plan, the RI and FS Reports, as well as the Administrative Record from July 18, 1992, through August 17, 1992. Due to a delay in delivering the Administrative Record Files to the Repositories, and due to a request for an extension of the public comment period, the public comment period was extended to September 18, 1992. A notice of the extension of the public comment period was published in the Gallup Independent on July 30, 1992, and was announced at the July 29, 1992, public meeting.

An informal Open House was held on April 14, 1992, at the Prewitt Fire House in Prewitt, New Mexico. At the Open House, EPA informed the public that the investigations regarding the Site were completed and that a Proposed Plan would be issued in the future. Additionally, a public meeting was held by EPA on July 29, 1992, at the Prewitt Fire House. At the request of the Navajo Nation's Baca Chapter, a second Public Meeting in English and Navajo was held by EPA on September 3, 1992, at the Baca Chapter House. Representatives from EPA participated in this meeting and answered questions about problems at the Site and the remedial alternatives under consideration. A response to the comments received during this public comment period, including those expressed verbally at the public meetings, was included in the

Responsiveness Summary, which was included as part of the ROD.

On September 30, 1992, EPA issued a ROD for the Site, on which the State gave its concurrence. The ROD embodies EPA's decision on the remedial action for the entire Site. The ROD presents the selected remedial action for the Site, chosen in accordance with CERCLA, as amended by Superfund Amendments and Reauthorization Act (SARA), and, to the extent practicable, the NCP, 40 CFR part 300. The ROD is supported by an administrative record that contains the documents and information upon which EPA based the selection of the response action.

Current Status

Based on the Responsible Parties' successful completion of: (1) excavation and disposal of the lead-contaminated soils and the asbestos-contaminated materials and soils; (2) the disposal of the separator and its contents; and (3) the expedited landfarming of the hydrocarbon-contaminated soils and sludges, EPA has determined that no further CERCLA actions are necessary to address the surface of the Site for the protection of human health and the environment. On August 22, 1996, EPA issued a Superfund Preliminary Site Closeout Report documenting that construction of the remedy for the Prewitt Refinery Site was completed in accordance with OSWER Directive 9320.2–09. Confirmation sampling indicates that the remedial action goals and objectives set forth in the ROD have been met for the surface portion of the Site.

While EPA does not believe that any future response actions for the surface portion of the Site will be needed, if future conditions warrant such action, the surface areas which EPA proposes to delete from the NPL remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the subsurface portion of the Site which is not proposed for deletion and remains on the NPL.

EPA, with concurrence from the State of New Mexico and the Navajo Nation, has determined that all appropriate CERCLA response actions have been completed for the surface portion of the Site, and that protection of human health and the environment has been achieved in the surface areas of the Site. Therefore, EPA makes this proposal to delete only the surface portion of the Prewitt Abandoned Refinery Superfund Site from the NPL.

Dated: July 7, 1997.

Lynda F. Carroll,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 6.

Appendix A—Docket Information

Deletion Docket—Notice of Intent for Partial Deletion of the Prewitt Abandoned Refinery Superfund Site, Prewitt, New Mexico, surface portion, from the Superfund National Priorities List

- Prewitt Abandoned Refinery Superfund Site Administrative Record Index: September 30, 1992.
- Unilateral Administrative Order Docket Number 6–17–93 for the performance of the Remedial Design and Remedial Action at the Prewitt Abandoned Refinery Superfund Site: May 14, 1994.
- Remedial Design and Specifications for the surface remediation component: January 1995.
- Remedial Design for the landfarm: October 1995.
- Remedial Action Work Plan: January 1996.
- Construction Completion Report: July 1996.
- Remedial Action Completion Report for the surface remediation component: March 1996
- Superfund Preliminary Closeout Report: August 22, 1996.
- Remedial Action Completion Report for the landfarm: February 1997
- Concurrence letter dated November 12, 1996, from the State of New Mexico through the New Mexico Environment Department agreeing with EPA's proposal to delete the surface portion of the Site from the National Priorities List.
- Concurrence letter dated March 4, 1997, from the Navajo Nation through the Navajo Nation Superfund Office agreeing with EPA's proposal to delete the surface portion of the Site from the National Priorities List.
- Notice of Intent for Partial Deletion of the surface portion of the Prewitt Abandoned Refinery Superfund Site, surface portion only, from the National Priorities List.

Appendix B—Site Coordinates

1. 35°26′ 55.30″ North Latitude—108°01′ 56.99″ West Longitude
2. 35°26′ 45.62″ North Latitude—108°02′ 02.50″ West Longitude
3. 35°25′ 33.05″ North Latitude—107°57′ 58.08″ West Longitude
4. 35°25′ 07.99″ North Latitude—107°58′ 15.40″ West Longitude
5. 35°26′ 49.34″ North Latitude—108°02′ 49.01″ West Longitude
6. 35°26′ 29.31″ North Latitude—108°03′ 05.30″ West Longitude
7. 35°25′ 24.04″ North Latitude—108°02′ 56.81″ West Longitude
8. 35°24′ 47.46″ North Latitude—108°02′ 09.29″ West Longitude
9. 35°23′ 49.20″ North Latitude—107°59′ 33.66″ West Longitude
10. 35°25′ 10.10″ North Latitude—107°58′ 49.16″ West Longitude

[FR Doc. 97–26185 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93–61, FCC 97–305]

Automatic Vehicle Monitoring Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In the *Further Notice of Proposed Rule Making* (''*FNPRM*''), the Commission proposes rules and procedures governing competitive bidding for multilateration Location and Monitoring Service (''LMS'') frequencies.

DATES: Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before November 5, 1997, and reply comments on or before November 20, 1997.

ADDRESSES: To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If parties want each Commissioner to receive a personal copy of comments, an original plus nine copies must be filed. Comments and reply comments must be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: David Furth or Linda Chang at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's *Further Notice of Proposed Rule Making* in FCC 97–305, PR Docket No. 93–61, adopted August 28, 1997, and released September 16, 1997. The complete text of this FNPRM is available for public inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street N.W., Washington, D.C. 20036. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036 (telephone number: (202) 857–3800). Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

Synopsis of Further Notice of Proposed Rule Making

I. Competitive Bidding for Multilateration LMS Licensees

1. In the *LMS Report and Order,* PR Docket No. 93–61, 60 FR 15248 (March 23, 1995), the Commission decided to use competitive bidding to select from mutually exclusive applications for multilateration LMS licenses. The Commission reached this decision based on its conclusion that the statutory criteria for auctioning licenses, which are set forth in section 309(j) of the Communications Act, 47 U.S.C. 309(j), are satisfied. More specifically, the Commission found (1) that its decision to offer multilateration LMS licenses on an exclusive basis makes it likely that mutually exclusive applications for such licenses will be filed; (2) that multilateration LMS licenses will be used principally to offer for-profit, subscriber-based services; and, (3) that the use of competitive bidding for these licenses will promote the public interest objectives set forth in section 309(j)(3).

2. Under the spectrum plan the Commission adopted in the *LMS Report and Order,* and reaffirms in the *Memorandum Opinion & Order,* PR Docket No. 93–61, FCC 97–305 three blocks of spectrum are allocated to multilateration LMS systems: (1) 904.000–909.750 MHz and 927.750–928.000 MHz; (2) 919.750–921.750 MHz and 927.500–927.750 MHz; and, (3) 921.750–927.250 MHz and 927.250–927.500 MHz. One license will be awarded for each of these spectrum blocks in each of 176 EAs and EA-like areas. Thus, there are a total of 528 multilateration LMS licenses to be auctioned.

3. The Commission anticipates conducting the auction for multilateration LMS frequencies in conformity with the general competitive bidding rules proposed to be included in part 1, subpart Q of the Commission's Rules, and substantially consistent with the auctions that have been employed in other wireless services. Amendment of part 1 of the Commission's Rules—Competitive Bidding, Order, *Memorandum Opinion and Order and Notice of Proposed Rule Making,* WT Docket No. 97–82, 62 FR 13540 (March 21, 1997). The Commission proposes to adopt for the LMS auction the simultaneous multiple round competitive bidding design used in the PCS auctions. Multiple round bidding should provide more information to bidders than single round bidding during the auction about the values of the licenses. The Commission seeks comment on this proposal. The Commission also tentatively concludes that the LMS auction will follow the general competitive bidding procedures of part 1, subpart Q. The Commission seeks comment on this tentative conclusion.

4. *Small Businesses.* The Commission's auction rules for other services generally include special provisions—such as bidding credits and installment payments—designed to fulfill its statutory mandate to ensure that small businesses have the opportunity to participate in the provision of spectrum-based services. In the *Second Memorandum Opinion and Order* in the competitive bidding docket, the Commission indicated that it would establish definitions for ''small business'' on a service-by-service basis. *Second Memorandum Opinion and Order,* PP Docket No. 93–253, 59 FR 44272 (August 26, 1994). The Commission therefore seeks comment regarding the establishment of a small business definition for multilateration LMS. Commenters should discuss the level of capital commitment that is likely to be required to purchase a multilateration LMS license at auction and create a viable business. The Commission also seeks comment on what small business provisions should be offered to multilateration LMS small business entities. Its goal, should the Commission adopt a special provision(s) for one or more categories of small businesses, will be to remove entry barriers so as to ensure the participation of small businesses in the auction and in the provision of service. If the Commission adopts special provisions for small businesses, the Commission proposes that its unjust enrichment rules apply as set forth in part 1, subpart Q. 47 CFR 1.2111.

5. In other services the Commission also adopted attribution rules for purposes of determining small business status. The Commission tentatively concluded that for LMS the Commission should attribute the gross revenues of all controlling principals in the small business applicant as well as its affiliates. The Commission seeks comment on this tentative conclusion. The Commission also seeks comment on whether small business provisions are sufficient to promote participation by businesses owned by minorities, women, or rural telephone companies. To the extent that commenters propose additional provisions to ensure participation by minority-owned or women-owned businesses, the Commission asks them to address how such provisions should be crafted to meet the relevant standards of judicial review.

6. *Partitioning and Disaggregation.* The Commission proposes to allow multilateration LMS licensees to partition their geographic license area and disaggregate portions of their spectrum. The Commission anticipates that this will, among other things, help to remove entry barriers for small businesses. The Commission seeks comment on this proposal.

7. If the Commission determines that special provisions for small business are appropriate for LMS auctions, the Commission tentatively concludes that a qualified small business that applies to partition or disaggregate its license to a non-small business entity should be required to repay any benefits it received from special small business provisions. The Commission seeks comment on the type of unjust enrichment requirements that should be placed as a condition for approval of an application to partition or disaggregate a license owned by a qualified small business licensee to a non-small business entity. This could include, for example, repayment of any bidding credit that the Commission may adopt for small businesses, and would be applied on a proportional basis. Similarly, if a small business licensee partitions or disaggregates to another qualified small business that would not qualify for the same level of bidding credit, the transferring licensee should be required to repay a portion of the benefit it received. The Commission seeks comment on these tentative conclusions. Alternatively, the Commission seek comment on whether the Commission should restrict the partitioning or disaggregation of such licenses when the partitionee or disaggregatee is not within the definition of an entity eligible for such special provisions, or whether, at some point (*e.g.,* a term of years), such restriction on partitioning and disaggregation be removed and the unjust enrichment provisions would apply. The Commission also seeks comment on how such unjust enrichment amounts should be calculated, especially in light of the difficulty of devising a methodology or formula that will differentiate the relative market value of the opportunities to provide service to various partitioned areas or to use the amount of spectrum disaggregated.

II. Procedural Matters and Ordering Clauses

8. *Ex Parte* Rules—Non-Restricted Proceeding. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine

Agenda period, provided they are disclosed as provided in Commission Rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206.

9. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, 3 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis of the expected impact on small entities of the policies and rules proposed and adopted in the Further Notice section of the *Memorandum Opinion and Order* and *Further Notice of Proposed Rulemaking.* Written public comments are requested on the IRFA and must be filed by the deadlines for comments on the *Memorandum Opinion and Order* and *Further Notice of Proposed Rulemaking.*

10. *Reason for Action*: This *FNPRM* was initiated to secure comment on proposals for revising rules for the auction of multilateration Location and Monitoring Service frequencies. Such changes to the rules for multilateration LMS would promote efficient licensing and enhance the service's competitive potential in the Commercial Mobile Radio Service marketplace. The adopted and proposed rules are based on the competitive bidding authority of section 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(j), which authorized the Commission to use auctions to select among mutually exclusive initial applications in certain services, including multilateration LMS.

11. *Objectives of this Action:* The Omnibus Budget Reconciliation Act of 1993 (Budget Act), Public Law 103–66, Title VI, § 6002, and the subsequent Commission actions to implement it are intended to establish a system of competitive bidding for choosing among certain applications for initial licenses, and to carry out statutory mandates that certain designated entities, including small businesses, are afforded an opportunity to participate in the competitive bidding process and in the provision of multilateration LMS services.

12. *Legal Basis:* The proposed action is authorized under the Budget Act and in sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 309(j).

13. *Reporting, Recordkeeping, and Other Compliance Requirements:* The Commission does not anticipate any additional reporting or recordkeeping requirements resulting from this *FNPRM*.

14. *Federal Rules Which Overlap, Duplicate or Conflict With These Rules:* None.

15. *Description, Potential Impact, and Number of Small Entities Involved:* The *FNPRM* would establish certain multilateration LMS spectrum blocks for bidding by smaller entities as well as larger entities, and would grant special provisions to certain eligible entities bidding within those blocks. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM*. In particular, the Commission seeks estimates of how many such entities will be considered small businesses.

16. *Geographic Partitioning and Spectrum Disaggregation.* The partitioning and disaggregation rule changes proposed in this proceeding will affect all small businesses which avail themselves of these rule changes, including small businesses currently holding multilateration LMS licenses who choose to partition and/or disaggregate and small businesses who may acquire licenses through partitioning and/or disaggregation.

17. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM*. In particular, the Commission seeks estimates of how many such entities will be considered small businesses. As explained in the Final Regulatory Flexibility Analysis for the *Memorandum Opinion and Order*, the Commission is utilizing the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing less than 1,500 persons.[1] The Commission seeks comment on whether this definition is appropriate for multilateration LMS licensees in this context. Additionally, the Commission requests each commenter to identify whether it is a small business under this definition. If a commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

18. The number of small entities that will be affected is unknown. New entrants could obtain multilateration LMS licenses through the competitive bidding procedure, and take the opportunity to partition and/or disaggregate a license or obtain an additional license through partitioning or disaggregation. Additionally, entities that are neither incumbent licensees nor geographic area licensees could enter the market by obtaining a multilateration LMS license through partitioning or disaggregation. The Commission cannot estimate how many licensees or potential licensees could take the opportunity to partition and/or disaggregate a license or obtain a license through partitioning and/or disaggregation, because it has not yet determined the size or number of multilateration LMS licenses that will be granted in the future. Given the fact that nearly all wireless communications companies have fewer than 1,000 employees, and that no reliable estimate of the number of future multilateration LMS licensees can be made, the Commission assumes for purposes of the IRFA that all of the licenses will be awarded to small businesses. It is possible that a significant number of the potential licensees who could take the opportunity to partition and/or disaggregate a license or who could obtain a license through partitioning and/or disaggregation will be small businesses.

19. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* With respect to partitioning and disaggregation, the Commission tentatively concludes that unjust enrichment provisions should apply when a licensee has benefitted from the small business provisions in the auction rules and applies to partition or disaggregate a portion of the geographic license area to another entity that would not qualify for such benefits. The alternative to applying the unjust enrichment provisions would be to allow an entity who had benefitted from the special bidding provisions for small businesses to become unjustly enriched by partitioning or disaggregating a portion of their license area to parties that do not qualify for such benefits.

20. The *FNPRM* proposes certain provisions for smaller entities designed to ensure that such entities have the opportunity to participate in the competitive bidding process and in the provision of multilateration LMS services. Any significant alternatives

[1] 13 CFR 121.201, Standard Industrial Classification Code 4812.

presented in the comments will be considered.

21. *IRFA Comments.* The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in the *Memorandum and Order/Further Notice of Proposed Rulemaking.*

22. *Paperwork Reduction.* The *FNPRM* has been analyzed with respect to the Paperwork Reduction Act of 1995 and was found to impose no new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act.

23. *Authority.* This action is taken pursuant to sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), 156(c)(1), 303(r), and 309(j).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26414 Filed 10–3–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF AGRICULTURE

48 CFR Parts 426 and 452

[AGAR Case 96–01]

RIN 0599–AA00

Office of Procurement and Property Management; Agriculture Acquisition Regulation; Preference for Selected Biobased Products

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document invites written comments on a proposed amendment to the Department of Agriculture's Acquisition Regulation (AGAR). We are proposing to amend the AGAR to establish policy and procedures for set-asides and preferences for products developed with assistance provided by the Alternative Agricultural Research and Commercialization Corporation (AARC).

DATES: Submit comments on or before December 5, 1997.

ADDRESSES: Submit written comments to U.S. Department of Agriculture, Office of Procurement and Property Management, Procurement Policy Division, STOP 9303, 1400 Independence Avenue SW, Washington, DC 20250–9303. See **SUPPLEMENTARY INFORMATION** section for electronic access addresses for comments.

FOR FURTHER INFORMATION CONTACT: J. R. Holcombe, Jr., (202) 720–8484.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Executive Order Nos. 12866 and 12988.
B. Regulatory Flexibility Act.
C. Paperwork Reduction Act.
III. Public Comments
IV. Electronic Access Addresses

I. Background

The AGAR implements the Federal Acquisition Regulation (FAR) (48 CFR Ch. 1) where further implementation is needed, and supplements the FAR when coverage is needed for subject matter not covered by the FAR. This proposed rule would amend the AGAR to establish acquisition preferences for selected biobased products; i.e., nonfood, nonfeed products made from agricultural and forestry materials and animal by-products (AGAR Case 96–01).

The Alternative Agricultural Research and Commercialization Corporation (AARC), a wholly-owned government corporation of the Department of Agriculture (USDA), provides financial assistance to private companies and other parties to commercialize biobased products. Section 1665 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5909), added by section 729 of the Federal Agricultural Improvement and Reform Act of 1996, authorizes Federal executive agencies to establish set asides and preferences for biobased products that have been commercialized with assistance provided by AARC. Pursuant to the authority provided by Section 1665, USDA proposes to add subpart 426.70 to the AGAR to establish policies and procedures for AARC preferences and set-asides.

The following changes to the AGAR are proposed:

(a) AGAR part 426 is proposed to be added, with a subpart 426.70, Preference for Selected Biobased Products. This proposed subpart establishes policy and procedures for preferences and set-asides for products developed with AARC assistance.

(b) Provisions 452.226–70, Preferred Products, 452.226–71, Set-aside for Mandatory Products, and 452.226–72, Price Preference for Award, are proposed to be added to AGAR part 452.

II. Procedural Requirements

A. Executive Order Nos. 12866 and 12988

A work plan was prepared for this proposed regulation and submitted to the Office of Management and Budget pursuant to Executive Order No. 12866. The proposed rule has been determined to be not significant for the purposes of Executive Order No. 12866. Therefore, the proposed rule has not been reviewed by the Office of Management and Budget. This rule has been reviewed in accordance with Executive Order No. 12988, Civil Justice Reform. The proposed rule meets the applicable standards in section 3 of Executive Order No. 12988.

B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601–611, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. USDA certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared. However, comments from small entities concerning parts affected by the proposed rule will be considered. Such comments must be submitted separately and cite 5 U.S.C. 609 (AGAR Case 96–01) in correspondence.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly no OMB clearance is required by section 350(h) of the Paperwork Reduction Act, 44 U.S.C. 3501, et. seq., or OMB's implementing regulation at 5 CFR Part 1320.

III. Public Comments

Interested persons are invited to participate in this rule making by submitting views and comments with respect to the proposed AGAR revision set out in this notice. All written comments will be carefully assessed and fully considered prior to publication of the final rule.

IV. Electronic Access Addresses

You may submit comments by sending electronic mail (E-mail) to RHOLCOMBE@USDA.GOV, or via fax at (202) 720–8972.

List of Subjects in 48 CFR Parts 426 and 452

Agriculture, Government procurement.

For the reasons set out in this preamble, the Department proposes to amend Chapter 4 of Title 48 of the Code of Federal Regulations as follows:

Add Part 426 to subchapter D to read as follows:

PART 426—OTHER SOCIOECONOMIC PROGRAMS

Subpart 426.70—Preference for Selected Biobased Products

Sec.
426.7000 Scope of subpart.
426.7001 Applicability.
426.7002 Authority.
426.7003 Policy.
426.7004 Definitions.
426.7005 Preference list.
426.7006 Use of a set-aside or a price preference.
426.7007 Use of a technical evaluation preference.
426.7008 Identification of preferred products.
426.7009 Contract provisions.

Authority: 5 U.S.C. 301; 7 U.S.C. 5909; 40 U.S.C. 486(c)

Subpart 426.70—Preference for Selected Biobased Products

426.7000 Scope of subpart.

This subpart supplements the FAR to implement the set-asides and preferences described in section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909).

426.7001 Applicability.

This subpart applies to USDA and all of its components, including corporations.

426.7002 Authority.

Section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909) authorizes USDA to establish set-asides and other preferences for products that have been assisted by the Alternative Agricultural Research and Commercialization Corporation (AARC).

426.7003 Policy.

(a) AARC provides financial assistance to private companies and other parties to commercialize nonfood, nonfeed products made from agricultural and forestry materials and animal by-products (biobased products). Biobased products by their nature are environmentally friendly, and, in many instances, use agricultural material that otherwise would be wasted. It is the policy of USDA to acquire AARC products to the maximum extent practicable. This policy applies to all acquisitions of products regardless of dollar value.

(b) USDA shall satisfy its requirements for products the same or essentially the same as AARC products by applying the preferences or set-asides described by this subpart.

426.7004 Definitions.

As used in this subpart—

AARC products are products developed with assistance provided by AARC as authorized by 7 U.S.C. 5905.

Acquisitions involving the use of products means an acquisition in which a Government contractor uses products in contract performance.

Acquisitions of products means an acquisition of one or more products for the use of the Government.

Price preference means an amount, expressed as a percentage, to be used in the evaluation of offers in an acquisition of products.

Set-aside means a requirement that vendors responding to a solicitation offer AARC products.

Solicitation includes actions taken under parts 12, 13, 14, 15, and 36 of the Federal Acquisition Regulation.

Technical evaluation preference means the use of an award factor or subfactor in which the Government expresses its preference for AARC products.

426.7005 Preference list.

(a) The Office of Procurement and Policy Management (OPPM) and AARC jointly shall establish and maintain a Preference List for AARC products.

(b) The Preference List shall contain the list of preferred products, source information for these products, the type(s) of preference to be applied, the beginning and ending dates for the use of preferences, and other terms established to define the preference given to a product.

(c) The Preference List will be publicized within USDA by means of AGAR Advisories (see 401.371). Copies of the Preference List may be obtained from OPPM. The Preference List will also be posted on the World Wide Web at the USDA Procurement Home Page.

426.7006 Use of a set-aside or a price preference.

Acquisitions for products the same or essentially the same as those products appearing on the Preference List shall either be set-aside exclusively or shall include a price preference for those products shown on the Preference List. The actual price preference to be used shall be determined by the requiring office but may not exceed the percentage shown on the Preference List.

426.7007 Use of a technical evaluation preference.

Acquisitions involving the use of products the same or essentially the same as those products appearing on the Preference List shall include a technical evaluation preference, if authorized in the Preference List. The technical evaluation preference may be determined by the contracting officer specifically for each acquisition.

426.7008 Identification of preferred products.

(a) Products subject to a set-aside or technical preference shall be separately listed in the schedule, specification, or performance work statement.

(b) Products subject to a price preference shall be separately listed in the schedule.

426.7009 Contract provisions.

(a) Each solicitation containing a price or technical preference under this subpart shall contain the provision 452.226–70, Preferred Products.

(b) Each solicitation for products subject to a set-aside shall include the provision 452.226–71, Set-Aside For Mandatory Products.

(c) Each solicitation for products subject to a price preference shall include the provision 452.226–72, Price Preference for Award.

(d) Solicitations for products may contain both the provision in 452.226–71 and the provision found in 452.226–72.

(e) The provisions prescribed in this section are not required for acquisitions accomplished using the purchase card as a stand alone tool.

PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for Part 452 continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

2. Add sections 452.226–70, 452.226–71, and 452.226–72 to read as follows:

452.226–70 Preferred Products.

As prescribed in 426.7009(a), include the following provision:

PREFERRED PRODUCTS (XXXX 1997)

Specific products required by this solicitation and resulting contract, are subject to a price or a technical preference. A list of these products, the specific preference, and

the manufacturer or producer is included below.

Contract Line Item (or other location in this solicitation):*

_____

Product:* _____

Manufacturer/Producer:* _____

_____

_____

_____

_____

Preference:*

Q_____

_____

(End of provision)

**For each line item to which a preference applies. Contracting officer shall insert appropriate information.*

452.26–71 Set-aside for Mandatory Products.

As prescribed in 426.7009(b), include the following provision.

SET-ASIDE FOR MANDATORY PRODUCTS (XXXX 1997)

Specific products are set-aside as mandatory products. These are separately listed in the schedule, specifications, or performance work statement. Specific terms governing the set-aside, and source information for the products are shown below.

Contract Line Item (or other location in this solicitation):*

_____

_____

Product:* _____

Manufacturer/Producer:*

_____

_____

_____

_____

Set-Aside Terms:* _____

_____

(End of provision)

* For each line item to which a set-aside applies, Contracting officer shall insert appropriate information.

452.226–72 Price Preference for Award.

As prescribed in 426.7009(c), include the following provision:

Price Preference for Award (XXXX 1997)

Certain products listed in the schedule of this solicitation are subject to a price preference. A list of these products, the amount of the preference, and source information is included in provision 452.226–70, Preferred Products. For purposes of evaluation of offers only, the offered prices for these products will be reduced by the price preference listed in the solicitation.

(End of provision)

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 97–26287 Filed 10–3–97; 8:45 am]

BILLING CODE 3410–XE–P

Notices

Federal Register
Vol. 62, No. 193
Monday, October 6, 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

Natural Resources Conservation Service

Tri-Valley Watershed, Wasatch and Summit Counties, Utah

AGENCY: Natural Resources Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tri-Valley Watershed, Wasatch and Summit Counties, Utah.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip J. Nelson, State Conservationist, Natural Resources Conservation Service, PO Box 11350, Salt Lake City, Utah 84147; Phone (801) 524–5050.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Phillip J. Nelson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are water conservation for fish habitat improvement and water quality improvement. The planned works of improvement include:

- 3,700 acres of improved irrigation systems
- 21 animal waste systems
- 19,350 feet streambank protection
- 2,400 acres of improved grazing
- 1,300 acres of range seeding

The Notice of Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Phillip J. Nelson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: September 25, 1997.

Marilyn A. O'Dell,

Assistant State Conservationist.

[FR Doc. 97–26371 Filed 10–3–97; 8:45 am]

BILLING CODE 3410–16–M

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Extension

AGENCY: Barry Goldwater Scholarship and Excellence in Education Foundation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Goldwater Scholarship Foundation is planning to submit, for extension, the following Information Collection Request (ICR) to the Office of Management and Budget (OMB): Goldwater Scholarship Payment Request Form, OMB No. 3019–0001. Before submitting the ICR to OMB for review and approval for extension, The Goldwater Foundation is soliciting comments on the proposed ICR as described below.

DATES: Comments must be submitted on or before December 5, 1997.

ADDRESSES: Mail comments to Gerald J. Smith, President, Barry Goldwater Scholarship and Excellence in Education Foundation, 6225 Brandon Avenue, Suite 315, Springfield, VA 22150–2519.

FOR FURTHER INFORMATION CONTACT: Gerald J. Smith, (703) 756–6012; FAX: (703) 756–6015; E-mail: goldh2o@erols.com.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities affected by this action include approximately 400 Goldwater Scholars and their respective Academic and Financial Aid Officers.

Title: Goldwater Foundation payment Request Form.

Abstract: Pub. L. 99–166 authorizes the Goldwater Foundation to conduct an annual nationwide undergraduate scholarship competition for students pursuing careers in mathematics, the natural sciences and engineering. This Information Collection Form is used by the Foundation to verify a Goldwater Scholarship recipient's academic standing and to authorize the disbursement of funds to the Scholar each term.

The Foundation uses this form to ensure that only authorized expenses are requested and to avoid the duplication of other scholarship funding which is prohibited. Less frequent collection of this information would not allow the Foundation to verify a Scholar's academic and financial status as required each term. Further, less frequent collection would case the Foundation to expend funds sooner than would be fiscally responsible, since all funds are interest bearing until expended.

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. (c)(2)(A) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information before submitting the collection to OMB for approval. To comply with this requirement, the Goldwater Foundation is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, The

Goldwater Foundation invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the Foundation's functions, including whether the information will have practical utility; (2) the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Data Collected Include: Current School and Home addresses; Current cost of tuition, fees, books, room and board and additional expenses: list of other scholarships and verification signatures of the Scholar, academic and financial aid officers.

Burden Statement: The estimated public reporting burden for this collection of information is 45 minutes per respondent semiannually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining and reviewing the collection of information.

Respondents: Goldwater Scholarship recipients.

Estimated Number of Respondents: 400.

Responses: 2 per school year.

Total Burden Hours: 600 per year.

Recordkeepers: 2.

Total Burden Hours: 133.

Dated: September 26, 1997.

Gerald J. Smith,

President.

[FR Doc. 97–26382 Filed 10–3–97; 8:45 am]

BILLING CODE 6820–AK–M

CIVIL RIGHTS COMMISSION

Membership of the USCCR Performance Review Board

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of Membership of the USCCR Performance Review Board.

SUMMARY: This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights' Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 1997 rating year.

FOR FURTHER INFORMATION CONTACT: Ms. M. Catherine Gates, Director of Human Resources, U.S. Commission on Civil Rights, 624 9th Street, N.W., Washington, D.C. 20425, (202) 376–8364.

Members

Gloria Gutierrez, Actg. Deputy Associate Commissioner for Administration and Quality Services, Patent and Trademark Office, Department of Commerce.

Mary Jennings, General Counsel, Merit System Protection Board.

Robert Kugelman, Director of Administration, Department of Commerce.

Stephanie Moore,

Acting Solicitor.

[FR Doc. 97–26370 Filed 10–3–97; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 924]

Grant of Authority for Subzone Status, Conair Corp., (Warehousing/Distribution and Service/Repair Facility) East Windsor, New Jersey

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from Mercer County, New Jersey, grantee of Foreign-Trade Zone 200, for authority to establish special-purpose subzone status at the warehousing/distribution and service/repair facility of Conair Corporation, in East Windsor, New Jersey, was filed by the Board on April 11, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 29–97, 62 FR 19545, 4–22–97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 200A) at the Conair Corporation facility in East Windsor, New Jersey, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 25th day of September 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26456 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–821]

Notice of Postponement of Time Limit for Countervailing Duty Investigation: Certain Stainless Steel Wire Rod From Italy

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

EFFECTIVE DATE: October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Lockard or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1168 or 482–4126, respectively.

Postponement

On August 19, 1997, the Department of Commerce (''the Department'') initiated the countervailing duty investigation of stainless steel wire rod from Italy. *See Notice of Initiation of Countervailing Duty Investigation: Certain Stainless Steel Wire Rod (''SSWR'') from Italy,* 62 FR 45229 (Aug.

26, 1997). Respondents have indicated that they will be cooperating in the investigation. In addition, we are investigating a large number of potentially complex alleged countervailable subsidy practices. Accordingly, as detailed in our September 23, 1997, Memorandum to Robert S. LaRussa, Assistant Secretary for Import Administration, (on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce) we deem this investigation to be extraordinarily complicated, and determine that additional time is necessary to make the preliminary determination. Therefore, pursuant to section 703(c)(1) of the Tariff Act of 1930, as amended (''the Act''), we are postponing the preliminary determination in this investigation to no later than December 29, 1997.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: September 30, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26455 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092997B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Billfish Advisory Panel (AP).

DATES: The meeting will begin at 1:00 p.m. on October 21, 1997 and will end by 3:00 p.m. on October 22, 1997.

ADDRESSES: The meeting will be held at the at the Radisson Hobby Airport, 9100 Gulf Freeway, Houston, TX 77017; telephone: 713–943–7979.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Billfish AP will review a draft scoping document on issues and options for the management of Atlantic billfish. The scoping document was prepared by the Highly Migratory Species Management Division of NMFS, Office of Sustainable Fisheries, which is responsible for the management of billfishes, swordfish, marlin, tuna, and sharks. The purpose of the scoping document is to inform the public of NMFS' intent to gather information and to provide a mechanism by which the public can consider and comment on issues and alternatives relative to the management of Atlantic highly migratory species. Accordingly, the views of the commercial fishing, recreational fishing, conservation and scientific communities, and the general public are being sought by NMFS through publication of the draft scoping document.

The AP will also review a petition submitted to NMFS by the Coastal Conservation Association to declare Atlantic white and blue marlin stocks overfished. If these stocks are declared to be overfished, NMFS will be required to develop and implement a rebuilding plan.

The recommendations of the Billfish AP will be presented to the Council at their November 10–13, 1997 meeting in Longboat Key, FL, at which time the Council may decide whether to provide comment to NMFS on the above issues.

Although other issues not contained in this agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal AP action during this meeting. AP action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 14, 1997.

Dated: September 30, 1997.

Bruce Morehead,

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

[FR Doc. 97–26430 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

September 30, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward and re-crediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 58041, published on November 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 30, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 6, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevels within Fabric Group	
620	6,913,733 square meters.
Other specific limits	
336/636	517,984 dozen.
338/339	1,257,901 dozen.
341/641	1,629,316 dozen.
347/348	614,482 dozen.
363	929,574 numbers.
438–W [2]	14,696 dozen.
638/639	542,208 dozen.
645/646	295,797 dozen.
647/648	1,745,460 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 438–W: only HTS numbers 6104.21.0060, 6104.23.0020, 6104.29.2051, 6106.20.1010, 6106.20.1020, 6106.90.1010, 6106.90.1020, 6106.90.2520, 6106.90.3020, 6109.90.1540, 6109.90.8020, 6110.10.2080, 6110.30.1560, 6110.90.9074 and 6114.10.0040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–26386 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

September 30, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryforward and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68245, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 30, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 7, 1997, you are directed to adjust the limits the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
219	8,777,010 square meters.
226/313	129,268,745 square meters.
237	255,025 dozen.
239	1,775,208 kilograms.
314	6,383,279 square meters.
315	86,034,954 square meters.
317/617	34,302,672 square meters.
331/631	2,536,349 dozen pairs.
334/634	284,192 dozen.
335/635	428,193 dozen.
336/636	464,505 dozen.
338	5,119,291 dozen.
339	1,442,713 dozen.
340/640	683,012 dozen of which not more than 217,058 dozen shall be in Category 340–D/640–D [2].
347/348	913,866 dozen.
351/651	309,670 dozen.
352/652	774,175 dozen.
359–C/659–C [3]	1,059,295 kilograms.
360	5,486,009 numbers.
361	6,379,080 numbers.
363	45,607,795 numbers.
369–F/369–P [4]	2,502,092 kilograms.
369–R [5]	10,838,458 kilograms.
369–S [6]	736,925 kilograms.
625/626/627/628/629	42,954,671 square meters of which not more than 35,486,420 square meters shall be in Category 625; not more than 35,486,420 square meters shall be in Category 626; not more than 35,486,420 square meters shall be in Category 627; not more than 7,342,018 square meters shall be in Category 628; and not more than 35,486,420 square meters shall be in Category 629.
638/639	236,337 dozen.
647/648	724,144 dozen.
666–P [7]	782,926 kilograms.
666–S [8]	4,502,880 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[5] Category 369–R: only HTS number 6307.10.2020.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–26387 Filed 10–3–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Performance of Certain Functions by National Futures Association with Respect to Commodity Pool Operators and Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and Order.

SUMMARY: The Commodity Futures Trading Commission (Commission) is authorizing the National Futures Association (NFA) to conduct reviews of disclosure documents required to be filed with the Commission by commodity pool operators (CPOs) and commodity trading advisors (CTAs) pursuant to Rules 4.26(d) and 4.36(d), respectively. In addition, the Commission is authorizing NFA to process the following: (1) Notices of eligibility for exclusion for certain otherwise regulated persons from the definition of CPO, pursuant to Rule 4.5; (2) notices of claim for exemption from certain Part 4 requirements with respect to commodity pools (pools) and CTAs whose participants or clients are qualified eligible participants (QEPs) or qualified eligible clients (QECs), respectively, pursuant to Rule 4.7; (3) claims of exemption from certain Part 4 requirements for CPOs with respect to pools that principally trade securities, pursuant to Rule 4.12(b); (4) statements of exemption from registration as a CPO, pursuant to Rule 4.13; (5) notices of exemption from registration as a CTA for certain persons registered as an investment adviser, pursuant to Rule 4.14(a)(8); and (6) notices of claim for exemption from provisions of Part 4 for certain registered CPOs operating offshore pools, pursuant to Advisory 18–96. Further, the Commission is authorizing NFA to maintain and serve as the official custodian of certain Commission records.

EFFECTIVE DATE: November 1, 1997.

FOR FURTHER INFORMATION CONTACT: Until the effective date of November 1, 1997, comments regarding this Notice and Order may be directed to Paul H. Bjarnason, Jr., Deputy Director, or Kevin P. Walek, Senior Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. Telephone: (202) 418–5430.

United States of America

Before the Commodity Futures Trading Commission Order Authorizing the Performance of Certain Functions With Respect to Commodity Pool Operators and Commodity Trading Advisors

I. Authority and Background

Section 8a(10) of the Commodity Exchange Act [1] (Act) provides that the Commission may authorize any person to perform any portion of the registration functions under the Act, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to Section 17(j) of the Act [2] and subject to the provisions of the Act applicable to registrations granted by the Commission. Section 17(o)(1) of the Act [3] provides that the Commission may require NFA to perform Commission registration functions in accordance with the Act and NFA rules. NFA has confirmed its willingness to perform certain functions now performed by the Commission and has provided the Commission with a detailed proposal setting forth standards and procedures to be followed and reports to be generated in administering the functions discussed below.[4]

Upon consideration, the Commission has determined to authorize NFA, effective November 1, 1997, to perform the following functions: (1) to conduct reviews of disclosure documents required to be filed with the Commission by CPOs and CTAs pursuant to Rules 4.26(d) [5] and 4.36(d), respectively; (2) to process [6] notices of eligibility for exclusion for certain otherwise regulated persons from the definition of CPO, pursuant to Rule 4.5; (3) to process notices of claim for exemption from certain Part 4 requirements with respect to commodity pools and CTAs whose participants or clients are QEPs or QECs, respectively, pursuant to Rule 4.7; (4) to process claims of exemption from certain Part 4 requirements for CPOs with respect to pools that principally trade securities, pursuant to Rule 4.12(b); (5) to process statements of exemption from registration as a CPO, pursuant to Rule 4.13; (6) to process notices of exemption from registration as a CTA for certain persons registered as an investment adviser, pursuant to Rule 4.14(a)(8); (7) to process notices of claim for exemption from provisions of Part 4 for certain registered CPOs operating offshore pools, pursuant to Advisory 18–96; [7] and (8) to maintain and to serve as the official custodian of records for the filings, notices and claims required by the rules listed above. As discussed below, each of these functions involves disclosure requirements or exemptions from disclosure, reporting, recordkeeping and registration requirements for CPOs and CTAs.

A. CPO and CTA Compliance with Rule 4.26(d) and 4.36(d)

Rule 4.26(d)(1) requires that a CPO file a disclosure document [8] with the Commission for each pool that it operates or intends to operate not less

[1] 7 U.S.C. 12a(10)(1994).

[2] 7 U.S.C. 21(j)(1994).

[3] 7 U.S.C. 21(o)(1)(1994).

[4] Letter from Robert K. Wilmouth, President of NFA, to Brooksley Born, Chairperson of the Commission, dated June 20, 1997.

[5] Commission rules referred to herein can be found at 17 CFR Ch. I (1997).

[6] As used in this Notice and Order, the term ''process'' generally refers to the review of the filing, notice or claim for compliance with applicable requirements and, as appropriate, provision of notice of any deficiency in the filing, notice or claim.

[7] Advisory No. 18–96, (1994–1996 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶26,659 (April 11, 1996).

[8] Pursuant to Rule 4.21(a), a CPO may not solicit, accept or receive funds, securities or other property from a prospective participant in a pool that it operates or intends to operate unless, on or before the date it engages in that activity, the COP delivers or causes to be delivered to the prospective participant a Disclosure Document for the pool containing the information set forth in Rule 4.24.

than 21 calendar days prior to the date the CPO first intends to deliver the document to a prospective participant in the pool.[9] Similarly, Rule 4.36(d)(1) requires that a CTA file a disclosure document[10] with the Commission for each trading program that it offers or intends to offer not less than 21 calendar days prior to the date the CTA first intends to deliver the document to a prospective client in the trading program. Further, pursuant to Rules 4.26(d)(2) and 4.36(d)(2), CPOs and CTAs, respectively, must file with the Commission all subsequent amendments to their disclosure documents within 21 calendar days of the date upon which the CPO or CTA first knows or has reason to know of the defect requiring the amendment. In addition, CPOs and CTAs may not use their disclosure documents for more than nine months from the effective dates of such documents, in accordance with Rules 4.26(a)(2) and 4.36(b), respectively. The Commission's Division of Trading and Markets reviews disclosure documents filed by CPOs and CTAs, issues comment letters noting any compliance issues, and works with registrants to resolve these issues.[11]

NFA Compliance Rule 2–13 requires that NFA members file with NFA a copy of any document required to be filed with the Commission pursuant to Part 4 of the regulations. NFA staff review CPO and CTA disclosure documents during the course of on-site audits as well as through a desk review program, as part of its audit priority system. In light of NFA's experience in receiving and reviewing disclosure documents of CPOs and CTAs, the Commission believes that it is appropriate for NFA to undertake the performance of this function. Accordingly, by this Order, NFA is authorized to review all disclosure documents filed by CTAs and all disclosure documents filed by CPOs for privately offered commodity pools[12] and to provide notice of deficiencies. Such review of CTA and CPO disclosure documents will include those documents filed pursuant to the instant filing procedure set forth in Commission Advisory 95–44.[13]

B. Notices of Eligibility for Exclusion From the Definition of CPO

Rule 4.5 provides an exclusion from the definition of commodity pool operator for certain persons who would otherwise be considered commodity pool operators. This exclusion is available for certain otherwise regulated persons, as set forth in Rule 4.5 (a)(1) through (a)(4) in connection with the operation of a qualified entity as described in Rule 4.5(b).[14] Eligible persons claiming exclusion pursuant to Rule 4.5 must file with the Commission and NFA a notice of eligibility containing the information specified in Rule 4.5(c). By this Order, NFA is authorized to process notices of eligibility for exclusion from the definition of the term commodity pool operator pursuant to Rule 4.5.

C. Claims for Exemption From Certain Part 4 Requirements With Respect to Commodity Pools and CTAs Whose Participants or Clients Are QEPs or QECs

Rule 4.7 provides an exemption from certain Part 4 requirements with respect to the operators of commodity pools whose participants are limited to QEPs and with respect to commodity trading advisors whose clients are QECs, as those terms are defined by the Rule. Any registered commodity pool operator meeting the requirements of Rule 4.7(a)(2) may claim relief from certain disclosure, reporting, and recordkeeping requirements by filing with the Commission and NFA a notice of claim for exemption pursuant to Rule 4.7(a)(3). Any registered commodity trading advisor meeting the requirements of Rule 4.7(b)(2) may claim relief from disclosure and recordkeeping requirements with respect to the accounts or qualified eligible clients who have given due consent to their account being an exempt account under Rule 4.7 by filing with the Commission and NFA a notice of claim for exemption pursuant to paragraph 4.7(b)(3). By this Order, NFA is authorized to process notices of claim for exemption filed by qualifying CPOs and CTAs pursuant to Rule 4.7.

D. Exemption From Certain Part 4 Requirements for CPOs With Respect to Pools That Principally Trade Securities

Rule 4.12(b) provides an exemption from certain disclosure and reporting requirements for registered CPOs of pools which principally trade securities and meet the criteria set forth in Rule 4.12(b)(1). Eligible CPOs must file a claim of exemption with the Commission and NFA pursuant to Rule 4.12(b)(3). By this Order, NFA is authorized to process claims for exemption filed by qualifying CPOs pursuant to Rule 4.12(b).

E. Exemption From Registration as a CPO

Rule 4.13 provides for an exemption from registration as a CPO for persons operating pools which meet the criteria set forth in either Rule 4.13(a)(1) or Rule 4.13(a)(2). Eligible persons must file with the Commission and NFA copies of the statement provided to pool participants setting forth the information specified in Rule 4.13(b)(1). By this Order, NFA is authorized to process statements of exemption from CPO registration filed by qualifying persons pursuant to Rule 4.13.

F. Exemption From Registration as a CTA for Certain Persons Registered as Investment Advisers

Rule 4.14(a)(8) provides exemption from registration as a CTA for registered investment advisers whose commodity advice is directed to Rule 4.5 entities and who meet the other criteria set forth in Rule 4.14(a)(8) (i)–(ii). Persons claiming exemption from CTA registration pursuant to Rule 4.14(a)(8) must file with the Commission and NFA a notice of exemption in accordance with Rule 4.14(a)(8) (iii) and (v). By this Order, NFA is authorized to process notices of exemption from CTA registration filed by qualifying persons pursuant to Rule 4.14(a)(8).

G. Claims for Exemption From Provisions of Part 4 for Certain Registered CPOs Operating Offshore Pools

Commission Advisory 18–96 makes generally available to certain registered CPOs relief from disclosure, reporting and certain recordkeeping requirements in connection with the operation of offshore commodity pools. Registered CPOs who operate offshore commodity pools may claim such relief by filing a notice of a claim for exemption with the

[9] Rule 4.8 provides an exemption from the 21-day prefiling requirement of Rule 4.26(d)(1) to CPOs with respect to pools offered or sold solely to ''accredited investors'' in an offering exempt from registration under the Securities Act of 1933, as well as to CPOs of 4.12(b) pools in an exempt offering under the Securities Act of 1933.

[10] Pursuant to Rule 4.31(a), a CTA may not solicit or enter into an agreement with a prospective client to direct or to guide the client's commodity interest account or trading unless, at or before the time it engages in the solicitation or enters into the agreement (whichever is earlier), the CTA delivers or causes to be delivered to the prospective client a disclosure document for the trading program containing the information set forth in the Rule 4.34.

[11] 45 FR 51600, 51603 (August 4, 1980); 46 FR 26004, 26010 (May 8, 1981).

[12] Pursuant to Rule 4.24(d)(3)(i), privately offered commodity pools are those offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*).

[13] CFTC Interpretative Letter No. 95–44, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,385 (April 20, 1995).

[14] Rule 4.5 also excludes certain trading vehicles from the commodity pool definition, and thus, their operators are not required to file any notice or make any specified representations to claim exclusion from the commodity pool operator definition.

Commission and NFA that sets forth the representations specified in the Advisory. By this Order, NFA is authorized to process notices of claims for exemption filed by qualifying CPOs pursuant to Advisory 18–96.

H. Recordkeeping Requirements

By prior orders, the Commission has authorized NFA to maintain various other Commission registration records and has certified NFA as the official custodian of such records for this agency.[15] The Commission has now determined, in accordance with its authority under Section 8a(10) of the Act, to authorize NFA to maintain and to serve as the official custodian of records for the filings, notices and claims required by Rules 4.26(d), 4.36(d), 4.5, 4.7, 4.12(b), 4.13 and 4.14(a)(8) and Commission Advisory 18–96. This determination is based upon NFA's representations regarding the implementation of rules and procedures for maintaining and safeguarding all such records, in connection with NFA's assumption of responsibility for the above-mentioned activities.

In maintaining the Commission's records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it by the Commission in existing or future orders or regulations. In this regard, NFA shall also implement such additional procedures (or modify existing procedures) as are acceptable to the Commission and as are necessary: to ensure the security and integrity of the records in NFA's custody; to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission orders or rules; to facilitate disclosure of public or nonpublic information in those records when permitted by Commission orders or rules and to keep logs as required by the Commission concerning disclosure of nonpublic information; and otherwise to safeguard the confidentiality of the records.

II. Conclusion and Order

The Commission has determined, in accordance with the provisions of Sections 8a(10) and 17(o)(1) of the Act and NFA's letter dated August 27, 1997, to authorize NFA to perform the following functions:

(1) To conduct reviews of disclosure documents required to be filed with the Commission by CPOs and CTAs pursuant to Rules 4.26(d) and 4.36(d), respectively;

(2) To process notices of eligibility for exclusion for certain otherwise regulated persons from the definition of CPO, pursuant to Rule 4.5;

(3) to process notices of claim for exemption from certain Part 4 requirements with respect to commodity pools and CTAs whose participants or clients are QEPs or QECs, respectively, pursuant to Rule 4.7;

(4) To process claims of exemption from certain Part 4 requirements for CPOs with respect to pools that principally trade securities, pursuant to Rule 4.12(b);

(5) To process statements of exemption from registration as a CPO, pursuant to Rule 4.13;

(6) To process notices of exemption from registration as a CTA for certain persons registered as an investment adviser, pursuant to Rule 4.14(a)(8);

(7) To process notices of claim for exemption from provisions of Part 4 for certain registered CPOs operating offshore pools, pursuant to Advisory 18-96; and

(8) To maintain and to serve as the official custodian of records for the filings, notices and claims required by the rules listed above.

NFA shall perform these functions in accordance with the standards established by the Act and the regulations and orders promulgated thereunder, particularly Part 4 of the regulations and Commission orders issued thereunder, and shall provide the Commission with such summaries and periodic reports as the Commission may determine are necessary for effective oversight of this program.

These determinations are based upon the Congressional intent expressed in Sections 8a(10) and 17(o) of the Act that the Commission have the authority to delegate to NFA any portion of the Commission's registration responsibilities under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner and upon NFA's representations concerning the standards and procedures to be followed and the reports to be generated in administering these functions.

This Order does not, however, authorize NFA to render ''no-action'' positions, exemptions or interpretations with respect to applicable disclosure, reporting, recordkeeping and registration requirements.

Nothing in this Order or in Sections 8a(10) or 17(o) of the Act shall affect the Commission's authority to review NFA's performance of the Commission functions listed in paragraphs 1–8 above.

NFA is authorized to perform all functions specified herein until such time as the Commission orders otherwise. Nothing in this Order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matters that have been delegated to it, and Commission staff will be available to discuss with NFA staff issues relating to the implementation of this Order. Nothing in this Order affects the applicability of any previous orders issued by the Commission under Part 4.

Issued in Washington, D.C., on September 30, 1997 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26389 Filed 10–3–97; 8:45 am]

BILLING CODE 6351–01–P

[15] 49 FR 39593 (October 9, 1984); 50 FR 34885 (August 28, 1985); 51 FR 25929 (July 17, 1986); 54 FR 19594 (May 8, 1989); 54 FR 41133 (October 5, 1989); 58 FR 19657 (April 15, 1993).

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 1998 Mental Health Rate Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; the beneficiary per diem cost-share amount for low volume providers for FY 1998 under the TRICARE Mental Health Per Diem Payment System; and the updated per diem rates for both full-day and half-day TRICARE Partial Hospitalization Programs for fiscal year 1998.

EFFECTIVE DATE: The rates contained in this notice are effective for services occurring on or after October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Program Development Branch, TRICARE Support Office, telephone (303) 361–1342.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on September 6, 1988, (53 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. The final rule published in the **Federal Register** on

July 1, 1993, (58 FR 35–400) set forth maximum per diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in these final rules were provisions for updating reimbursement rates for each federal fiscal year. As stated in the final rules, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. The final rule published in the **Federal Register** March 7, 1995, (60 FR 12419) set forth retaining all per diems in effect at the end of fiscal year 1995 with no additional updates for fiscal years 1996 and 1997. Medicare has recommended a rate of increase of 0 percent for federal fiscal year 1998 for hospitals and units excluded from the prospective payment system. TRICARE will adopt this update factor for FY 1998 as the final update factor.

Hospital and units with hospital-specific rates (hospitals and units with high TRICARE volume) and regional specific rates for psychiatric hospitals and units with low TRICARE volume will have their TRICARE rates remain at FY 1995 levels. Partial hospitalization rates for full day and half day programs will also remain at FY 1995 levels. The cap amount for high volume hospitals and units will stay at the FY 1995 level. The beneficiary cost-share of low volume hospitals and units will also stay at the FY 1995 level. The wage portion of the regional rate subject to the area wage adjustment will be 71.1 percent for FY 1998.

Dated: October 1, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26461 Filed 10–3–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

List of Institutions of Higher Education Ineligible for Federal Funds

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This document is published to identify institutions of higher education that are ineligible for contracts and grants by reason of a determination by the Secretary of Defense that the institution prevents military recruiter access to the campus or students or maintains a policy against ROTC. It also implements the requirements set forth in the Omnibus Consolidated Appropriations Act of 1997 and 32 CFR Part 216. The institutions of higher education so identified are:

Washington College of Law of American University, Washington, DC

William Mitchell College of Law, St. Paul, Minnesota

Recently, the following institution of higher education reported modifications to school policies sufficient to merit removal from the list of ineligible schools.

Willamette University College of Law, Salem, Oregon

The Omnibus Consolidated Appropriations Act of 1997 provides that schools prohibited by state laws or court rulings from providing the requisite degree of access for ROTC or military recruiting would not be denied funding prior to one year following the effective date of that aw (i.e., not until March 29, 1998). However, that provision applies only to funds from agencies other than the Department of Defense, which is bound by provisions of the National Defense Authorization Acts for Fiscal Years 1995 and 1996. Therefore, the Secretary of Defense has determined that the following institutions of higher education prevent recruiter access to campuses, students, or student information and are ineligible for DoD contracts and grants.

Asnuntuck Community-Technical College, Enfield, Connecticut

Capital Community-Technical College, Hartford, Connecticut

Central Connecticut State University, New Britain, Connecticut

Charter Oak State College, Newington, Connecticut

Connecticut Community-Technical College, Winsted, Connecticut

Eastern Connecticut State University, Willimantic, Connecticut

Gateway Community-Technical College, North Haven, Connecticut

Housatonic Community-Technical College, Bridgeport, Connecticut

Manchester Community-Technical College, Manchester, Connecticut

Middlesex Community-Technical College, Middletown, Connecticut

Naugatuck Community-Technical College, Waterbury, Connecticut

Norwalk Community-Technical College, Norwalk, Connecticut

Quinebaug Valley Community-Technical College, Danielson, Connecticut

Southern Connecticut State University, New Haven, Connecticut

Three Rivers Community-Technical College, Norwich, Connecticut

Tunxis Community-Technical College, Farmington, Connecticut

Western Connecticut State University, Danbury, Connecticut

ADDRESSES: Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: William J. Carr, (703) 697–8444.

SUPPLEMENTARY INFORMATION: On April 8, 1997 (62 FR 16694), the Department of Defense published 32 CFR part 216 as an interim rule. This rule and the Omnibus Consolidated Appropriations Act of 1997, requires the Department of Defense semi-annually to publish a list of the institutions of higher education ineligible for Federal funds. 32 CFR part 216 and the Secretary of Defense under 108 Stat. 2663, 10 U.S.C. 983, and 110 Stat. 3009 and/or this part identifies institutions of higher education that have a policy or practice that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy. On August 28, 1997 (62 FR 45631), the Department of Defense published a list of the institutions of higher education ineligible for Federal Funding; this listing updates and supersedes that listing.

Dated: September 30, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 97–26344 Filed 10–3–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Satellite Reconnaissance

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Satellite Reconnaissance will meet in closed session on September 29–30, 1997 at Headquarters NRO, Chantilly, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review the

operational, technical, industrial, and financial aspects of the following and recommend a course of action for the Department: the National Reconnaissance Office's (NRO) is creating a Future Imager Architecture as a basis for acquiring the next generation of imaging satellite systems and their associated ground control and processing; and in parallel, DARPA is advocating the development and demonstration of a Surveillance and Targeting Light Satellite (Starlite) System with attributes that may not be included in NRO's architecture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concern matters listed in 5 U.S.C. § 552b(c) (1) (1994), and that accordingly this meeting will be closed to the public.

Dated: September 30, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 97–26342 Filed 10–3–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Satellite Reconnaissance

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Open Systems will meet in closed session on October 9, 1997 at Strategic analysis, Inc., 4001 N. Fairfax Drive, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefing, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine the benefits of, criteria for, and obstacles to the application of an open systems approach to weapon systems, and to make recommendations on revisions to DoD policy, practice, or investment strategies that are required to obtain maximum benefit from adopting open systems. The Task Force should examine application to new defense programs, to those that have already made substantial investments in a design, and to those that are already fielded, across the spectrum of weapon systems, not just those heavily dependent on advanced computers and electronics.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concern matters listed in 5 U.S.C. 552b(c) (1) (1994), and that accordingly this meeting will be closed to the public.

Dated: September 30, 1997.

L.M. Bynum,

Altenate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 97–26343 Filed 10–3–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Committee

AGENCY: U.S. Army War College.

ACTION: Notice of Meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

Name of Committee: U.S. Army War College Subcommittee of the Army Education Advisory Committee.

Dates of Meeting: October 20 and 21, 1997.

Place: Deputy Chief of Staff for Operations Conference Room, Pentagon, Washington, DC.

Time: 1:00 p.m.–5:00 p.m. (October 20, 1997); 8:30 a.m.–12:00 p.m. (October 21, 1997).

Proposed Agenda: Meet with U.S. Army War College Commandant, Deputy Chief of Staff for Operations, Army Chief of Staff, and Secretary of the Army; receive information briefings, conduct discussions concerning federal degree granting authority, and provide guidance concerning accreditation and areas for improvement.

FOR FURTHER INFORMATION CONTACT: Colonel Terry J. Young, Box 418, U.S. Army War College, Carlisle Barracks, PA 17013 or phone (717) 245–3907.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee after receiving advance approval for participation. To request advance approval or obtain further information, contact Colonel Terry J. Young at the above address or phone number.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–26396 Filed 10–3–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Training and Doctrine Command (TRADOC)

ACTION: Notice of Meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Distance Learning/Training Technology Subcommittee of the Army Education Advisory Committee.

Date: 12–14 November 1997.

Place: Virginia Air and Space Center, 600 Settlers Landing Road, Hampton, Virginia 23669–4033.

Time: 1300–1700 on 12 November 1997; 0800–1700 on 13 November 1997; and 0830–1130 on 14 November 1997.

Proposed Agenda: Review and discussion of the status of Army Distance Learning.

Purpose of the Meeting: The members will advise the Assistant Deputy Chief of Staff (ADCST), HQ Training and Doctrine Command (TRADOC), on matters pertaining to education and training technologies to be used for Army Distance Learning.

FOR FURTHER INFORMATION CONTACT: All communications regarding this advisory committee should be addressed to Dr. Mimi Stout, at Commander, Headquarters TRADOC, Attn: ATTG–CF (Dr. Mimi Stout), Fort Monroe, VA 23651–5000; telephone number (757) 728–5531.

SUPPLEMENTARY INFORMATION: Meeting of the advisory committee is open to the public. Because of restricted meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend any of the 12–14 November 1997 sessions.

Any members of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public

presentations of oral statements at the meeting.

Robert E. Seger,

Senior Executive Service Assistant Deputy Chief of Staff for Training.

[FR Doc. 97–26397 Filed 10–3–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of Composite Material Properties Data for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Army Research Laboratory, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to United States patents 5,635,434, issued June 3, 1997, entitled ''Ceramic ferroelectric composite material-BSTO-magnesium based compound'', and 5,635,433, issued June 3, 1997, entitled ''Ceramic ferroelectric composite material-BSTO-ZnO''. Licenses shall comply with 35 U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 434, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 97–26374 Filed 10–3–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Topical Prophylaxis Against Schistosomal Infections

AGENCY: Army Medical Research and Material Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 4,659,738 entitled ''Topical Prophylaxis Against Schistosomal Infections'' and issued on April 21, 1987. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, Attn: Command Judge Advocate, MCMR-JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702-5012.

FOR FURTHER INFORMATION CONTACT: Mr. Jay P. Winchester, Attorney-Advisor, (301) 619-2065 or telefax (301) 619-5034.

SUPPLEMENTARY INFORMATION: The invention encompassed by this patent is an improved method for the prevention of schistosomal infections, and the subsequent manifestations of the diseases known as schistosomiasis, bilharzia, or ''swimmers itch'', by preventing the larval forms of the parasites, known as cercariae, from penetrating the skin of the vertebrate host. The topical application of a 2-hydroxy-benzoic anilide provides prophylactic protection against dermal penetration by the infective larvae of the parasitic worms.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–26395 Filed 10–3–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; Comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response × proposed frequency of response per year × estimated number of likely respondents.)

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jay Casselberry, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Casselberry may be telephoned at (202) 426–1116, FAX (202) 426–1081, or e-mail at Jay.Casselberry@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collections submitted to OMB for review were:

1. EIA–800–804, 807, 810–814, 816, 817, 819M, and 820, ''Petroleum Supply Reporting System''.

2. Energy Information Administration; 1905–0165; Extension with no changes; Mandatory.

3. EIA's Petroleum Supply Reporting System collects information needed for determining the supply and disposition of crude oil, petroleum products, and natural gas liquids. The data are published by EIA and are used by public and private analysts. Respondents are operators of petroleum refineries, blending plants, bulk terminals, crude oil and product pipelines, natural gas plant facilities, tankers, barges, and oil importers.

4. Business or other for-profit; Federal government; State government.

5. 55,605 hours (1.138 hours per response × 18.68 responses per year × 2616 respondents).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., September 29, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–26439 Filed 10–3–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3788–000]

Anker Power Services, Inc.; Notice of Issuance of Order

October 1, 1997.

Anker Power Services, Inc. (Anker) submitted for filing a rate schedule under which Anker will engage in wholesale electric power and energy transactions as a marketer. Anker also requested waiver of various Commission regulations. In particular, Anker requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Anker.

On September 19, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Anker, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within the period, Anker is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Anker's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 20, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26407 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–772–000]

Atlanta Gas Light Company; Notice of Application

September 30, 1997.

Take notice that on September 25, 1997, Atlanta Gas Light Company (Atlanta) 303 Peachtree Street, N.E.., Atlanta, Georgia 30308, filed in Docket No. CP97–772–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Section 284.224 of the Commission's Regulations, for a limited-jurisdiction blanket certificate of public convenience and necessity authorizing Atlanta to transport natural gas from time to time, all as more fully set forth in the application on file with the Commission and open to public inspection.

Atlanta states that it has recently been approached by parties seeking service this winter and prompt issuance of a blanket certificate will facilitate Atlanta's ability to meet market demand on a timely basis.[1] Atlanta requests waiver of Section 284.224(c)(7), stating that it is not proposing to establish rates at this time. Atlanta indicates that after issuance of the blanket certificate, it will petition the Commission for rate approval for individual transactions in accordance with Section 284.123(b)(2).

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Atlanta to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26368 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Atlanta was found to be a Hinshaw pipeline exempt from the Commission's jurisdiction under Section 1(c) by Commission order issued December 21, 1955, in Docket No. G–9585. (14 FPC 1156)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–769–000]

Colorado Interstate Gas Company; Notice of Application

September 30, 1997.

Take notice that on September 24, 1997, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, pursuant to Section 7(c) of the Natural Gas Act, as amended, filed in Docket No. CP97–769–000 an application for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that it proposes to construct the Campo Lateral from an interconnect with CIG's 10-inch diameter Picketwire Lateral in Las Animas County, Colorado to an interconnect with CIG's Campo Regulator Station in Baca County, Colorado. The proposal consists of approximately 115 miles of 16-inch diameter pipeline and will increase CIG's capacity out of the Raton Basin Area in Colorado and New Mexico. The capacity of the proposed lateral is approximately 110,000 Mcf per day, with an estimated cost of approximately $20.6 million.

CIG states that it has existing and incremental firm transportation commitments increased to 73 percent of the capacity of the proposed lateral in August, 2000. CIG has further requested an advance determination that these facilities be given rolled-in rate treatment.

CIG also requests appropriate Commission authority required to increase the Picketwire lateral maximum allowable operating pressure to 1308 psig.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirement of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by the other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–26366 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–776–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

September 30, 1997.

Take notice that on September 26, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP97–776–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon eleven delivery taps in Hancock, Harrison and Jackson Counties, Mississippi, under Koch Gateway's 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 that is on file with the Commission and open to public inspection.

Koch Gateway requests authorization to abandon eleven (11) farm taps on its Index 276 transmission pipeline in Hancock, Harrison and Jackson Counties Mississippi. Koch Gateway states that it is taking steps to implement the order issued on June 21, 1994 in FERC Docket No. CP94–76–000 to abandon by sale to Koch Pipeline, Inc., a subsidiary of Koch Industries, Inc., its Index 276 transmission pipeline. In its application for abandonment Koch Gateway indicated that is would make prior notice filings to abandon existing delivery taps on the Index 276 and that this instant filing is one of those filings.

Koch Gateway proposes to plug each tap and remove all valves and above-ground appurtenances at the various locations. Koch Gateway states that these farm taps were originally certificated in FPC Docket No. G–232, and that the taps are inactive and no services will be affected by the proposed abandonment. Koch Gateway states that Entex, Inc. (Entex), the local distribution company through which these farm tap services were previously provided, has removed its metering facilities at each farm tap location, and that Entex has agreed to the proposed abandonment.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–26367 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4108–000]

Turner Energy, L.L.C.; Notice of Issuance of Order

October 1, 1997.

Turner Energy, L.L.C (Turner Energy) submitted for filing a rate schedule under which Turner Energy will engage in wholesale electric power and energy transactions as a marketer. Turner Energy also requested waiver of various Commission regulations. In particular, Turner Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Turner Energy.

On September 22, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Turner Energy should file a motion to intervene or protest with the Federal Energy Regulation Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Turner Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Turner Energy's issuance of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 22, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26408 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4526–000, et al.]

New Century Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

September 29, 1997.

Take notice that the following filings have been made with the Commission:

1. New Century Services, Inc.

[Docket No. ER97–4526–000]

Take notice that on September 8, 1997, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between Public Service Company of Colorado and Western Resources.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER97–4527–000]

Take notice that on September 8, 1997, New Century Services, Inc., on behalf of Southwestern Public Service Company (''Southwestern'') submitted an executed umbrella service agreement between Southwestern and e Prime, Inc. under Southwestern's Rate Schedule for the Sale, Assignment, or Transfer of Transmission Rights.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company

[Docket No. ER97–4528–000]

Take notice that on September 8, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-to-Point Transmission Service Agreement between LG&E and Florida Power Corporation under LG&E's Open Access Transmission Tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Union Electric Company

[Docket No. ER97–4529–000]

Take notice that on September 8, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Southern Company Services, Inc., Southern Energy Trading and Marketing, Inc. and Tennessee Valley Authority. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER97–4530–000]

Take notice that on September 8, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Purchase and Sales Agreement between LG&E and The Energy Authority under LG&E's Rate Schedule GSS.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. New Century Services, Inc.

[Docket No. ER97–4531–000]

Take notice that on September 8, 1997, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between Public Service Company of Colorado and Citizens Power Sales.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. New Century Services, Inc.

[Docket No. ER97–4532–000]

Take notice that on September 8, 1997, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively ''Companies'') tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the

Companies and Constellation Power Source, Inc.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Dayton Power and Light Company

[Docket No. ER97–4533–000]

Take notice that on September 4, 1997, Dayton Power and Light Company (DP&L), tendered for filing changes to DP&L's Market Based Sales Tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power & Light Company

[Docket No. ER97–4534–000]

Take notice that on September 8, 1997, Minnesota Power & Light Company (MP), tendered for filing signed Service Agreements with Marquette (MI) Board of Light & Power and Willmar Municipal Utilities Commission under MP's cost-based Wholesale Coordination Sales Tariff WCS–1 to satisfy its filing requirements under this tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Minnesota Power & Light Company

[Docket No. ER97–4535–000]

Take notice that on September 8, 1997, Minnesota Power & Light Company tendered for filing a signed Service Agreement with Commonwealth Edison Company, Marquette Board of Light & Power, and Willmar Municipal Utilities Commission, under its market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER97–4536–000]

Take notice that on September 8, 1997, Wisconsin Electric Power Company (''Wisconsin Electric''), tendered for filing a Short Term Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement between itself and (''Virginia Power''). The Transmission Service Agreement allows Virginia Power to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Virginia Power, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. American Electric Power

[Docket No. ER97–4537–000]

Take notice that on September 8, 1997, American Electric Power, tendered for filing a Notice of Cancellation of Rate Schedule FERC No. Supplement No. 1 to FPC No. 1 of Central Operating Company and Supplement No. 1 to FPC No. 19 of Appalachian Electric Power Company and Supplement No. 1 to FPC No. 19 of the Ohio Power Company as originally authorized by the Federal Power Commission in the *Matters of Central Operating Company, Appalachian Electric Company and The Ohio Power Company*, Order Allowing Supplemental Rate Schedules To Take Effect, dated October 31, 1950, and issued November 1, 1950, are to be canceled.

American Electric requests that this cancellation become effective January 1, 1998.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER97–4538–000]

Take notice that on September 8, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-to-Point Transmission Service Agreement between LG&E and Public Service Electric and Gas Company under LG&E's Open Access Transmission Tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company

[Docket No. ER97–4539–000]

Take notice that on September 8, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-to-Point Transmission Service Agreement between LG&E and The Power Company of America under LG&E's Open Access Transmission Tariff.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Electric and Gas Company

[Docket No. ER97–4540–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Valero Power Services Company (''Valero'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 9, 1997.

Copies of the filing have been served upon Valero and the New Jersey Board of Public Utilities.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26409 Filed 10–3–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5905–6]

Notice Of Public Meeting On Drinking Water Analytical Methods

Notice is hereby given that the Environmental Protection Agency (EPA) is holding a three-day Protozoan Method Development Workshop on October 20–22, 1997, for the purpose of information exchange on research projects, currently underway, related to developing an improved analytical method for *Cryptosporidium* and *Giardia* to address detection,

enumeration and characterization of these protozoan in drinking water. This workshop will also address what performance criteria may be appropriate for an analytical method for the final Enhanced Surface Water Treatment Rule (ESWTR), to be promulgated in May 2002. Topics to be presented by experts may include methods that enhance the sensitivity and reliability of the ICR Protozoan Method, provide improved recovery efficiencies, determine speciation of *Cryptosporidium* and *Giardia* using molecular biological methods, and ascertain viability and infectivity of *Cryptosporidium* and *Giardia*.

EPA is inviting all interested members of the public to attend the meeting, which will be held at Quality Hotel in Arlington, Virginia (Arlington Boulevard and North Courthouse Road). For further information regarding agenda or other aspects of the meeting, members of the public are requested to contact Crystal Rodgers of EPA's Office of Ground Water and Drinking Water at (202) 260–0676 or by e-mail at rodgers.crystal@epamail.epa.gov.

Dated: September 30, 1997.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–26441 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5905–4]

National Advisory Committee to the U.S. Representative to the North American Commission on Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the National Advisory Committee (NAC) to the U.S. Government Representative to the North American Commission on Environmental Cooperation (CEC).

The Committee is established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the CEC. The Committee is authorized under Article 17 of the North American Agreement on Environmental Cooperation, North America Free Trade Implementation Act, Pub. L. 103–182 and is directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation''. The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of 12 independent representatives drawn from among environmental groups, business and industry, public policy organizations and educational institutions.

DATES: The Committee will meet on October 30, 1997 from 8:30 a.m. to 5:00 p.m. and October 31, 1997 from 8:00 a.m. to 4:30 p.m.

ADDRESSES: The Ramada Plaza Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Ross, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–9752.

Dated: September 25, 1997.

Deborah Ross,

Acting Designated Federal Officer, National Advisory Committee.

[FR Doc. 97–26437 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5905–5]

Governmental Advisory Committee to the U.S. Representative to the North American Commission on Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the Governmental Advisory Committee (GAC) to the U.S. Government Representative to the North American Commission on Environmental Cooperation (CEC).

The Committee is established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the CEC. The Committee is authorized under Article 18 of the North American Agreement on Environmental Cooperation, North America Free Trade Implementation Act, Public Law 103–182 and is directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation''. The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of a group of 10 representatives drawn from state, local and tribal governments.

DATES: The Committee will meet on October 30,1997 from 8:30 a.m. to 5:00 p.m. and October 31,1997 from 8:00 a.m. to 4:30 p.m.

ADDRESSES: The Ramada Plaza Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Dated: September 25, 1997.

Robert Hardaker,

Designated Federal Officer, Governmental Advisory Committee.

[FR Doc. 97–26438 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5903–2]

Performance Based Measurement System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) plans to implement a Performance Based Measurement System (PBMS) for environmental monitoring in all of its media programs to the extent feasible. The Agency defines PBMS as a set of processes wherein the data quality needs, mandates or limitations of a program or project are specified, and serve as criteria for selecting appropriate methods to meet those needs in a cost-effective manner. Where PBMS is implemented, the regulated community would be able to select any appropriate analytical test method for use in complying with EPA's regulations. It is EPA's intent that implementation of PBMS have the overall effect of improving data quality and encouraging advancement of analytical technologies.

The Agency anticipates proposing amendments to certain of its regulations, as needed, to incorporate PBMS into its regulatory programs.

DATES: Comments should be sent to the address listed below by November 5, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–97–PBMA–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–PBMA–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For specific information regarding this notice, contact Carol Finch, Executive Director, Environmental Monitoring Management Council (8101R), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460 (202) 564–6638.

SUPPLEMENTARY INFORMATION: Historically, some EPA programs have specified required analytical methods to be used by the regulated community in the analysis of environmental samples for regulatory compliance purposes. EPA has published its methods in regulations and in a number of compendia, such as: Manual of Methods for Chemical Analysis of Water and Wastes, and Methods for the Determination of Organic Compounds in Drinking Water.

The requirement to use specific analytical methods for compliance purposes is one of several means for assuring a minimum level of consistency and reliability in environmental monitoring.

In certain instances, in order to provide regulated parties with the flexibility to use alternative methods, EPA programs have established administrative processes by which the public could submit a proposed method for Agency review and approval. For example, in EPA's water programs, alternative test procedures program are described at 40 CFR 136.4, 136.5, and 141.27. In most cases, EPA's regulations require that alternative methods be approved by the Agency before they are used in regulatory compliance applications.

In general, the approval processes have proven to be lengthy and often it takes several years to receive approval for a proposed method or method modification. This approach of specifying required methods and approving new methods has been identified as a major barrier to the use of innovative monitoring technology. In order to address these concerns, EPA's Environmental Monitoring Management Council (EMMC) established a Work Group of scientists representing EPA's Headquarters and Regional offices to consider the advisability of establishing a performance-based approach to specifying analytical testing requirements. Based on the recommendations of the work group, the Agency has decided to incorporate the PBMS approach into its programs, to the extent feasible.

The Agency intends that PBMS provide the regulated community with flexibility in conducting required environmental monitoring, expedite the use of new and innovative techniques, and result in less costly approaches to conducting required monitoring and measurements. Under PBMS, the Agency would normally continue to allow use of its current required methods as well.

The Agency has defined PBMS as a set of processes wherein the data quality needs, mandates or limitations of a program or project are specified, and serve as criteria for selecting appropriate methods to meet those needs in a cost-effective manner. Under PBMS, the Agency would identify relevant performance characteristics of analytical methods and would specify quantitative performance criteria for each of those characteristics without prescribing specific procedures, techniques or instrumentation. Individual EPA programs may need to adopt a phased approach to specifying performance criteria and performance criteria may be linked to specific instruments, techniques, or methods in the initial phase. However, EPA's ultimate goal is to specify performance criteria that are not linked to methods, techniques, or instruments.

Performance criteria may be established for characteristics such as method precision and accuracy, for example. These performance criteria would be designated based on the question(s) or decision(s) to be addressed by the subject measurement, the level of uncertainty that is acceptable, the ease with which method performance can be verified, and other factors. The criteria may be published in regulations or in technical guidance documents, depending on the individual program.

In a program where PBMS is implemented, the regulated community would be required to demonstrate that the measurement method to be used meets the specified performance criteria by documenting both initial and continuing method performance according to a required protocol. Regulated parties would also be required to maintain records documenting initial and continuing demonstrations of method performance. They would also be required to maintain written certification that they have used appropriate quality assurance and quality control procedures. PBMS would apply to most physical, chemical, and biological measurements conducted either in laboratories or in the field. PBMS would not apply to method-defined parameters, that is, parameters for which the method defines the property (e.g., Toxicity Characteristic Leaching Procedure under the Resource Conservation and Recovery Act, five-day Biochemical Oxygen Demand under the Clean Water Act, and airborne and stationary source particulate matter under the Clean Air Act) or for situations where it would be impractical or cost prohibitive to define the property except by using a reference method (e.g., where a stable reference standard cannot be prepared). Additionally, PBMS may not be applied to analytical services obtained under

contract by EPA which are subject to specific methods and Statements of Work, such as the Superfund Contract Laboratory Program (CLP).

EPA intends to implement PBMS on a program-specific basis. Each of EPA's programs is presently developing a plan for implementation. Each implementation plan will address the specifics of how PBMS will work in specific regulatory programs. The plans will address, for example, the scope of PBMS application within the program (i.e., which measurements will be subject to PBMS), any record keeping or documentation requirements, and the specific steps that will be taken by EPA to implement PBMS within the program. The Agency's goal is for each Office to prepare a plan for implementing PBMS by September of 1997 and move to implementation of PBMS by September 1998.[1] Any required extensions of the 1998 implementation goal will be considered on a case-by-case basis based on implementation steps outlined in each program's plan.

Once implementation plans are finalized, the Agency may publish additional notices to inform the public of specific implementation actions to be taken and the proposed schedule for those actions. In addition, as individual programs take steps to amend existing regulations for the purpose of implementing PBMS, notices of proposed rulemakings will be published. Throughout this process, EPA intends to provide ample opportunity for the public to comment on specific aspects of PBMS implementation. For example, the Agency plans to engage in a dialogue, both inside and outside EPA, to get input from various stakeholders on how to best implement PBMS. We will seek input from all affected parties regarding PBMS implementation in all of EPA's programs. Today's notice is a general announcement of our intent to implement PBMS in EPA programs. EPA will consider any comments provided in response to this notice. The following is a list of issues that commenters may wish to address:

1. The potential environmental benefits or consequences that may be achieved through implementation of PBMS.

2. The potential implications for improvements in environmental monitoring technology through implementation of PBMS.

3. The potential costs or cost savings (to the regulated community, laboratories, or others) that may result from PBMS implementation.

4. The potential impacts of PBMS on small entities.

5. The potential effect of PBMS on compliance monitoring and enforcement of regulatory and statutory requirements. For example:

—potential challenges to state enforcement programs that will result from implementation of PBMS.

—The level of expertise necessary for EPA and state inspectors to successfully determine the adequacy of a PBMS method.

—The resource and training implications of PBMS, especially for state environmental programs.

—The impact (if any) of PBMS on industry's ability to determine compliance with Federal and/or state regulations and applicable permit conditions.

6. The potential effect of PBMS on the public's ability to understand and monitor facilities within their communities.

7. The advantages and disadvantages of using method performance criteria and documentation requirements for establishing that methods achieve required performance levels.

8. The adequacy of the draft checklists for identifying and describing documentation requirements.

9. The need for EPA and state regulatory agencies to receive written notice where PBMS methods will be used by regulated parties.

10. The feasibility of applying PBMS to the various environmental measurements required by individual EPA programs.

To assist in program-specific implementation, the Agency has developed a draft set of generic checklists and companion instructions to describe the recommended documentation for an initial and continuing demonstration of method performance. Individual programs would use these generic checklists, with program-specific requirements, as appropriate, to delineate the records that would be required for compliance with PBMS. The checklists are one of a number of technical tools EPA would use to implement PBMS and communicate the requirements and guidelines associated with PBMS to the public. Copies of the draft generic checklists are available on EPA's Internet home page (http://www.epa.gov/pbms) or from the Docket.

Today's notice is not a final agency action and creates no rights enforceable by any party in litigation with the United States.

Dated: September 30, 1997.

Carol M. Browner,

Administrator.

[FR Doc. 97–26443 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–P

[1] In several cases, EPA programs have already taken steps to begin implementation of PBMS. See: Update 3 of SW–846 Methods (62 FR 32452) and the Methods Approval Streamlining Proposal (62 FR 14975) for examples in EPA's hazardous waste and water programs, respectively.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5905–1]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the City of Baldwin City, KS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the City of Baldwin City, Kansas.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Revocation or Suspension of Permits, CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public notice.

On May 9, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following Complaint: In the Matter of The City of Baldwin City, CWA Docket No. VII–97–W–0015.

The Complaint proposes to assess a penalty of Two Thousand Six Hundred and Thirty-five dollars ($2,635) dollars against The City of Baldwin City for the failure to comply with the applicable recordkeeping, monitoring, vector

attraction reduction and pathogen density requirements of section 405 of the Clean Water Act, 33 U.S. C. 1345 and the regulations promulgated pursuant to thereto and set forth at 40 CFR Part 503.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the City of Baldwin City is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: August 14, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–26431 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL—50905–2]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the City of LaHarpe, KS

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the City of LaHarpe, Kansas.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public notice.

On May 9, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following Complaint: In the Matter of The City of LaHarpe, CWA Docket No. VII–97–W–0011.

The Complaint proposes to assess a penalty of Two Thousand Five Hundred and Ten dollars ($2,510) dollars against The City of LaHarpe for the failure to comply with the applicable recordkeeping, monitoring, vector attraction reduction and pathogen density requirements of section 405 of the Clean Water Act, 33 U.S.C. 1345 and the regulations promulgated pursuant thereto and set forth at 40 CFR part 503.

FOR FURTHER INFORMATION CONTACT: Parsons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by The City of LaHarpe is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: August 14, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–26432 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

September 30, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 5, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form No.: FCC Form 301.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,996.

Estimated Hour Per Response: 37—159 hours (average) per response.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: $23,118,660.

Estimated Total Annual Burden: 8,071 hours.

Needs and Uses: On 4/3/97, the Commission adopted a Fifth Report and Order in MM Docket No. 87–268. This Order adopted several rules with the following objectives: (1) to promote the success of free, universally available, local broadcast television in a digital world, thereby preserving free, widely accessible programming that serves the public interest; and (2) to attract consumers swiftly to digital broadcast service, thus allowing the NTSC spectrum to be recovered and turned to use for other beneficial purposes more rapidly.

Section 336 of the Telecommunications Act of 1996 requires that the Commission limit the initial eligibility for digital television (DTV) licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct a television broadcast station. The Commission has issued a license to all eligible licensees and permittees in the form of an Appendix to the Fifth Report and Order in MM Docket No. 87–268. By issuing these DTV licenses with the Fifth Report and Order, the Commission has frozen initial eligibility and allowed the completion of the Table of Allotments. The license that we issued is a general instrument of authorization for licensees/permittees to receive and hold a second 6 MHz channel for the purpose of concerting to DTV. It is not an authorization to begin construction or operation.

To receive authorization for commencement of DTV operation, commercial broadcast licensees must file FCC 301 for a construction permit. This application may be filed anytime after receiving the initial DTV license but must be filed before the mid-point in a particular applicant's required construction period. The Commission has developed a new Section V–D for DTV engineering which will be added to the FCC 301. The Commission will consider these applications as minor changes in facilities. Applicants will not have to supply full legal or financial qualification information.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26419 Filed 10–3–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 30, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0512.

Expiration Date: 09/30/2000.

Title: ARMIS Annual SummaryReport (Formerly titled, ''ARMIS Quarterly Report'').

Form No.: FCC Report 43–01.

Respondents: Business or other for-profit.

Estimated Annual Burden: 150 respondents; 220 hours per response (avg.); 33,000 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually.

Description: ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rate of return to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS Annual Summary Report (FCC Report 43–01), formerly the ARMIS quarterly Report, contains financial and operating data and is used to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues. FCC Report 43–01 facilitates the annual collection of the results of accounting, rate base and cost allocation requirements prescribed in parts 32, 36, 64, 65, and 69. The information contained in the ARMIS Annual Summary Report provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities. Automated reporting of these data greatly enhances the Commission's ability to process and analyze the extensive amounts of data that are needed to administer its rules. It facilitates the timely and efficient analyses of revenue requirements, rates of return and price caps, and provides an improved basis for auditing and other oversight functions. It also enhances the Commission's ability to quantify the effects of policy proposals. Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), authorizes the Commission by general or special orders to require any carriers subject to this Act to file annual reports concerning any matters with respect to which the Commission is authorized or required by law to act. Section 43.21 of the Commission's rules details that requirement. Obligation to respond: mandatory.

OMB Control No.: 3060–0793.

Expiration Date: 03/31/98.

Title: Procedures for States Regarding Lifeline Consents, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.

Form No.: N/A.

Respondents: Business or other for profit; State, Local or Tribal Government.

Estimated Annual Burden: 890 respondents; 1.25 hours per response (avg.); 1120 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; annually.

Description: On May 8, 1997 the Commission released Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96–45, FCC 97–157 (Order). In that Order, the Commission adopted rules providing funding for discounts to eligible schools and libraries. The Commission also adopted rules mandating that state commissions designate common carriers as eligible telecommunications carriers for service areas selected by state commissions in accordance with section 214(e). States and carriers are subject to the following requirements in order to receive universal service support. Section 54.403(a) of the Federal

Communications Commission's rules requires states to approve an additional reduction in the amount paid by any low-income consumer in order to receive additional federal Lifeline support. 47 CFR 54.403(a). We request states to send a one-page letter authorizing the reduction of intrastate rates. (No. of respondents: 50; annual burden per respondent: .5 hours; total annual burden: 25 hours). Section 54.505(e)(1) of the rules requires states to adopt discounts at least equal to the discounts established for interstate services. 47 CFR 54.505(e)(1). Each state must adopt an intrastate discount matrix with entries at least equal to those of the interstate discount matrix and send a notification letter indicating that it has done so. (No. of respondents: 50; annual burden per respondent: 2 hours; total annual burden: 100 hours). Section 54.201(b) requires states to designate common carriers as eligible telecommunications carriers for service areas designated by the state commission. 47 CFR 54.201(b). We request that states submit a list of carriers designated as eligible telecommunications carriers and the service areas such non-rural carriers are required to serve. (No. of respondents: 50; annual burden per respondent: 1 hour; total annual hour burden: 50 hours). Section 153(37) of the Communications Act of 1934, as amended, requires any local exchange carrier that seeks to be classified as a rural telephone company to certify to its status as a rural telephone company. 47 U.S.C. 153(37). Any local exchange carrier that seeks to be classified as a rural telephone company must file a letter with the Commission by April 30 of each year notifying the Commission that the LEC certifies itself to be a rural telephone company and explaining how the carrier meets at least one of the four criteria. (No. of respondents: 840; annual burden per respondent: 1 hour; total annual hour burden: 840 hours). If a LEC's status changes so that it becomes ineligible for certification as a rural carrier, that carrier must inform the Commission and the Universal Service Administrator within one month of the change in status. (No. of respondents: 210; annual burden per respondent: .5 hours; total annual hour burden: 105 hours). All of the requirements are necessary to implement the congressional mandate for universal service. These reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support. Obligation to respond: mandatory.

OMB Control No.: 3060–0756.

Expiration Date: 03/31/98.

Title: Procedural Requirements and Policies for Commission Processing of InterLATA Services Under Section 271 of the Communications Act.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 75 respondents; 250 hours per response (avg.); 18,820 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: In a Public Notice released 9/19/97, the Commission revises various procedural requirements and policies relating to the Commission's processing of Bell Operating Company (BOC) applications to provide in-region, interLATA services pursuant to section 271 of the Communications Act of 1934, as amended, 47 U.S.C. 271 (Act). These procedures were originally established in a Public Notice released December 6, 1996 (FCC 96–469). Section 271 provides for applications on a state-by-state basis. a. Submission of Applications by the BOCs: BOCs must file applications which provide information on which the applicant intends to rely in order to satisfy the requirements of section 271. The applications will contain two parts, which include: (1) A stand-alone document entitled Brief in Support of Application by (Bell company name) for Provision of In-region, InterLATA Services in (State name) and (2) any supporting documentation. The Brief in Support will contain a concise summary of substantive arguments presented in the Brief, a statement identifying all of the agreements that the applicant has entered into pursuant to negotiations and/or arbitration under section 252, a statement identifying how the applicant meets the requirements of section 271(c)(1), a statement summarizing the status and findings of the relevant State proceedings (if any) examining the applicant's compliance with section 271, a statement describing the efforts the applicant has made to meet with likely objectors to narrow the issues in dispute, and all factual and legal arguments that the three requirements of section 271(d)(3) have been met. The application must also contain the name, address and phone number of the person who will address inquiries relating to access to any confidential information submitted by the applicant, and must contain an affidavit by an officer or duly authorized employee that ''all information supplied in the application is true and accurate to the best of its information and belief.'' The supporting documentation will contain, at a minimum, the complete public record of the relevant State proceedings (if any) examining the applicant's compliance with section 271, records of interconnection agreements, affidavits, etc. The supporting documentation shall be provided in appendices, separated by tabs and divided into volumes as appropriate. Each volume shall contain a table of contents that lists the subject of each tabbed section of that volume. The application shall include a list of all affidavits and the location of and subjects covered by each of those affidavits. The requirements of section 271(c)(2) will be met with this supporting documentation. All factual assertions, as well as expert testimony, must be supported by an affidavit or verified statement. All substantive arguments must be made in a legal brief (i.e., Brief in Support, comments, reply, ex parte comments) and not in affidavits or other supporting documentation. (No. of respondents: 7; annual hour burden per respondent: 125 hours; total annual burden: 6125 hours). b. Submission of Written Consultations by the State Regulatory Commissions: State regulatory commissions will file written consultations relating to the applications not later than approximately 20 days after the issuance of an Initial Public Notice establishing specific due dates for various filings. (No. of respondents: 49; annual hour burden per respondent: 120 hours; total annual burden: 5880 hours). c. Submission of Written Consultations by the U. S. Department of Justice: The Department of Justice will file written consultations relating to the applications not later than approximately 35 days after the issuance of the Initial Public Notice. (No. of respondents: 1; annual hour burden per respondent: 100 hours; total annual burden: 4900 hours). d. Submission of Written Comments by Interested Third Parties: Interested third parties may file comments on the applications not later than approximately 20 days after the issuance of the Initial Public Notice. All substantive arguments must be made in a legal brief (i.e., Brief in Support, comments, reply, ex parte comments) and not in affidavits or other supporting documentation. All parties submitting confidential information must identify a contact person who will address inquiries relating to access to that confidential information. Each volume of supporting documentation submitted by a party shall contain a table of

contents that lists the subject of each tabbed section of that volume. The party shall include a list of all affidavits and the location of and subjects covered by each of those affidavits. Parties shall not incorporate by reference, in their comment or replies, entire documents or significant portion of documents that were filed in other proceedings, such as comments filed in a previous section 271 proceeding. (No. of respondents: 75; annual hour burden per respondent: 25 hours; total annual burden: 1875 hours). e. Replies: All participants in the proceeding may file a reply to any comment made by any other participant. Such replies will be due approximately 45 days after the Initial Public Notice is issued. (No. of respondents: 10; annual hour burden per respondent: 2 hours; total annual burden: 20 hours). f. Motions: A dispositive motion filed with the Commission in a section 271 proceeding will be treated as an early-filed pleading and will not be subject to a separate pleading cycle, unless the Commission or Bureau determines otherwise. Non-dispositive motions will be subject to the default pleading cycle in section 1.45 or our rules, unless the Commission determines otherwise in a public notice. (No. of respondents: 10; annual hour burden per respondent: 2 hours; total annual burden: 20 hours). All of the requirements would be used to ensure that BOCs have complied with their obligations under the Communications Act of 1934, as amended before being authorized to provide in-region, interLATA services pursuant to section 271. Obligation to comply: mandatory.

OMB Control No.: 3060–0579.

Expiration Date: 09/30/2000.

Title: Expanded Interconnection with Local Telephone Company Facilities For Interstate Switched Transport Services

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 16 respondents; 124.7 hours per response (avg.); 1996 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $10,000.

Frequency of Response: On occasion.

Description: In the Second Report and Order and Third Further Notice of Proposed Rulemaking in the Expanded Interconnection proceeding, CC Docket No. 91–141 (Order), the Commission took another step toward enhancing competition in the access marketplace by requiring Tier 1 local exchange carriers (LECs), except NECA pool members, to provide expanded interconnection for interstate switched transport services. In the Order, the Commission required Tier 1 LECs, except for NECA pool members, to provide expanded opportunities for third-party interconnection with their interstate switched transport facilities. The Commission concluded that expanded interconnection will likely increase competition, producing significant benefits for consumers that will outweigh any potential drawbacks. In the Order, the Commission concluded that the LECs should be required to provide certain cost support to justify the rate levels for the tariff charges to be paid by interconnectors for expanded interconnection. The Commission required the price cap LECs to provide cost support for the connection charges using the same methodology employed to support new services under the price cap rules. The Commission required the LECs to develop and justify consistent methodologies for deriving the direct cost of providing similar types of offerings, including expanded interconnection services covered by the connection charge elements. The Commission also required the LECs to justify any deviations from uniform overhead loadings that they propose for pricing connection charges, although it did not specify a particular methodology in advance. Under this approach, if a LEC proposes to price connection charges to reflect fully distributed overhead loadings, the Commission will compare such loadings to the overhead loadings used for other services and require justification for any differences. Rate of return LECs must support their rates under traditional cost support requirements. The Commission believes that this cost information is necessary to ensure the proper pricing of expanded interconnection offerings since they will be used by the LECs' competitors. The LECs may use approved, commonly used public utility ratemaking methodologies to develop the required cost support, including sampling and averaging of certain costs, and thereby minimize the burden of this requirement. Absent these requirements, the Commission is concerned that the LECs would have a strong incentive to price these services in a manner that would undermine the growth of competition in interstate access. Unless the interconnectors can purchase expanded interconnection offerings at rates that are just, reasonable, and nondiscriminatory, mandating expanded interconnection will not lead to effective competition and the anticipated benefits. Tariff filings to implement the density pricing plans and volume and term discounts generally will be accompanied by the support required under existing price cap rules. This information is necessary to ensure that rates for special access services subject to density zone pricing are just, reasonable, and nondiscriminatory, and comply with the Commission's rules. The tariffs and cost support information accompanying them will be used by the FCC staff to ensure that the tariff rates to be paid for expanded interconnection and switched transport services are just, reasonable, and nondiscriminatory, as sections 201 and 202 of the Communications Act require. Without this information, the FCC would be unable to determine whether the rates for these services are just, reasonable, nondiscriminatory, and otherwise in accordance with the law. Tariffs will also be used by parties using expanded interconnection and switched transport offerings to ascertain the charges and other terms and conditions applicable to those offerings. Your obligation to respond: mandatory.

OMB Control No.: 3060–0774.

Expiration Date: 09/30/2000.

Title: Federal-State Joint Board on Universal Service—CC Docket No. 96–45, 47 CFR 36.611–36.612, and 47 CFR part 54.

Form No.: N/A.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; state, local or tribal government.

Estimated Annual Burden: 5,565,451 respondents; 3.1 hours per response (avg.); 1,784,220 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; annually, one-time requirements.

Description: Congress directed the Commission to implement a new set of universal service support mechanisms that are explicit and sufficient to advance the universal service principles enumerated in section 254 of the Telecommunications Act of 1996 and such other principles as the Commission believes are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the Act. In the Report and Order issued in CC Docket No. 96–45, the Commission adopts rules that are designed to implement the universal service provisions of section 254. Specifically, the Order addresses: (1) Universal service principles; (2) services eligible for support; (3) affordability; (4) carriers eligible for universal service support; (5) support mechanisms for rural, insular,

and high cost areas; (6) support for low-income consumers; (7) support for schools, libraries, and health care providers; (8) interstate subscriber line charge and common line cost recovery; and (9) administration of support mechanisms. The reporting and recordkeeping requirements contained in CC Docket No. 96–45 are designed to implement section 254 follow. The reporting and recordkeeping are necessary to ensure the integrity of the program. All the collections are necessary to implement the congressional mandate for universal service. The reporting and recordkeeping requirements are necessary to verify that the carriers and other respondents are eligible to receive universal service support. Obligation to comply: mandatory.

Rule section/title (47 CFR)	Hours per response	Total annual burden
a. 36.611(a) and 36.612—Submission and Updating information to NECA	20	26,800
b. 54.101(c)—Demonstration of exceptional circumstances for toll-limitation grace period	50	100
c. 54.201(b)–(c)—Submission of eligibility criteria	1	3,400
d. 54.201(d)(2)—Advertisement of services and charges	50	65,000
e. 54.205(a)—Advance notice of relinquishment of universal service	.5	50
f. 54.207(c)(1)—Submission of proposal for redefining a rural service area	125	6,250
g. 54.307(b)—Reporting of expenses and number of lines served	2.5 (avg.)	4,100
h. 54.401(b)(1)–(2)—Submission of disconnection waiver request	2	100
i. 54.401(d)—Lifeline certification to the Administrator	1	1,300
j. 54.407(c)—Lifeline recordkeeping	80	104,000
k. 54.409(a)–(b)—Consumer qualification for Lifeline	5 min	440,000
l. 54.409(b)—Consumer notification of Lifeline discontinuance	5 min	44,000
m. 54.418(b)—Link Up recordkeeping	80	104,000
n. 54.501(d)(4) and 54.516—Schools and Libraries recordkeeping	41 (avg.)	372,000
o. 54.504(b)–(c), 54.507(d) and 54.509(a)—Description of services requested and certification	2	100,000
p. 54.601(b)(4) and 54.609(b)—Calculating support for health care providers	100	340,000
q. 54.601(b)(3) and 54.619—Shared facility recordkeeping	21 (avg.)	160,000
r. 54.607(b)(1)–(2)—Submission of proposed rural rate	3	150
s. 54.603(b)(1), 54.615(c)–(d) and 54.623(d)—Description of services requested and certification	1	12,000
t. 54.619(d)—Submission of rural health care report	40	40
u. 54.701(f)(1) and (f)(2)—Submission of annual report and CAM	40	40
v. 54.701(g)—Submission of quarterly report	10	40
w. 54.707—Submission of state commission designation	.25	850

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26418 Filed 10–3–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and request for comment.

SUMMARY: The Consumer Compliance Task Force of the Federal Financial Institutions Examination Council (FFIEC) is supplementing, amending, and republishing its Interagency Questions and Answers Regarding Community Reinvestment. The Interagency Questions and Answers have been prepared by staff of the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the ''agencies'') to answer most frequently asked questions about community reinvestment. The Interagency Questions and Answers contain informal staff guidance for agency personnel, financial institutions, and the public. Staff of the agencies seek comment on the proposed questions and answers concerning how to determine whether particular activities have a ''primary purpose'' of community development. In addition, staff also invite public comment on the new and revised questions and answers, particularly the guidance regarding home mortgage loans to middle- and upper-income individuals in low- or moderate-income areas.

DATES: Effective date of amended Interagency Questions and Answers on Community Reinvestment: October 6, 1997. The agencies request that comments on the proposed questions and answers be submitted on or before December 5, 1997.

ADDRESSES: Questions and comments may be sent to Joe M. Cleaver, Executive Secretary, Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue NW., Suite 200, Washington, DC 20037, or by facsimile transmission to (202) 634–6556.

FOR FURTHER INFORMATION CONTACT:

OCC: Malloy Harris, National Bank Examiner, Community and Consumer Policy Division, (202) 874–4446; or Margaret Hesse, Senior Attorney, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Glenn E. Loney, Associate Director, Division of Consumer and Community Affairs, (202) 452–3585; or Robert deV. Frierson, Assistant General Counsel, Legal Division, (202) 452–3711, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Bobbie Jean Norris, National Coordinator, Community Affairs and Community Reinvestment, Division of Compliance and Consumer Affairs, (202) 942–3090; or Ann Hume Loikow, Counsel, Legal Division, (202) 898–3796, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–7054; or Richard R. Riese, Project Manager, Compliance Policy, (202) 906–

6134, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

In 1995, the agencies revised their Community Reinvestment Act (CRA) regulations by issuing a joint final rule, which was published on May 4, 1995 (60 FR 22156). *See* 12 CFR parts 25, 228, 345 and 563e, implementing 12 U.S.C. 2901 *et seq.* The agencies published two notices of proposed rulemaking prior to publishing the joint final rule. *See* 58 FR 67466 (Dec. 21, 1993); 59 FR 51232 (Oct. 7, 1994). The agencies published related clarifying documents on December 20, 1995 (60 FR 66048) and May 10, 1996 (61 FR 21362).

On October 21, 1996, the Consumer Compliance Task Force of the FFIEC published ''Interagency Questions and Answers Regarding Community Reinvestment'' (hereinafter, Interagency Questions and Answers) to provide informal staff guidance for use by agency personnel, financial institutions, and the public. *See* 61 FR 54647. In the supplementary information published with the Interagency Questions and Answers, the agencies' staff requested comments and indicated that they intended to update the Interagency Questions and Answers on a periodic basis. 61 FR at 54648. This document supplements, revises, and republishes that guidance based, in part, on questions and comments received from examiners, financial institutions, and other interested parties. The agencies consider the Interagency Questions and Answers to be their primary vehicle for disseminating guidance interpreting their CRA regulations.

This document includes new questions and answers that: (1) Clarify that not all activities that finance businesses meeting certain size eligibility standards necessarily promote economic development under the CRA regulations; (2) make a technical correction to one of the questions and answers published in the original Interagency Questions and Answers; (3) explain how the Agencies' examiners evaluate home mortgage loans to middle- and upper-income borrowers in low- and moderate-income areas under the CRA regulations' lending test; (4) explain how a financial institution should geocode a small business or small farm loan where the borrower provides only a post office box or rural route and box number; and (5) caution that the Agencies' quarterly publication of a list of financial institutions that will be examined for CRA compliance is subject to change. Finally, this document especially seeks comment on the proposed questions and answers concerning how to determine whether particular activities have a ''primary purpose'' of community development, and also invites public comment on the new and revised questions and answers.

A discussion of the revised and new questions and answers follows. Questions and answers are grouped by the provision of the CRA regulations that they discuss and are presented in the same order as the regulatory provisions. The Interagency Questions and Answers employ an abbreviated method to cite to the regulations. Because the regulations of the four agencies are substantively identical, corresponding sections of the different regulations usually bear the same suffix. Therefore, the Interagency Questions and Answers typically cite only to the suffix. For example, the small bank performance standards for national banks appear at 12 CFR 25.26; for Federal Reserve member banks supervised by the Board, they appear at 12 CFR 228.26; for nonmember banks, at 12 CFR 345.26; and for thrifts, at 12 CFR 563e.26. Accordingly, the citation in this document would be to §——.26. In the few instances in which the suffix in one of the regulations is different, the specific citation for that regulation is provided.

Do All Activities That Finance Businesses Meeting Certain Size Eligibility Standards Promote Economic Development?

The CRA Regulations define the term ''community development'' to include ''activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of $1 million or less.'' 12 CFR 25.12(h)(3), 228.12(h)(3), 345.12(h)(3) and 563e.12(g)(3).

The October 1996 Interagency Questions and Answers included a question and answer concerning whether all activities that finance these businesses or farms promote economic development. That question and answer (Q&A), Q&A1 addressing §§ __.12(h)(3) and 563e.12(g)(3), is being revised in response to further questions and public comments. The revised question and answer clarifies that to be considered as ''community development'' under §§ __.12(h)(3) and 563e.12(g)(3), a loan, investment or service, whether made directly or through an intermediary, must meet both a size test and a purpose test. An activity meets the size requirement if it finances entities that either meet the size eligibility standards of the Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less. To meet the purpose test, the activity must promote economic development. An activity is considered to promote economic development if it supports permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/or improvement in low- or moderate-income geographies targeted for redevelopment by Federal, state, local or tribal governments. The agencies will presume that any loan or investment in or to a SBDC or SBIC promotes economic development. Funding provided in connection with other SBA programs may also promote economic development; however, examiners will make that determination based on business types, funding purposes, and other relevant information.

Where Do Institutions Find Income Level Data

In the October 1996 Interagency Questions and Answers, Q&A1 addressing §§ __.12(n) and 563e.12(m) contained an incorrect address for the FFIEC's internet home page. That question and answer has been revised to include the correct address: 'http://www.ffiec.gov/'.

Home Mortgage Loans to Middle- and Upper-Income Borrowers in Low- and Moderate-Income Areas

Several community development organizations have notified the agencies of their belief that the CRA regulations do not sufficiently recognize the efforts of financial institutions that make home mortgage loans to middle- or upper-income borrowers in low- or moderate-income areas. These community organizations have suggested to agency staff that lower-income geographies should be developed into mixed-income geographies, inhabited with residents of all income categories.

For example, one community organization described problems that its community encountered in redeveloping an inner city area by providing single family housing affordable to low- and moderate-income borrowers and other necessary services. Although affordable housing was provided, the community had difficulty attracting retail services. A commercial developer considered building a

shopping center near a new, affordable housing development, but determined that the center would not be profitable because of the lower level of disposable income of many of the low- and moderate-income homeowners. Consequently, the community organization representative stressed how important it is for future development that distressed areas being revitalized attract residents of all income levels.

The Agencies previously considered the appropriate weight that should be accorded lending in low- and moderate-income areas to higher-income borrowers. During the CRA reform rulemaking process, however, the agencies received public comment opposed to a proposal that would have evaluated an institution's lending primarily based on its lending activities in low- and moderate-income geographies. *See, e.g.,* 58 FR 67,466, 67,480 (December 21, 1993). Those commenters opposed the proposal, stating that it would inappropriately have given institutions a greater incentive to make loans to high-income borrowers located in low-income geographies than to make loans to low-income borrowers located in high-income geographies. In response to these comments, the final interagency CRA regulations de-emphasized the location of the loans under the lending test by also evaluating lending based on borrower characteristics, i.e., income.

Because of the numerous inquiries the agencies have received since the final rules were issued, agency staff are adding new guidance addressing § __.22(b)(2) & (3), answering how home mortgage loans to borrowers of all incomes, but especially to middle- and upper-income borrowers, located in low- or moderate-income areas will be evaluated under the CRA regulations' lending test.

The new question and answer explains that examiners consider all home mortgage loans under the performance criteria of the lending test. This means that examiners first evaluate the institution's lending activity based on the number and amount of home mortgage loans in the institution's assessment area(s). Examiners next evaluate the geographic distribution of all of the institution's home mortgage loans based on the loan location, including (1) the portion of the institution's lending in the institution's assessment area(s); (2) the dispersion of lending in the institution's assessment area(s); and (3) the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the institution's assessment area(s). Finally, examiners evaluate these loans based on borrower characteristics, i.e., the number and amount of home mortgage loans to low-, moderate-, middle-, and upper-income individuals.

The regulation, however, allows examiners flexibility in judging the appropriate consideration of loans to middle- or upper-income individuals in low- or moderate-income areas. The new question and answer explains that all of the lending test criteria must be considered in light of an institution's performance context. The performance context will determine the importance of the borrower distribution criterion, particularly as it relates to the geographic distribution of the loans. If the performance context information indicates, for example, that the loans are for homes located in an area for which the local, state, tribal, or Federal Government or a community-based development organization has developed a revitalization or stabilization plan (such as a Federal Enterprise Community or Empowerment Zone) that includes attracting mixed-income residents to establish a stabilized, economically diverse neighborhood, the examiner has the flexibility to consider these loans as favorably as loans to low- or moderate-income borrowers in the low- or moderate-income geography. If, on the other hand, no such plan exists and there is no other evidence of governmental support for a revitalization or stabilization project in the area and the loans to middle- or upper-income borrowers significantly disadvantage or primarily have the effect of displacing low- or moderate-income residents, examiners may view these loans simply as home mortgage loans to middle- or upper-income borrowers who happen to reside in a low- or moderate-income geography and weigh them accordingly in their evaluation of the institution. Thus, the performance context may significantly influence how these loans affect an institution's performance.

Geocoding Addresses Consisting of Post Office Boxes or Rural Routes and Box Numbers

Staff from the agencies previously provided guidance about how to geocode (i.e., assign a census tract or block numbering area for) small business or small farm loans for which the borrower provides an address consisting of either a post office box number or a rural route and box number. *See* Interagency Staff CRA Interpretive Letter, published as OCC Interpretive Letter No. 729, (1995–1996 Transfer Binder) Fed. Banking L. Rep. (CCH), ¶ 81–046 (June 14, 1996). In this letter, staff indicated that, if an institution could not obtain from its small business or small farm borrower a street address in addition to a rural route and box number or post office box number, the institution could collect and report the location of the loan based on the town, state, and zip code provided by the borrower. The location of the borrower's post office would serve as a proxy for the location of the small business or farm.

Staff have reconsidered this guidance and are now providing a question and answer based on § __.42(a)(3) addressing this issue. The revised guidance states that, for purposes of 1997 data collection and reporting, financial institutions may rely on the guidance provided in the interpretive letter if a small business or small farm borrower provides only a rural route and box number or a post office box number as its address. Thus, for 1997, institutions may collect and report the location of small business or small farm loans for which the institution has been unable to ascertain a street address, using the location (i.e., the census tract or block numbering area) of the borrower's post office box as a proxy.

Because financial institutions typically know where their small business or small farm borrowers, or the collateral securing their loans, are located, staff have provided new instructions for 1998 data collection and reporting purposes. Beginning in 1998, financial institutions should request the street address of small business and small farm borrowers, even if the borrower initially provides only a post office box number or rural route and box number. If no street address exists, institutions should not use the post office box as a proxy, but instead geocode the census tract or block numbering area as ''NA.''

Is Publication of the List of Institutions to be Examined in the Upcoming Quarter Determinative of Whether an Institution Will, in Fact, be Examined in the Upcoming Quarter

Agency staff have added a new question and answer addressing § __.45 relating to the publication of the institutions to be examined in the upcoming quarter. The question and answer clarifies that whether or not an institution is included on the published list will not always indicate that the institution will or will not be examined in the upcoming quarter. Although the agencies will attempt to ensure that the published lists are as accurate as possible, the agencies sometimes may need to alter their examination plans.

Because of the potential for such adjustments, staff urge all interested members of the public to file comments regarding the CRA performance of an institution whether or not the institution has been scheduled for a CRA examination.

Request for Comment and Proposed Questions and Answers on Community Development Explaining the ''Primary Purpose'' for Community Development Activities

The definitions of ''community development loan,'' ''community development service,'' and ''qualified investment'' all require a ''primary purpose of community development.'' *See* 12 CFR 25.12(i)(1), (j)(1), and (s); 228.12(i)(1), (j)(1), and (s); 345.12(i)(1), (j)(1), and (s); and 563e.12(h)(1), (i)(1), and (r). The agencies have received a number of inquiries about whether certain activities have the necessary ''primary purpose'' of community development to qualify as a community development loan, qualified investment or community development service. Some inquiries come from persons interested in creating new community development vehicles. These inquiries typically ask what minimum characteristics should be designed into a targeted loan, investment or service to possess the necessary primary purpose. In answering these questions, the agencies have generally stated that a ''primary purpose'' of community development exists when the loan, investment or service is divisible and measurable in terms of dollars, housing units built, or countable individuals benefited, and when an identifiable majority of the dollars expended, units built or individuals benefited is clearly attributable to one of the community development purposes enumerated in the regulation.

However, this answer does not address other inquiries concerning activities that are subject to certain legal or market restraints, such that they do not reach this threshold, yet often display laudable community development purposes and result in real, long-term community development benefits. In addition, many of the projects occur within a performance context that buttresses a conclusion that the activity was ''designed for the express purpose'' of achieving a qualifying community development purpose, even though less than half the dollars involved in the entire project have been concentrated on that purpose. Federal tax-incentive affordable housing projects, where less than half the units or half the dollars go into the portion of the project that represents affordable housing for low- or moderate-income persons, fall into this category.

A number of other inquiries are characterized by a range of facts and contexts. Given this variety, the agencies recognize that many types of endeavors have been devised to address an array of community development pursuits. In addition, the agencies have observed that within the broad range of qualifying activities, distinctions can and should be made among those activities. Accordingly, in publishing proposed guidance on ''primary purpose,'' the agencies are also providing additional commentary that emphasizes the quantitative and qualitative distinctions that should be made when applying the performance criteria of the pertinent regulatory tests to evaluate eligible community development loans, qualified investments or community development services.

Proposed Q&A7 addressing §§ __.12(i) and 563e.12(h) is based on the preamble to the final rule as set forth at 60 FR 22,156, 22,159 (May 4, 1995), which states that activities not designed for the express purpose of community development (as defined in the regulation) are not eligible for consideration as community development loans or services or qualified investments. The preamble further states that the provision of indirect or short-term benefits to low- or moderate-income persons does not make an activity community development. In addition to incorporating this preamble language into the Interagency Questions and Answers, the answer identifies the kind of information that would be reviewed to determine whether an activity was designed for the express purpose of community development. The answer adopts a simplified threshold rule and an alternative approach for finding sufficient bases to conclude that an activity possesses the requisite primary purpose.

Agency staff are also proposing additional questions and answers that provide relevant guidance on the evaluation of activities whose primary purpose is community development, as well as the reporting of community development loans. This additional guidance emphasizes that once a loan or investment is found to possess a primary purpose of community development, the evaluation of that community development loan or qualified investment under the relevant performance criteria would allow for differentiation among those activities based not only on the differing dollar amounts attributable to the underlying community development purpose, but also on the loan's innovation or complexity under § __.22(b)(4) or the investment's innovation, complexity, responsiveness or non-routine characteristics under § __.23(e). In addition, proposed Q&A3 addressing § __.42(b)(2) discusses whether a loan may be reported as a community development loan if its primary purpose is to finance an affordable housing project for low- or moderate-income individuals, but only 40% of the units in question will actually be occupied by individuals or families with low- or moderate-incomes.

Staff request public comment particularly addressing whether the proposed primary purpose standard over-inclusively qualifies activities as having a community development purpose, and, if so, is this adequately balanced by the regulatory requirements that allow marginal activities to be weighted less heavily than those activities that provide a greater benefit related to the community development purpose or demonstrate other performance criteria, such as innovation, complexity, or responsiveness. Staff also invite comment about whether the proposed guidance may result in excluding, as not having a primary purpose of community development, deserving endeavors.

Sections __.12(i) & 563e.12(h)

Proposed Q7

What is meant by the term ''primary purpose'' as that term is used to define what constitutes a community development loan, a qualified investment or a community development service?

Proposed A7

A loan, investment or service has as its primary purpose community development when it is designed for the express purpose of revitalizing or stabilizing low- or moderate-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or promoting economic development by financing small businesses and farms that meet the requirements set forth in §§ __.12(h) or 563e.12(g). To determine whether an activity is designed for an express community development purpose, the agencies apply one of two approaches. First, if a majority of the dollars or beneficiaries of the activity are identifiable to one or more of the enumerated community development purposes, then the activity will be considered to possess the requisite primary purpose. Alternatively, where

the measurable portion of any benefit bestowed or dollars applied to the community development purpose is less than a majority of the entire activity's benefits or dollar value, then the activity may still be considered to possess the requisite primary purpose if (1) the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more of the enumerated community development purposes; (2) the activity is specifically structured (given any relevant market or legal constraints or performance context factors) to achieve the expressed community development purpose; and (3) the activity accomplishes, or is reasonably certain to accomplish, the community development purpose involved. The fact that an activity provides indirect or short-term benefits to low-or moderate-income persons does not make the activity community development, nor does the mere presence of such indirect or short-term benefits constitute a primary purpose of community development. Financial institutions that want examiners to consider certain activities under either approach should be prepared to demonstrate the activities' qualifications.

Section __.22(b)(4)

Proposed Q1

When evaluating an institution's record of community development lending, may an examiner distinguish among community development loans on the basis of the actual amount of the loan that advances the community development purpose?

Proposed A1

Yes. When evaluating the institution's record of community development lending under § __.22(b)(4), it is appropriate to give greater weight to the amount of the loan that is targeted to the intended community development purpose. For example, consider two $10 million projects (with a total of 100 units each) that have as their express primary purpose affordable housing and are located in the same community. One of these projects sets aside 40% of its units for low-income residents and the other project allocates 65% of its units for low-income residents. An institution would report both loans as $10 million community development loans under the § __.42(b)(2) aggregate reporting obligation. However, transaction complexity, innovation and all other relevant considerations being equal, the 65% project would receive greater positive consideration under the lending test than the 40% project. The 65% project provides more affordable housing for more people per dollar expended.

Under § __.22(b)(4), the amount of CRA consideration an institution receives for its community development loans should bear a direct relation to the benefits received by the community and the innovation or complexity of the loans required to accomplish the activity, not simply to the dollar amount expended on a particular transaction. By applying all performance criteria, a community development loan of a lower dollar amount could receive more favorable consideration under the lending test than a community development loan with a higher dollar amount, but with less innovation, complexity, or impact on the community.

Section __.23(e)

Proposed Q1

When applying the performance criteria of § __.23(e), may an examiner distinguish among qualified investments based on how much of the investment actually supports the underlying community development purpose?

Proposed A1

Yes. Although § __.23(e)(1) speaks in terms of the dollar amount of qualified investments, the criterion permits an examiner to weight certain investments differently or to make other appropriate distinctions when evaluating an institution's record of making qualified investments. For instance, a targeted mortgage-backed security that qualifies as an affordable housing issue that has only 60% of its face value supported by loans to low-or moderate-income borrowers generally would not be weighted as heavily under § __.23(e)(1) as a targeted mortgage-backed security with 100% of its face value supported by affordable housing loans to low-and moderate-income borrowers. The examiner should describe any differential weighting (or other adjustment), and its basis in the Public Evaluation. However, no matter how a qualified investment is handled for purposes of § __.23(e)(1), it will also be evaluated with respect to the performance criteria set forth in § __.23(e) (2), (3) and (4) . By applying all criteria, a qualified investment of a lower dollar amount could receive more favorable consideration under the Investment Test than a qualified investment with a higher dollar amount, but with fewer qualitative enhancements.

Section__.42(b)(2)

Proposed Q3

When the primary purpose of a loan is to finance an affordable housing project for low-or moderate-income individuals, but only 40% of the units in question will actually be occupied by individuals or families with low-or moderate-incomes, should the entire loan amount be reported as a community development loan?

Proposed A3

Yes. As long as the primary purpose of the loan is a community development purpose, the full amount of the institution's loan should be included in its reporting of aggregate amounts of community development lending.

General Comments

In addition to the specific request for comments on the proposed ''primary purpose'' questions and answers, staff invite public comment on the new and revised questions and answers, particularly the guidance regarding home mortgage loans to middle-and upper-income individuals in low-or moderate-income areas. Staff also invite public comment on a continuing basis on any issues raised by the CRA and these Interagency Questions and Answers. Staff of the agencies intend to continue to update the Interagency Questions and Answers periodically. If, after reading the Interagency Questions and Answers, financial institutions, examiners, community groups, or other interested parties have unanswered questions or comments about the agencies' community reinvestment regulations, they should submit them to the agencies. Staff will consider including questions received from the public in future guidance.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The SBREFA requires an agency, for each rule for which it prepares a final regulatory flexibility analysis, to publish one or more compliance guides to help small entities understand how to comply with the rule.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the agencies certified that their proposed CRA rule would not have a significant economic impact on a substantial number of small entities and invited public comments on that determination. *See* 58 FR 67478 (Dec. 21, 1993); 59 FR 51250 (Oct. 7, 1994). In response to public comment, the agencies voluntarily prepared a final regulatory flexibility analysis for the joint final rule, although the analysis was not required because it supported

the agencies' earlier certification regarding the proposed rule. Because a regulatory flexibility analysis was not required, section 212 of the SBREFA does not apply to the final CRA rule. However, in their continuing efforts to provide clear, understandable regulations and to comply with the spirit of the SBREFA, the agencies have compiled the Interagency Questions and Answers. The Interagency Questions and Answers serve the same purpose as the compliance guide described in the SBREFA by providing guidance on a variety of issues of particular concern to small banks and thrifts. The text of the Interagency Questions and Answers follows:

Text of the Interagency Questions and Answers

Interagency Questions and Answers Regarding Community Reinvestment

Table of Contents

The agencies are providing answers to questions pertaining to the following provisions and topics of the CRA regulations:

§ __.11 Authority, purposes, and scope
§ __.11(c) Scope
§§ 25.11(c)(3), 228.11(c)(3) & 345.11(c)(3) Certain special purpose banks
§ __.12 Definitions
§ __.12(a) Affiliate
§§ __.12(f) & 563e.12(e) Branch
§§ __.12(h) & 563e.12(g) Community development
§ __.12(h)(3) & 563e.12(g)(3) Activities that promote economic development by financing businesses or farms that meet certain size eligibility standards
§§ __.12(i) & 563e.12(h) Community development loan
§§ __.12(j) & 563e.12(i) Community development service
§§ __.12(k) & 563e.12(j) Consumer loan
§§ __.12(m) & 563e.12(l) Home mortgage loan
§§ __.12(n) & 563e.12(m) Income level
§§ __.12(o) & 563e.12(n) Limited purpose institution
§§ __.12(s) & 563e.12(r) Qualified investment
__.12(t) Small institution
§ __.12(u) Small business loan
§ __.12(w) Wholesale institution
§ __.21 Performance tests, standards, and ratings, in general
§ __.21(a) Performance tests and standards
§ __.21(b) Performance context
§ __.21(b)(2) Information maintained by the institution or obtained from community contacts
§ __.21(b)(4) Institutional capacity and constraints
§ __.21(b)(5) Institution's past performance and the performance of similarly situated lenders
§ __.22 Lending test
§ __.22(a) Scope of test
§ __.22(a)(1) Types of loans considered
§ __.22(a)(2) Other loan data
§ __.22(b) Performance criteria
§ __.22(b)(1) Lending activity
§ __.22(b)(2) & (3) Geographic distribution and borrower characteristics
§ __.22(c) Affiliate lending
§ __.22(c)(1) In general
§ __.22(c)(2) Constraints on affiliate lending
§ __.22(c)(2)(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase
§ __.22(c)(2)(ii) If an institution elects to have its supervisory agency consider loans within a particular lending category made by one or more of the institution's affiliates in a particular assessment area, the institution shall elect to have the agency consider all loans within that lending category in that particular assessment area made by all of the institution's affiliates
§ __.22(d) Lending by a consortium or a third party
§ __.23 Investment test
§ __.23(b) Exclusion
§ __.24 Service test
§ __.24(d) Performance criteria—retail banking services
§ __.24(d)(3) Availability and effectiveness of alternative systems for delivering retail banking services
§ __.25 Community development test for wholesale or limited purpose institutions
§ __.25(d) Indirect activities
§ __.25(f) Community development performance rating
§ __.26 Small institution performance standards
§ __.26(a) Performance criteria
§ __.26(a)(1) Loan-to-deposit ratio
§ __.26(a)(2) Percentage of lending within assessment area(s)
§ __.26(a)(3) and (4) Distribution of lending within assessment area(s) by borrower income and geographic location
§ __.26(b) Performance rating
§ __.27—Strategic plan
§ __.27(c) Plans in general
§ __.27(f) Plan content
§ __.27(f)(1) Measurable goals
§ __.27(g) Plan approval
§ __.27(g)(2) Public participation
§ __.28—Assigned ratings
§ __.28(a) Ratings in general
§ __.29—Effect of CRA performance on applications
§ __.29(a) CRA performance
§ __.29(b) Interested parties
§ __.41—Assessment area delineation
§ __.41(a) In general
§ __.41(c) Geographic area(s) for institutions other than wholesale or limited purpose institutions
§ __.41(c)(1) Generally consist of one or more MSAs or one or more contiguous political subdivisions
§ __.41(d) Adjustments to geographic area(s)
§ __.41(e) Limitations on delineation of an assessment area
§ __.41(e)(3) May not arbitrarily exclude low- or moderate-income geographies
§ __.41(e)(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless located in a multistate MSA
§ __.42—Data collection, reporting, and disclosure
§ __.42(a) Loan information required to be collected and maintained
§ __.42(a)(2) Loan amount at origination
§ __.42(a)(3) The loan location
§ __.42(a)(4) Indicator of gross annual revenue
§ __.42(b) Loan information required to be reported
§ __.42(b)(1) Small business and small farm loan data
§ __.42(b)(2) Community development loan data
§ __.42(b)(3) Home mortgage loans
§ __.42(c) Optional data collection and maintenance
§ __.42(c)(1) Consumer loans
§ __.42(c)(1)(iv) Income of borrower
§ __.42(c)(2) Other loan data
§ __.42(d) Data on affiliate lending
§ __.43—Content and availability of public file
§ __.43(a) Information available to the public
§ __.43(a)(1) Public comments
§ __.43(b) Additional information available to the public
§ __.43(b)(1) Institutions other than small institutions
§ __.43(c) Location of public information
§ __.44—Public notice by institutions
§ __.45—Publication of planned examination schedule
APPENDIX B to Part__CRA Notice

The body of the Interagency Questions and Answers Regarding Community Reinvestment follows:

Section __ .11—Authority, purposes, and scope

Section __ .11(c) Scope

Section 25.11(c)(3), 228.11(c)(3) & 345.11(c)(3) Certain Special Purpose Banks

Q1. *Is the list of special purpose banks exclusive?*

A1. No, there may be other examples of special purpose banks. These banks engage in specialized activities that do not involve granting credit to the public in the ordinary course of business. Special purpose banks typically serve as correspondent banks, trust companies, or clearing agents or engage only in specialized services, such as cash management controlled disbursement services. A financial institution, however, does not become a special purpose bank merely by ceasing to make loans and, instead, making investments and providing other retail banking services.

Q2. *To be a special purpose bank, must a bank limit its activities in its charter?*

A2. No. A special purpose bank may, but is not required to, limit the scope of its activities in its charter, articles of association or other corporate organizational documents. A bank that

does not have legal limitations on its activities, but has voluntarily limited its activities, however, would no longer be exempt from Community Reinvestment Act (CRA) requirements if it subsequently engaged in activities that involve granting credit to the public in the ordinary course of business. A bank that believes it is exempt from CRA as a special purpose bank should seek confirmation of this status from its supervisory agency.

Section __ .12—Definitions

Section __ .12(a) Affiliate

Q1. *Does the definition of ''affiliate'' include subsidiaries of an institution?*

A1. Yes, ''affiliate'' includes any company that controls, is controlled by, or is under common control with another company. An institution's subsidiary is controlled by the institution and is, therefore, an affiliate.

Sections __ .12(f) & 563e.12(e) Branch

Q1. *Do the definitions of ''branch,'' ''automated teller machine (ATM),'' and ''remote service facility (RSF)'' include mobile branches, ATMs, and RSFs?*

A1. Yes. Staffed mobile offices that are authorized as branches are considered ''branches'' and mobile ATMs and RSFs are considered ''ATMs'' and ''RSFs.''

Q2. *Are loan production offices (LPOs) branches for purposes of the CRA?*

A2. LPOs and other offices are not ''branches'' unless they are authorized as branches of the institution through the regulatory approval process of the institution's supervisory agency.

Sections __.12(h) & 563e.12(g) Community Development

Q1. *Are community development activities limited to those that promote economic development?*

A1. No. Although the definition of ''community development'' includes activities that promote economic development by financing small businesses or farms, the rule does not limit community development loans and services and qualified investments to those activities. Community development also includes community- or tribal-based child care, educational, health, or social services targeted to low- or moderate-income persons, affordable housing for low- or moderate-income individuals, and activities that revitalize or stabilize low- or moderate-income areas.

Q2. *Must a community development activity occur inside a low- or moderate-income area in order for an institution to receive CRA consideration for the activity?*

A2. No. Community development includes activities outside of low- and moderate-income areas that provide affordable housing for, or community services targeted to, low- or moderate-income individuals and activities that promote economic development by financing small businesses and farms. Activities that stabilize or revitalize particular low- or moderate-income areas (including by creating, retaining, or improving jobs for low- or moderate-income persons) also qualify as community development, even if the activities are not located in these low- or moderate-income areas. One example is financing a supermarket that serves as an anchor store in a small strip mall located at the edge of a middle-income area, if the mall stabilizes the adjacent low-income community by providing needed shopping services that are not otherwise available in the low-income community.

Q3. *Does the regulation provide flexibility in considering performance in high-cost areas?*

A3. Yes, the flexibility of the performance standards allows examiners to account in their evaluations for conditions in high-cost areas. Examiners consider lending and services to individuals and geographies of all income levels and businesses of all sizes and revenues. In addition, the flexibility in the requirement that community development loans, community development services, and qualified investments have as their ''primary'' purpose community development allows examiners to account for conditions in high-cost areas. For example, examiners could take into account the fact that activities address a credit shortage among middle-income people or areas caused by the disproportionately high cost of building, maintaining or acquiring a house when determining whether an institution's loan to or investment in an organization that funds affordable housing for middle-income people or areas, as well as low- and moderate-income people or areas, has as its primary purpose community development.

Sections __.12(h)(3) & 563e.12(g)(3) Activities That Promote Economic Development by Financing Businesses or Farms That Meet Certain Size Eligibility Standards

Q1. *''Community development'' includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Are all activities that finance businesses and farms that meet these size eligibility standards considered to be community development?*

A1. No. To be considered as ''community development'' under §§ ——.12(h)(3) and 563e.12(g)(3), a loan, investment or service, whether made directly or through an intermediary, must meet both a size test and a purpose test. An activity meets the size requirement if it finances entities that either meet the size eligibility standards of the Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less. To meet the purpose test, the activity must promote economic development. An activity is considered to promote economic development if it supports permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/or improvement in low- or moderate-income geographies targeted for redevelopment by Federal, state, local or tribal governments. The agencies will presume that any loan or investment in or to a SBDC or SBIC promotes economic development.

Sections __.12(i) & 563e.12(h) Community Development Loan

Q1. *What are examples of community development loans?*

A1. Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons;
- Not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs;
- Borrowers to construct or rehabilitate community facilities that are located in low- and moderate-income areas or that serve primarily low- and moderate-income individuals;
- Financial intermediaries including Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development.
- Local, state, and tribal governments for community development activities; and

• Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located.

Q2. *If a retail institution that is not required to report under the Home Mortgage Disclosure Act (HMDA) makes affordable home mortgage loans that would be HMDA-reportable home mortgage loans if it were a reporting institution, or if a small institution that is not required to collect and report loan data under CRA makes small business and small farm loans and consumer loans that would be collected and/or reported if the institution were a large institution, may the institution have these loans considered as community development loans?*

A2. No. Although small institutions are not required to report or collect information on small business and small farm loans and consumer loans, and some institutions are not required to report information about their home mortgage loans under HMDA, if these institutions are retail institutions, the agencies will consider in their CRA evaluations the institutions' originations and purchases of loans that would have been collected or reported as small business, small farm, consumer or home mortgage loans, had the institution been a collecting and reporting institution under the CRA or the HMDA. Therefore, these loans will not be considered as community development loans. Multifamily dwelling loans, however, may be considered as community development loans as well as home mortgage loans. *See also* Q&A2 addressing § __.42(b)(2).

Q3. *Do secured credit cards or other credit card programs targeted to low- or moderate-income individuals qualify as community development loans?*

A3. No. Credit cards issued to low- or moderate-income individuals for household, family, or other personal expenditures, whether as part of a program targeted to such individuals or otherwise, do not qualify as community development loans because they do not have as their primary purpose any of the activities included in the definition of ''community development.''

Q4. *The regulation indicates that community development includes ''activities that revitalize or stabilize low- or moderate-income geographies.'' Do all loans in a low- to moderate-income geography have a stabilizing effect?*

A4. No. Some loans may provide only indirect or short-term benefits to low- or moderate-income individuals in a low- or moderate-income geography. These loans are not considered to have a community development purpose. For example, a loan for upper-income housing in a distressed area is not considered to have a community development purpose simply because of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents. On the other hand, a loan for an anchor business in a distressed area (or a nearby area), that employs or serves residents of the area, and thus stabilizes the area, may be considered to have a community development purpose. For example, in an underserved, distressed area, a loan for a pharmacy that employs, and provides supplies to, residents of the area promotes community development.

Q5. *Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

A5. No. The regulations, for example, recognize that community development organizations and programs are frequently efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multi-state basis. Therefore, an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area. Furthermore, the regulations permit a wholesale or limited purpose institution to consider community development loans, community development services, and qualified investments wherever they are located, as long as the institution has otherwise adequately addressed the credit needs within its assessment area(s).

Q6. *What is meant by a ''regional area'' in the requirement that a community development loan must benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

A6. A ''regional area'' may be as small as a city or county or as large as a multistate area. For example, the ''mid-Atlantic states'' may comprise a regional area. When examiners evaluate community development loans that benefit a regional area that includes the institution's assessment area, however, the examiners will consider the size of the regional area and the actual or potential benefit to the institution's assessment area(s). In most cases, the larger the regional area, the more diffuse the benefit will be to the institution's assessment area(s). Examiners may view loans with more direct benefits to an institution's assessment area(s) as more responsive to the credit needs of the area(s) than loans for which the actual benefit to the assessment area(s) is uncertain or for which the benefit is diffused throughout a larger area that includes the assessment area(s).

Sections__.12(j) & 563e.12(i) Community Development Service

Q1. *In addition to meeting the definition of ''community development'' in the regulation, community development services must also be related to the provision of financial services. What is meant by ''provision of financial services''?*

A1. Providing financial services means providing services of the type generally provided by the financial services industry. Providing financial services often involves informing community members about how to get or use credit or otherwise providing credit services or information to the community. For example, service on the board of directors of an organization that promotes credit availability or finances affordable housing is related to the provision of financial services. Providing technical assistance about financial services to community-based groups, local or tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms is also providing financial services. By contrast, activities that do not take advantage of the employees' financial expertise, such as neighborhood cleanups, do not involve the provision of financial services.

Q2. *Are personal charitable activities provided by an institution's employees or directors outside the ordinary course of their employment considered community development services?*

A2. No. Services must be provided as a representative of the institution. For example, if a financial institution's director, on her own time and not as a

representative of the institution, volunteers one evening a week at a local community development corporation's financial counseling program, the institution may not consider this activity a community development service.

Q3. *What are examples of community development services?*

A3. Examples of community development services include, but are not limited to, the following:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home buyers and home maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs for low- or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low- or moderate-income individuals; and
- Providing other financial services with the primary purpose of community development, such as low-cost bank accounts or free government check cashing that increases access to financial services for low- or moderate-income individuals.

Examples of technical assistance activities that might be provided to community development organizations include:

- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

Sections__.12(k) & 563e.12(j) Consumer Loan

Q1. *Are home equity loans considered ''consumer loans''?*

A1. Home equity loans made for purposes other than home purchase, home improvement or refinancing home purchase or home improvement loans are consumer loans if they are extended to one or more individuals for household, family, or other personal expenditures.

Q2. *May a home equity line of credit be considered a ''consumer loan'' even if part of the line is for home improvement purposes?*

A2. If the predominant purpose of the line is home improvement, the line may only be reported under HMDA and may not be considered a consumer loan. However, the full amount of the line may be considered a ''consumer loan'' if its predominant purpose is for household, family, or other personal expenditures, and to a lesser extent home improvement, and the full amount of the line has not been reported under HMDA. This is the case even though there may be ''double counting'' because part of the line may also have been reported under HMDA.

Q3. *How should an institution collect or report information on loans the proceeds of which will be used for multiple purposes?*

A3. If an institution makes a single loan or provides a line of credit to a customer to be used for both consumer and small business purposes, consistent with the Call Report and TFR instructions, the institution should determine the major (predominant) component of the loan or the credit line and collect or report the entire loan or credit line in accordance with the regulation's specifications for that loan type.

Sections__.12(m) & 563e.12(l) Home Mortgage Loan

Q1. *Does the term ''home mortgage loan'' include loans other than ''home purchase loans''?*

A1. Yes. ''Home mortgage loan'' includes a ''home improvement loan'' as well as a ''home purchase loan,'' as both terms are defined in the HMDA regulation, Regulation C, 12 CFR part 203. This definition also includes multifamily (five-or-more families) dwelling loans, loans for the purchase of manufactured homes, and refinancings of home improvement and home purchase loans.

Q2. *Some financial institutions broker home mortgage loans. They typically take the borrower's application and perform other settlement activities; however, they do not make the credit decision. The broker institutions may also initially fund these mortgage loans, then immediately assign them to another lender. Because the broker institution does not make the credit decision, under Regulation C (HMDA), they do not record the loans on their HMDA–LARs, even if they fund the loans. May an institution receive any consideration under CRA for its home mortgage loan brokerage activities?*

A2. Yes. A financial institution that funds home mortgage loans but immediately assigns the loans to the lender that made the credit decisions may present information about these loans to examiners for consideration under the lending test as ''other loan data.'' Under Regulation C, the broker institution does not record the loans on its HMDA–LAR because it does not make the credit decisions, even if it funds the loans. An institution electing to have these home mortgage loans considered must maintain information about all of the home mortgage loans that it has funded in this way. Examiners will consider this other loan data using the same criteria by which home mortgage loans originated or purchased by an institution are evaluated.

Institutions that do not provide funding but merely take applications and provide settlement services for another lender that makes the credit decisions will receive consideration for this service as a retail banking service. Examiners will consider an institution's mortgage brokerage services when evaluating the range of services provided to low-, moderate-, middle- and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies. Alternatively, an institution's mortgage brokerage service may be considered a community development service if the primary purpose of the service is community development. An institution wishing to have its mortgage brokerage service considered as a community development service must provide sufficient information to substantiate that its primary purpose is community development and to establish the extent of the services provided.

Sections __.12(n) & 563e.12(m) Income Level

Q1. *Where do institutions find income level data for geographies and individuals?*

A1. The income levels for geographies, i.e., census tracts and block numbering areas, are derived from

Census Bureau information and are updated every ten years. Institutions may contact their regional Census Bureau office or the Census Bureau's Income Statistics Office at (301) 763–8576 to obtain income levels for geographies. *See* Appendix A of these Interagency Questions and Answers for a list of the regional Census Bureau offices. The income levels for individuals are derived from information calculated by the Department of Housing and Urban Development (HUD) and updated annually. Institutions may contact HUD at (800) 245–2691 to request a copy of ''FY [year number, e.g., 1996] Median Family Incomes for States and their Metropolitan and Nonmetropolitan Portions.''

Alternatively, institutions may obtain a list of the 1990 Census Bureau-calculated and the annually updated HUD median family incomes for metropolitan statistical areas (MSAs) and statewide nonmetropolitan areas by calling the Federal Financial Institution Examination Council's (FFIEC's) HMDA Help Line at (202) 452–2016. A free copy will be faxed to the caller through the ''fax-back'' system. Institutions may also call this number to have ''faxed-back'' an order form, from which they may order a list providing the median family income level, as a percentage of the appropriate MSA or nonmetropolitan median family income, of every census tract and block numbering area (BNA). This list costs $50. Institutions may also obtain the list of MSA and statewide nonmetropolitan area median family incomes or an order form through the FFIEC's home page on the Internet at ''http://www.ffiec.gov/'.

Sections__.12(o) & 563e.12(n) Limited Purpose Institution

Q1. *What constitutes a ''narrow product line'' in the definition of ''limited purpose institution''?*

A1. An institution offers a narrow product line by limiting its lending activities to a product line other than a traditional retail product line required to be evaluated under the lending test (i.e., home mortgage, small business, and small farm loans). Thus, an institution engaged only in making credit card or motor vehicle loans offers a narrow product line, while an institution limiting its lending activities to home mortgages is not offering a narrow product line.

Q2. *What factors will the agencies consider to determine whether an institution that, if limited purpose, makes loans outside a narrow product line, or, if wholesale, engages in retail lending, will lose its limited purpose or wholesale designation because of too much other lending?*

A2. Wholesale institutions may engage in some retail lending without losing their designation if this activity is incidental and done on an accommodation basis. Similarly, limited purpose institutions continue to meet the narrow product line requirement if they provide other types of loans on an infrequent basis. In reviewing other lending activities by these institutions, the agencies will consider the following factors:

- Is the other lending provided as an incident to the institution's wholesale lending?
- Are the loans provided as an accommodation to the institution's wholesale customers?
- Are the loans made only infrequently to the limited purpose institution's customers?
- Does only an insignificant portion of the institution's total assets and income result from the other lending?
- How significant a role does the institution play in providing that type(s) of loan(s) in the institution's assessment area(s)?
- Does the institution hold itself out as offering that type(s) of loan(s)?
- Does the lending test or the community development test present a more accurate picture of the institution's CRA performance?

Q3. *Do ''niche institutions'' qualify as limited purpose (or wholesale) institutions?*

A3. Generally, no. Institutions that are in the business of lending to the public, but specialize in certain types of retail loans (for example, home mortgage or small business loans) to certain types of borrowers (for example, to high-end income level customers or to corporations or partnerships of licensed professional practitioners) (''niche institutions'') generally would not qualify as limited purpose (or wholesale) institutions.

Sections__.12(s) & 563e.12(r) Qualified Investment

Q1. *Does the CRA regulation provide authority for institutions to make investments?*

A1. No. The CRA regulation does not provide authority for institutions to make investments that are not otherwise allowed by Federal law.

Q2. *Are mortgage-backed securities or municipal bonds ''qualified investments''?*

A2. As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments. Municipal bonds or other securities with a primary purpose of community development need not be housing-related. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Housing-related bonds or securities must primarily address affordable housing (including multifamily rental housing) needs in order to qualify.

Q3. *Are Federal Home Loan Bank stocks and membership reserves with the Federal Reserve Banks ''qualified investments''?*

A3. No. Federal Home Loan Bank stock and membership reserves with the Federal Reserve Banks do not have a sufficient connection to community development to be qualified investments.

Q4. *What are examples of qualified investments?*

A4. Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares in or to:

- Financial intermediaries (including, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;
- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- Organizations, including, for example, Small Business Investment Companies (SBICs) and specialized SBICs, that promote economic development by financing small businesses;
- Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds, that specifically

support affordable housing or other community development;

- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, home-ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

Q5. *Will an institution receive consideration for charitable contributions as ''qualified investments''?*

A5. Yes, provided they have as their primary purpose community development as defined in the regulations. A charitable contribution, whether in cash or an in-kind contribution of property, is included in the term ''grant.'' A qualified investment is not disqualified because an institution receives favorable treatment for it (for example, as a tax deduction or credit) under the Internal Revenue Code.

Q6. *An institution makes or participates in a community development loan. The institution provided the loan at below-market interest rates or ''bought down'' the interest rate to the borrower. Is the lost income resulting from the lower interest rate or buy-down a qualified investment?*

A6. No. The agencies will, however, consider the innovativeness and complexity of the community development loan within the bounds of safe and sound banking practices.

Q7. *Will the agencies consider as a qualified investment the wages or other compensation of an employee or director who provides assistance to a community development organization on behalf of the institution?*

A7. No. However, the agencies will consider donated labor of employees or directors of a financial institution in the service test if the activity is a community development service.

Section__.12(t) Small institution

Q1. *How are the ''total bank and thrift assets'' of a holding company determined?*

A1. ''Total banking and thrift assets'' of a holding company are determined by combining the total assets of all banks and/or thrifts that are majority-owned by the holding company. An institution is majority-owned if the holding company directly or indirectly owns more than 50 percent of its outstanding voting stock.

Q2. *How are Federal and State branch assets of a foreign bank calculated for purposes of the CRA?*

A2. A Federal or State branch of a foreign bank is considered a small institution if the Federal or State branch has less than $250 million in assets and the total assets of the foreign bank's or its holding company's U.S. bank and thrift subsidiaries that are subject to the CRA are less than $1 billion. This calculation includes not only FDIC-insured bank and thrift subsidiaries, but also the assets of any FDIC-insured branch of the foreign bank and the assets of any uninsured Federal or State branch (other than a limited branch or a Federal agency) of the foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. § 3103(a)(8)).

Section__.12(u) Small business loan

Q1. *Are loans to nonprofit organizations considered small business loans or are they considered community development loans?*

A1. To be considered a small business loan, a loan must meet the definition of ''loan to small business'' in the instructions in the ''Consolidated Reports of Conditions and Income'' (Call Report) and ''Thrift Financial Reports'' (TFR). In general, a loan to a nonprofit organization, for business or farm purposes, where the loan is secured by nonfarm nonresidential property and the original amount of the loan is $1 million or less, if a business loan, or $500,000 or less, if a farm loan, would be reported in the Call Report and TFR as a small business or small farm loan. If a loan to a nonprofit organization is reportable as a small business or small farm loan, it cannot also be considered as a community development loan, except by a wholesale or limited purpose institution. Loans to nonprofit organizations that are not small business or small farm loans for Call Report and TFR purposes may be considered as community development loans if they meet the regulatory definition.

Q2. *Are loans secured by commercial real estate considered small business loans?*

A2. Yes, depending on their principal amount. Small business loans include loans secured by ''nonfarm nonresidential properties,'' as defined in the Call Report and TFR, in amounts less than $1 million.

Q3. *Are loans secured by nonfarm residential real estate to finance small businesses ''small business loans''?*

A3. No. Loans secured by nonfarm residential real estate that are used to finance small businesses are not included as ''small business'' loans for Call Report and TFR purposes. The agencies recognize that many small businesses are financed by loans secured by residential real estate. If these loans promote community development, as defined in the regulation, they may be considered as community development loans. Otherwise, at an institution's option, the institution may collect and maintain data separately concerning these loans and request that the data be considered in its CRA evaluation as ''Other Secured Lines/Loans for Purposes of Small Business.''

Q4. *Are credit cards issued to small businesses considered ''small business loans''?*

A4. Credit cards issued to a small business or to individuals to be used, with the institution's knowledge, as business accounts are small business loans if they meet the definitional requirements in the Call Report or TFR instructions.

Section__.12(w) Wholesale Institution

Q1. *What factors will the agencies consider in determining whether an institution is in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers?*

A1. The agencies will consider whether:

- The institution holds itself out to the retail public as providing such loans; and
- The institution's revenues from extending such loans are significant when compared to its overall operations.

A wholesale institution may make some retail loans without losing its wholesale designation as described above in Q&A2 addressing §§ __.12(o) and 563e.12(n).

Section__.21—Performance tests, Standards, and Ratings, in General

Section__.21(a) Performance Tests and Standards

Q1. *Are all community development activities weighted equally by examiners?*

A1. No. Examiners will consider the responsiveness to credit and community development needs, as well as the innovativeness and complexity of an institution's community development lending, qualified investments, and community development services. These criteria include consideration of the degree to which they serve as a

catalyst for other community development activities. The criteria are designed to add a qualitative element to the evaluation of an institution's performance.

Section__.21(b) Performance Context

Q1. *Is the performance context essentially the same as the former regulation's needs assessment?*

A1. No. The performance context is a broad range of economic, demographic, and institution-and community-specific information that an examiner reviews to understand the context in which an institution's record of performance should be evaluated. The agencies will provide examiners with much of this information prior to the examination. The performance context is not a formal or written assessment of community credit needs.

Section__.21(b)(2) Information Maintained by the Institution or Obtained From Community Contacts

Q1. *Will examiners consider performance context information provided by institutions?*

A1. Yes. An institution may provide examiners with any information it deems relevant, including information on the lending, investment, and service opportunities in its assessment area(s). This information may include data on the business opportunities addressed by lenders not subject to the CRA. Institutions are not required, however, to prepare a needs assessment. If an institution provides information to examiners, the agencies will not expect information other than what the institution normally would develop to prepare a business plan or to identify potential markets and customers, including low-and moderate-income persons and geographies in its assessment area(s). The agencies will not evaluate an institution's efforts to ascertain community credit needs or rate an institution on the quality of any information it provides.

Q2. *Will examiners conduct community contact interviews as part of the examination process?*

A2. Yes. Examiners will consider information obtained from interviews with local community, civic, and government leaders. These interviews provide examiners with knowledge regarding the local community, its economic base, and community development initiatives. To ensure that information from local leaders is considered—particularly in areas where the number of potential contacts may be limited—examiners may use information obtained through an interview with a single community contact for examinations of more than one institution in a given market. In addition, the agencies will consider information obtained from interviews conducted by other agency staff and by the other agencies. In order to augment contacts previously used by the agencies and foster a wider array of contacts, the agencies will share community contact information.

Section__.21(b)(4) Institutional Capacity and Constraints

Q1. *Will examiners consider factors outside of an institution's control that prevent it from engaging in certain activities?*

A1. Yes. Examiners will take into account statutory and supervisory limitations on an institution's ability to engage in any lending, investment, and service activities. For example, a savings association that has made few or no qualified investments due to its limited investment authority may still receive a low satisfactory rating under the investment test if it has a strong lending record.

§ __.21(b)(5) Institution's Past Performance and the Performance of Similarly Situated Lenders

Q1. *Can an institution's assigned rating be adversely affected by poor past performance?*

A1. Yes. The agencies will consider an institution's past performance in its overall evaluation. For example, an institution's past performance may support a rating of ''substantial noncompliance'' if the institution has not improved performance rated as ''needs to improve.''

Q2. *How will examiners consider the performance of similarly situated lenders?*

A2. The performance context section of the regulation permits the performance of similarly situated lenders to be considered, for example, as one of a number of considerations in evaluating the geographic distribution of an institution's loans to low-, moderate-, middle-, and upper-income geographies. This analysis, as well as other analyses, may be used, for example, where groups of contiguous geographies within an institution's assessment area(s) exhibit abnormally low penetration. In this regard, the performance of similarly situated lenders may be analyzed if such an analysis would provide accurate insight into the institution's lack of performance in those areas. The regulation does not require the use of a specific type of analysis under these circumstances. Moreover, no ratio developed from any type of analysis is linked to any lending test rating.

§ __.22—Lending Test

§ __.22(a) Scope of test

§ __.22(a)(1) Types of Loans Considered

Q1. *If a large retail institution is not required to collect and report home mortgage data under the HMDA, will the agencies still evaluate the institution's home mortgage lending performance?*

A1. Yes. The agencies will sample the institution's home mortgage loan files in order to assess its performance under the lending test criteria.

Q2. *When will examiners consider consumer loans as part of an institution's CRA evaluation?*

A2. Consumer loans will be evaluated if the institution so elects; and an institution that elects not to have its consumer loans evaluated will not be viewed less favorably by examiners than one that does. However, if consumer loans constitute a substantial majority of the institution's business, the agencies will evaluate them even if the institution does not so elect. The agencies interpret ''substantial majority'' to be so significant a portion of the institution's lending activity by number or dollar volume of loans that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded.

§ __.22(a)(2) Other Loan Data

Q1. *How are lending commitments (such as letters of credit) evaluated under the regulation?*

A1. The agencies consider lending commitments (such as letters of credit) only at the option of the institution. Commitments must be legally binding between an institution and a borrower in order to be considered. Information about lending commitments will be used by examiners to enhance their understanding of an institution's performance.

Q2. *Will examiners review application data as part of the lending test?*

A2. Application activity is not a performance criterion of the lending test. However, examiners may consider this information in the performance context analysis because this information may give examiners insight on, for example, the demand for loans.

Q3. *May a financial institution receive consideration under CRA for modification, extension, and consolidation agreements (MECAs), in which it obtains loans from other institutions without actually purchasing*

or refinancing the loans, as those terms have been interpreted under CRA?

A3. Yes. In some states, MECAs, which are not considered loan refinancings because the existing loan obligations are not satisfied and replaced, are common. Although these transactions are not considered to be purchases or refinancings, as those terms have been interpreted under CRA, they do achieve the same results. An institution may present information about its MECA activities to examiners for consideration under the lending test as ''other loan data.''

Section __.22(b) Performance Criteria

Q1. *How will examiners apply the performance criteria in the lending test?*

A1. Examiners will apply the performance criteria reasonably and fairly, in accord with the regulations, the examination procedures, and this Guidance. In doing so, examiners will disregard efforts by an institution to manipulate business operations or present information in an artificial light that does not accurately reflect an institution's overall record of lending performance.

Section __.22(b)(1) Lending Activity

Q1. *How will the agencies apply the lending activity criterion to discourage an institution from originating loans that are viewed favorably under CRA in the institution itself and referring other loans, which are not viewed as favorably, for origination by an affiliate?*

A1. Examiners will review closely institutions with (1) a small number and amount of home mortgage loans with an unusually good distribution among low- and moderate-income areas and low- and moderate-income borrowers and (2) a policy of referring most, but not all, of their home mortgage loans to affiliated institutions. If an institution is making loans mostly to low-and moderate-income individuals and areas and referring the rest of the loan applicants to an affiliate for the purpose of receiving a favorable CRA rating, examiners may conclude that the institution's lending activity is not satisfactory because it has inappropriately attempted to influence the rating. In evaluating an institution's lending, examiners will consider legitimate business reasons for the allocation of the lending activity.

Section __.22(b)(2) & (3) Geographic Distribution and Borrower Characteristics

Q1. *How do the geographic distribution of loans and the distribution of lending by borrower characteristics interact in the lending test?*

A1. Examiners generally will consider both the distribution of an institution's loans among geographies of different income levels and among borrowers of different income levels and businesses of different sizes. The importance of the borrower distribution criterion, particularly in relation to the geographic distribution criterion, will depend on the performance context. For example, distribution among borrowers with different income levels may be more important in areas without identifiable geographies of different income categories. On the other hand, geographic distribution may be more important in areas with the full range of geographies of different income categories.

Q2. *Must an institution lend to all portions of its assessment area?*

A2. The term ''assessment area'' describes the geographic area within which the agencies assess how well an institution has met the specific performance tests and standards in the rule. The agencies do not expect that simply because a census tract or block numbering area is within an institution's assessment area(s) the institution must lend to that census tract or block numbering area. Rather the agencies will be concerned with conspicuous gaps in loan distribution that are not explained by the performance context. Similarly, if an institution delineated the entire county in which it is located as its assessment area, but could have delineated its assessment area as only a portion of the county, it will not be penalized for lending only in that portion of the county, so long as that portion does not reflect illegal discrimination or arbitrarily exclude low- or moderate-income geographies. The capacity and constraints of an institution, its business decisions about how it can best help to meet the needs of its assessment area(s), including those of low- and moderate-income neighborhoods, and other aspects of the performance context, are all relevant to explain why the institution is serving or not serving portions of its assessment area(s).

Q3. *Will examiners take into account loans made by affiliates when evaluating the proportion of an institution's lending in its assessment area(s)?*

A3. Examiners will not take into account loans made by affiliates when determining the proportion of an institution's lending in its assessment area(s), even if the institution elects to have its affiliate lending considered in the remainder of the lending test evaluation. However, examiners may consider an institution's business strategy of conducting lending through an affiliate in order to determine whether a low proportion of lending in the assessment area(s) should adversely affect the institution's lending test rating.

Q4. *When will examiners consider loans (other than community development loans) made outside an institution's assessment area(s)?*

A4. Favorable consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of an institution's assessment area(s), provided the institution has adequately addressed the needs of borrowers within its assessment area(s). The agencies will apply this consideration not only to loans made by large retail institutions being evaluated under the lending test, but also to loans made by small institutions being evaluated under the small institution performance standards. Loans to low-and moderate-income persons and small businesses and farms outside of an institution's assessment area(s), however, will not compensate for poor lending performance within the institution's assessment area(s).

Q5. *Under the lending test, how will examiners evaluate home mortgage loans to middle- or upper-income individuals in a low- or moderate-income geography?*

A5. Examiners will consider these home mortgage loans under the performance criteria of the lending test, i.e., by number and amount of home mortgage loans, whether they are inside or outside the financial institution's assessment area(s), their geographic distribution, and the income levels of the borrowers. Examiners will use information regarding the financial institution's performance context to determine how to evaluate the loans under these performance criteria. Depending on the performance context, examiners could view home mortgage loans to middle-income individuals in a low-income geography very differently. For example, if the loans are for homes located in an area for which the local, state, tribal, or Federal government or a community-based development organization has developed a revitalization or stabilization plan (such as a Federal enterprise community or empowerment zone) that includes attracting mixed-income residents to establish a stabilized, economically diverse neighborhood, examiners may give more consideration to such loans, which may be viewed as serving the low- or moderate-income community's needs as well as serving those of the

middle-or upper-income borrowers. If, on the other hand, no such plan exists and there is no other evidence of governmental support for a revitalization or stabilization project in the area and the loans to middle- or upper-income borrowers significantly disadvantage or primarily have the effect of displacing low- or moderate-income residents, examiners may view these loans simply as home mortgage loans to middle- or upper-income borrowers who happen to reside in a low- or moderate-income geography and weigh them accordingly in their evaluation of the institution.

Section__.22(c) Affiliate Lending

Section__.22(c)(1) In General

Q1. *If an institution elects to have loans by its affiliate(s) considered, may it elect to have only certain categories of loans considered?*

A1. Yes. An institution may elect to have only a particular category of its affiliate's lending considered. The basic categories of loans are home mortgage loans, small business loans, small farm loans, community development loans, and the five categories of consumer loans (motor vehicle loans, credit card loans, home equity loans, other secured loans, and other unsecured loans).

Section__.22(c)(2) Constraints on Affiliate Lending

Section__.22(c)(2)(i) No Affiliate may Claim a Loan Origination or Loan Purchase if Another Institution Claims the Same Loan Origination or Purchase

Q1. *How is this constraint on affiliate lending applied?*

A1. This constraint prohibits one affiliate from claiming a loan origination or purchase claimed by another affiliate. However, an institution can count as a purchase a loan originated by an affiliate that the institution subsequently purchases, or count as an origination a loan later sold to an affiliate, provided the same loans are not sold several times to inflate their value for CRA purposes.

Section__.22(c)(2)(ii) If an Institution Elects To Have its Supervisory Agency Consider Loans Within a Particular Lending Category Made by one or More of the Institution's Affiliates in a Particular Assessment Area, the Institution Shall Elect to Have the Agency Consider all Loans Within That Lending Category in That Particular Assessment Area Made by all of the Institution's Affiliates

Q1. *How is this constraint on affiliate lending applied?*

A1. This constraint prohibits ''cherry-picking'' affiliate loans within any one category of loans. The constraint requires an institution that elects to have a particular category of affiliate lending in a particular assessment area considered to include all loans of that type made by all of its affiliates in that particular assessment area. For example, assume that an institution has one or more affiliates, such as a mortgage bank that makes loans in the institution's assessment area. If the institution elects to include the mortgage bank's home mortgage loans, it must include all of mortgage bank's home mortgage loans made in its assessment area. The institution cannot elect to include only those low- and moderate-income home mortgage loans made by the mortgage bank affiliate and not home mortgage loans to middle- and upper-income individuals or areas.

Q2. *How is this constraint applied if an institution's affiliates are also insured depository institutions subject to the CRA?*

A2. Strict application of this constraint against ''cherry-picking'' to loans of an affiliate that is also an insured depository institution covered by the CRA would produce the anomalous result that the other institution would, without its consent, not be able to count its own loans. Because the agencies did not intend to deprive an institution subject to the CRA of receiving consideration for its own lending, the agencies read this constraint slightly differently in cases involving a group of affiliated institutions, some of which are subject to the CRA and share the same assessment area(s). In those circumstances, an institution that elects to include all of its mortgage affiliate's home mortgage loans in its assessment area would not automatically be required to include all home mortgage loans in its assessment area of another affiliate institution subject to the CRA. However, all loans of a particular type made by any affiliate in the institution's assessment area(s) must either be counted by the lending institution or by another affiliate institution that is subject to the CRA. This reading reflects the fact that a holding company may, for business reasons, choose to transact different aspects of its business in different subsidiary institutions. However, the method by which loans are allocated among the institutions for CRA purposes must reflect actual business decisions about the allocation of banking activities among the institutions and should not be designed solely to enhance their CRA evaluations.

Section__.22(d) Lending by a Consortium or a Third Party

Q1. *Will equity and equity-type investments in a third party receive positive consideration under the lending test?*

A1. If an institution has made an equity or equity-type investment in a third party, loans made by the third party may be considered under the lending test. On the other hand, asset-backed and debt securities that do not represent an equity-type interest in a third party will not be considered under the lending test unless the securities are booked by the purchasing institution as a loan. For example, if an institution purchases stock in a community development corporation (''CDC'') that primarily lends in low- and moderate-income areas or to low-and moderate-income individuals in order to promote community development, the institution may claim a pro rata share of the CDC's loans as community development loans. The institution's pro rata share is based on its percentage of equity ownership in the CDC.

Q&A1 addressing § __.23(b) provides information concerning consideration of an equity or equity-type investment under the investment test and both the lending and investment tests.

Q2. *How will examiners evaluate loans made by consortia or third parties under the lending test?*

A2. Loans originated or purchased by consortia in which an institution participates or by third parties in which an institution invests will only be considered if they qualify as community development loans and will only be considered under the community development criterion of the lending test. However, loans originated directly on the books of an institution or purchased by the institution are considered to have been made or purchased directly by the institution, even if the institution originated or purchased the loans as a result of its participation in a loan consortium. These loans would be considered under all the lending test criteria appropriate to them depending on the type of loan.

Q3. *In some circumstances, an institution may invest in a third party, such as a community development bank, that is also an insured depository institution and is thus subject to CRA requirements. If the investing institution requests its supervisory agency to consider its pro rata share of community development loans made by the third party, as allowed under 12 CFR § __.22(d), may the third party also receive consideration for these loans?*

A3. Yes, as long as the financial institution and the third party are not affiliates. The regulations state, at 12 CFR § __.22(c)(2)(i), that two affiliates may not both claim the same loan origination or loan purchase. However, if the financial institution and the third party are not affiliates, the third party may receive consideration for the community development loans it originates, and the financial institution that invested in the third party may also receive consideration for its pro rata share of the same community development loans under 12 CFR § __.22(d).

Section__.23—Investment Test

Section__.23(b) Exclusion

Q1. *Even though the regulations state that an activity that is considered under the lending or service tests cannot also be considered under the investment test, may parts of an activity be considered under one test and other parts be considered under another test?*

A1. Yes, in some instances the nature of an activity may make it eligible for consideration under more than one of the performance tests. For example, certain investments and related support provided by a large retail institution to a CDC may be evaluated under the lending, investment, and service tests. Under the service test, the institution may receive consideration for any community development services that it provides to the CDC, such as service by an executive of the institution on the CDC's board of directors. If the institution makes an investment in the CDC that the CDC uses to make community development loans, the institution may receive consideration under the lending test for its pro-rata share of community development loans made by the CDC. Alternatively, the institution's investment may be considered under the investment test, assuming it is a qualified investment. In addition, an institution may elect to have a part of its investment considered under the lending test and the remaining part considered under the investment test. If the investing institution opts to have a portion of its investment evaluated under the lending test by claiming a share of the CDC's community development loans, the amount of investment considered under the investment test will be offset by that portion. Thus, the institution would only receive consideration under the investment test for the amount of its investment multiplied by the percentage of the CDC's assets that meet the definition of a qualified investment.

Section__.24—Service test

Section__.24(d) Performance Criteria—Retail Banking Services

Q1. *How do examiners evaluate the availability and effectiveness of an institution's systems for delivering retail banking services?*

A1. Convenient access to full service branches within a community is an important factor in determining the availability of credit and non-credit services. Therefore, the service test performance standards place primary emphasis on full service branches while still considering alternative systems, such as automated teller machines (''ATMs''). The principal focus is on an institution's current distribution of branches; therefore, an institution is not required to expand its branch network or operate unprofitable branches. Under the service test, alternative systems for delivering retail banking services, such as ATMs, are considered only to the extent that they are effective alternatives in providing needed services to low- and moderate-income areas and individuals.

Section__.24(d)(3) Availability and Effectiveness of Alternative Systems for Delivering Retail Banking Services

Q1. *How will examiners evaluate alternative systems for delivering retail banking services?*

A1. The regulation recognizes the multitude of ways in which an institution can provide services, for example, ATMs, banking by telephone or computer, and bank-by-mail programs. Delivery systems other than branches will be considered positively under the regulation to the extent that they are effective alternatives to branches in providing needed services to low-and moderate-income areas and individuals. The list of systems in the regulation is not intended to be inclusive.

Q2. *Are debit cards considered under the service test as an alternative delivery system?*

A2. By themselves, no. However, if debit cards are a part of a larger combination of products, such as a comprehensive electronic banking service, that allows an institution to deliver needed services to low- and moderate-income areas and individuals in its community, the overall delivery system that includes the debit card feature would be considered an alternative delivery system.

Section__.25 Community Development Test for Wholesale or Limited Purpose Institutions

Section__.25(d) Indirect Activities

Q1. *How are investments in third party community development organizations considered under the community development test?*

A1. Similar to the lending test for retail institutions, investments in third party community development organizations may be considered as qualified investments or as community development loans or both (provided there is no double counting), at the institution's option, as described above in the discussion regarding §§ __.22(d) and __.23(b).

Section __.25(f) Community Development Performance Rating

Q1. *Must a wholesale or limited purpose institution engage in all three categories of community development activities (lending, investment and service) to perform well under the community development test?*

A1. No, a wholesale or limited purpose institution may perform well under the community development test by engaging in one or more of these activities.

Section __.26—Small Institution Performance Standards

Section __.26(a) Performance Criteria

Q1. *May examiners consider, under one or more of the performance criteria of the small institution performance standards, lending-related activities, such as community development loans and lending-related qualified investments, when evaluating a small institution?*

A1. Yes. Examiners can consider ''lending-related activities,'' including community development loans and lending-related qualified investments, when evaluating the first four performance criteria of the small institution performance test. Although lending-related activities are specifically mentioned in the regulation in connection with only the first three criteria (i.e., loan-to-deposit ratio, percentage of loans in the institution's assessment area, and lending to borrowers of different incomes and businesses of different sizes), examiners can also consider these activities when they evaluate the fourth criteria—geographic distribution of the institution's loans.

Q2. *What is meant by ''as appropriate'' when referring to the fact that lending-related activities will be considered, ''as appropriate,'' under the*

various small institution performance criteria?

A2. ''As appropriate'' means that lending-related activities will be considered when it is necessary to determine whether an institution meets or exceeds the standards for a satisfactory rating. Examiners will also consider other lending-related activities at an institution's request.

Q3. *When evaluating a small institution's lending performance, will examiners consider, at the institution's request, community development loans originated or purchased by a consortium in which the institution participates or by a third party in which the institution has invested?*

A3. Yes. However, a small institution that elects to have examiners consider community development loans originated or purchased by a consortium or third party must maintain sufficient information on its share of the community development loans so that the examiners may evaluate these loans under the small institution performance criteria.

Q4. *Under the small institution performance standards, will examiners consider both loan originations and purchases?*

A4. Yes, consistent with the other assessment methods in the regulation, examiners will consider both loans originated and purchased by the institution. Likewise, examiners may consider any other loan data the small institution chooses to provide, including data on loans outstanding, commitments and letters of credit.

Q5. *Under the small institution performance standards, how will qualified investments be considered for purposes of determining whether a small institution receives a satisfactory CRA rating?*

A5. The small institution performance standards focus on lending and other lending-related activities. Therefore, examiners will consider only lending-related qualified investments for the purposes of determining whether the small institution receives a satisfactory CRA rating.

Section __ .26(a)(1) Loan-to-Deposit Ratio

Q1. *How is the loan-to-deposit ratio calculated?*

A1. A small institution's loan-to-deposit ratio is calculated in the same manner that the Uniform Bank Performance Report/Uniform Thrift Performance Report (UBPR/UTPR) determines the ratio. It is calculated by dividing the institution's net loans and leases by its total deposits. The ratio is found in the Liquidity and Investment Portfolio section of the UBPR and UTPR. Examiners will use this ratio to calculate an average since the last examination by adding the quarterly loan-to-deposit ratios and dividing the total by the number of quarters.

Q2. *How is the ''reasonableness'' of a loan-to-deposit ratio evaluated?*

A2. No specific ratio is reasonable in every circumstance, and each small institution's ratio is evaluated in light of information from the performance context, including the institution's capacity to lend, demographic and economic factors present in the assessment area, and the lending opportunities available in the assessment area(s). If a small institution's loan-to-deposit ratio appears unreasonable after considering this information, lending performance may still be satisfactory under this criterion taking into consideration the number and the dollar volume of loans sold to the secondary market or the number and amount and innovativeness or complexity of community development loans and lending-related qualified investments.

Q3. *If an institution makes a large number of loans off-shore, will examiners segregate the domestic loan-to-deposit ratio from the foreign loan-to-deposit ratio?*

A3. No. Examiners will look at the institution's net loan-to-deposit ratio for the whole institution, without any adjustments.

Section __ .26(a)(2) Percentage of Lending Within Assessment Area(s)

Q1. *Must a small institution have a majority of its lending in its assessment area(s) to receive a satisfactory performance rating?*

A1. No. The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s) is but one of the performance criteria upon which small institutions are evaluated. If the percentage of loans and other lending related activities in an institution's assessment area(s) is less than a majority, then the institution does not meet the standards for satisfactory performance only under this criterion. The effect on the overall performance rating of the institution, however, is considered in light of the performance context, including information regarding economic conditions, loan demand, the institution's size, financial condition and business strategies, and branching network and other aspects of the institution's lending record.

Section __.26(a) (3) & (4) Distribution of Lending Within Assessment Area(s) by Borrower Income and Geographic Location

Q1. *How will a small institution's performance be assessed under these lending distribution criteria?*

A1. Distribution of loans, like other small institution performance criteria, is considered in light of the performance context. For example, a small institution is not required to lend evenly throughout its assessment area(s) or in any particular geography. However, in order to meet the standards for satisfactory performance under this criterion, conspicuous gaps in a small institution's loan distribution must be adequately explained by performance context factors such as lending opportunities in the institution's assessment area(s), the institution's product offerings and business strategy, and institutional capacity and constraints. In addition, it may be impracticable to review the geographic distribution of the lending of an institution with few demographically distinct geographies within an assessment area. If sufficient information on the income levels of individual borrowers or the revenues or sizes of business borrowers is not available, examiners may use proxies such as loan size for estimating borrower characteristics, where appropriate.

Section __.26(b) Performance Rating

Q1. *How can a small institution achieve an ''outstanding'' performance rating?*

A1. A small institution that meets each of the standards for a ''satisfactory'' rating and exceeds some or all of those standards may warrant an ''outstanding'' performance rating. In assessing performance at the ''outstanding'' level, the agencies consider the extent to which the institution exceeds each of the performance standards and, at the institution's option, its performance in making qualified investments and providing services that enhance credit availability in its assessment area(s). In some cases, a small institution may qualify for an ''outstanding'' performance rating solely on the basis of its lending activities, but only if its performance materially exceeds the standards for a ''satisfactory'' rating, particularly with respect to the penetration of borrowers at all income levels and the dispersion of loans throughout the geographies in its assessment area(s) that display income variation. An institution with a high

loan-to-deposit ratio and a high percentage of loans in its assessment area(s), but with only a reasonable penetration of borrowers at all income levels or a reasonable dispersion of loans throughout geographies of differing income levels in its assessment area(s), generally will not be rated ''outstanding'' based only on its lending performance. However, the institution's performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s) may augment the institution's satisfactory rating to the extent that it may be rated ''outstanding.''

Q2. *Will a small institution's qualified investments, community development loans, and community development services be considered if they do not directly benefit its assessment area(s)?*

A2. Yes. These activities are eligible for consideration if they benefit a broader statewide or regional area that includes a small institution's assessment area(s), as discussed more fully in Q&A6 addressing §§ __.12(i) and 563e.12(h).

Section __.27—Strategic plan

Section __.27(c) Plans in General

Q1. *To what extent will the agencies provide guidance to an institution during the development of its strategic plan?*

A1. An institution will have an opportunity to consult with and provide information to the agencies on a proposed strategic plan. Through this process, an institution is provided guidance on procedures and on the information necessary to ensure a complete submission. For example, the agencies will provide guidance on whether the level of detail as set out in the proposed plan would be sufficient to permit agency evaluation of the plan. However, the agencies' guidance during plan development and, particularly, prior to the public comment period, will not include commenting on the merits of a proposed strategic plan or on the adequacy of measurable goals.

Q2. *How will a joint strategic plan be reviewed if the affiliates have different primary Federal supervisors?*

A2. The agencies will coordinate review of and action on the joint plan. Each agency will evaluate the measurable goals for those affiliates for which it is the primary regulator.

Section __.27(f) Plan Content

Section __.27(f)(1) Measurable Goals

Q1. *How should ''measurable goals'' be specified in a strategic plan?*

A1. Measurable goals (e.g., number of loans, dollar amount, geographic location of activity, and benefit to low- and moderate-income areas or individuals) must be stated with sufficient specificity to permit the public and the agencies to quantify what performance will be expected. However, institutions are provided flexibility in specifying goals. For example, an institution may provide ranges of lending amounts in different categories of loans. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.

Section __.27(g) Plan Approval

Section __.27(g)(2) Public Participation

Q1. *How will the public receive notice of a proposed strategic plan?*

A1. An institution submitting a strategic plan for approval by the agencies is required to solicit public comment on the plan for a period of thirty (30) days after publishing notice of the plan at least once in a newspaper of general circulation. The notice should be sufficiently prominent to attract public attention and should make clear that public comment is desired. An institution may, in addition, provide notice to the public in any other manner it chooses.

Section __.28—Assigned Ratings

Section __.28(a) Ratings in General

Q1. *How are institutions with domestic branches in more than one state assigned a rating?*

A1. The evaluation of an institution that maintains domestic branches in more than one state (''multistate institution'') will include a written evaluation and rating of its CRA record of performance as a whole and in each state in which it has a domestic branch. The written evaluation will contain a separate presentation on a multistate institution's performance for each metropolitan statistical area and the nonmetropolitan area within each state, if it maintains one or more domestic branch offices in these areas. This separate presentation will contain conclusions, supported by facts and data, on performance under the performance tests and standards in the regulation. The evaluation of a multistate institution that maintains a domestic branch in two or more states in a multistate metropolitan area will include a written evaluation (containing the same information described above) and rating of its CRA record of performance in the multistate metropolitan area. In such cases, the statewide evaluation and rating will be adjusted to reflect performance in the portion of the state not within the multistate metropolitan statistical area.

Q2. *How are institutions that operate within only a single state assigned a rating?*

A2. An institution that operates within only a single state (''single-state institution'') will be assigned a rating of its CRA record based on its performance within that state. In assigning this rating, the agencies will separately present a single-state institution's performance for each metropolitan area in which the institution maintains one or more domestic branch offices. This separate presentation will contain conclusions, supported by facts and data, on the single-state institution's performance under the performance tests and standards in the regulation.

Q3. *How do the agencies weight performance under the lending, investment and service test for large retail institutions?*

A3. A rating of ''outstanding,'' ''high satisfactory,'' ''low satisfactory,'' ''needs to improve,'' or ''substantial noncompliance,'' based on a judgment supported by facts and data, will be assigned under each performance test. Points will then be assigned to each rating as described in the first matrix set forth below. A large retail institution's overall rating under the lending, investment and service tests will then be calculated in accordance with the second matrix set forth below, which incorporates the rating principles in the regulation.

POINTS ASSIGNED FOR PERFORMANCE UNDER LENDING, INVESTMENT, AND SERVICE TESTS

	Lending	Service	Investment
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1

POINTS ASSIGNED FOR PERFORMANCE UNDER LENDING, INVESTMENT, AND SERVICE TESTS—Continued

	Lending	Service	Investment
Substantial Noncompliance	0	0	0

COMPOSITE RATING POINT REQUIREMENTS

[Add points from three tests]

Rating	Total points
Outstanding	20 or over.
Satisfactory	11 through 19.
Needs to Improve	5 through 10.
Substantial Non-compliance.	0 through 4.

Note: There is one exception to the Composite Rating matrix. An institution may not receive a rating of ''satisfactory'' unless it receives at least ''low satisfactory'' on the lending test. Therefore, the total points are capped at three times the lending test score.

Section __.29—Effect of CRA Performance on Applications

Section __.29(a) CRA Performance

Q1. *What weight is given to an institution's CRA performance examination in reviewing an application?*

A1. In cases in which CRA performance is a relevant factor, information from a CRA performance examination of the institution is a particularly important consideration in the applications process because it represents a detailed evaluation of the institution's CRA performance by its Federal supervisory agency. In this light, an examination is an important, and often controlling factor in the consideration of an institution's record. In some cases, however, the examination may not be recent or a specific issue raised in the application process, such as progress in addressing weaknesses noted by examiners, progress in implementing commitments previously made to the reviewing agency, or a supported allegation from a commenter, is relevant to CRA performance under the regulation and was not addressed in the examination. In these circumstances, the applicant should present sufficient information to supplement its record of performance and to respond to the substantive issues raised in the application proceeding.

Q2. *What consideration is given to an institution's commitments for future action in reviewing an application by those agencies that consider such commitments?*

A2. Commitments for future action are not viewed as part of the CRA record of performance. In general, institutions cannot use commitments made in the applications process to overcome a seriously deficient record of CRA performance. However, commitments for improvements in an institution's performance may be appropriate to address specific weaknesses in an otherwise satisfactory record or to address CRA performance when a financially troubled institution is being acquired.

Section __.29(b) Interested Parties

Q1. *What consideration is given to comments from interested parties in reviewing an application?*

A1. Materials relating to CRA performance received during the applications process can provide valuable information. Written comments, which may express either support for or opposition to the application, are made a part of the record in accordance with the agencies' procedures, and are carefully considered in making the agencies' decision. Comments should be supported by facts about the applicant's performance and should be as specific as possible in explaining the basis for supporting or opposing the application. These comments must be submitted within the time limits provided under the agencies' procedures.

Q2. *Is an institution required to enter into agreements with private parties?*

A2. No. Although communications between an institution and members of its community may provide a valuable method for the institution to assess how best to address the credit needs of the community, the CRA does not require an institution to enter into agreements with private parties. These agreements are not monitored or enforced by the agencies.

Section __.41—Assessment Area Delineation

Section __——.41(a) In General

Q1. *How do the agencies evaluate ''assessment areas'' under the revised CRA regulations compared to how they evaluated ''local communities'' that institutions delineated under the original CRA regulations?*

A1. The revised rule focuses on the distribution and level of an institution's lending, investments, and services rather than on how and why an institution delineated its ''local community'' or assessment area(s) in a particular manner. Therefore, the agencies will not evaluate an institution's delineation of its assessment area(s) as a separate performance criterion as they did under the original regulation. Rather, the agencies will only review whether the assessment area delineated by the institution complies with the limitations set forth in the regulations at § __.41(e).

Q2. *If an institution elects to have the agencies consider affiliate lending, will this decision affect the institution's assessment area(s)?*

A2. If an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies in which the affiliate lends do not affect the institution's delineation of assessment area(s).

Q3. *Can a financial institution identify a specific ethnic group rather than a geographic area as its assessment area?*

A3. No, assessment areas must be based on geography.

Section __.41(c) Geographic Area(s) for Institutions Other Than Wholesale or Limited Purpose Institutions

Section __.41(c)(1) Generally Consist of one or More MSAs or one or More Contiguous Political Subdivisions

Q1. *Besides cities, towns, and counties, what other units of local government are political subdivisions for CRA purposes?*

A1. Townships and Indian reservations are political subdivisions for CRA purposes. Institutions should be aware that the boundaries of townships and Indian reservations may not be consistent with the boundaries of the census tracts or block numbering areas (''geographies'') in the area. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding any portions of the geographies that lie outside the political subdivision to the delineated assessment area(s).

Q2. *Are wards, school districts, voting districts, and water districts political subdivisions for CRA purposes?*

A2. No. However, an institution that determines that it predominantly serves an area that is smaller than a city, town or other political subdivision may delineate as its assessment area the larger political subdivision and then, in accordance with § __.41(d), adjust the boundaries of the assessment area to

include only the portion of the political subdivision that it reasonably can be expected to serve. The smaller area that the institution delineates must consist of entire geographies, may not reflect illegal discrimination, and may not arbitrarily exclude low-or moderate-income geographies.

Section __.41(d) Adjustments to Geographic Area(s)

Q1. *When may an institution adjust the boundaries of an assessment area to include only a portion of a political subdivision?*

A1. Institutions must include whole geographies (i.e., census tracts or block numbering areas) in their assessment areas and generally should include entire political subdivisions. Because census tracts and block numbering areas are the common geographic areas used consistently nationwide for data collection, the agencies require that assessment areas be made up of whole geographies. If including an entire political subdivision would create an area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of the political subdivision. For example, this adjustment is appropriate if the assessment area would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers (such as a river, mountain, or major highway system). When adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

Section__.41(e) Limitations on Delineation of an Assessment Area

Section__.41(e)(3) May not Arbitrarily Exclude Low- or Moderate-Income Geographies

Q1. *How will examiners determine whether an institution has arbitrarily excluded low- or moderate-income geographies?*

A1. Examiners will make this determination on a case-by-case basis after considering the facts relevant to the institution's assessment area delineation. Information that examiners will consider may include:

- Income levels in the institution's assessment area(s) and surrounding geographies;
- Locations of branches and deposit-taking ATMs;
- Loan distribution in the institution's assessment area(s) and surrounding geographies;
- The institution's size;
- The institution's financial condition; and
- The business strategy, corporate structure and product offerings of the institution.

Section__.41(e)(4) May not Extend Substantially Beyond a CMSA Boundary or Beyond a State Boundary Unless Located in a Multistate MSA

Q1. *What are the maximum limits on the size of an assessment area?*

A1. An institution shall not delineate an assessment area extending substantially across the boundaries of a consolidated metropolitan statistical area (CMSA) or the boundaries of an MSA, if the MSA is not located in a CMSA. Similarly, an assessment area may not extend substantially across state boundaries unless the assessment area is located in a multistate MSA. An institution may not delineate a whole state as its assessment area unless the entire state is contained within a CMSA. These limitations apply to wholesale and limited purpose institutions as well as other institutions.

An institution shall delineate separate assessment areas for the areas inside and outside a CMSA (or MSA if the MSA is not located in a CMSA) if the area served by the institution's branches outside the CMSA (or MSA) extends substantially beyond the CMSA (or MSA) boundary. Similarly, the institution shall delineate separate assessment areas for the areas inside and outside of a state if the institution's branches extend substantially beyond the boundary of one state (unless the assessment area is located in a multistate MSA). In addition, the institution should also delineate separate assessment areas if it has branches in areas within the same state that are widely separate and not at all contiguous. For example, an institution that has its main office in New York City and a branch in Buffalo, New York, and each office serves only the immediate areas around it, should delineate two separate assessment areas.

Q2. *Can an institution delineate one assessment area that consists of an MSA and two large counties that abut the MSA but are not adjacent to each other?*

A2. As a general rule, an institution's assessment area should not extend substantially beyond the boundary of an MSA if the MSA is not located in a CMSA. Therefore, the MSA would be a separate assessment area, and because the two abutting counties are not adjacent to each other and, in this example, extend substantially beyond the boundary of the MSA, the institution would delineate each county as a separate assessment area (so, in this example, there would be three assessment areas). However, if the MSA and the two counties were in the same CMSA, then the institution could delineate only one assessment area including them all.

Section__.42—Data Collection, Reporting, and Disclosure

Q1. *When must an institution collect and report data under the CRA regulations?*

A1. All institutions except small institutions are subject to data collection and reporting requirements. A small institution is a bank or thrift that, as of December 31 of *either* of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

For example:

Date	Institution's asset size (millions)	Data collection required for following calendar year?
12/31/94	$240	No.
12/31/95	$260	No.
12/31/96	$230	No.
12/31/97	$280	No.
12/31/98	$260	Yes, beginning 1/01/99.

All institutions that are subject to the data collection and reporting requirements must report the data for a calendar year by March 1 of the subsequent year. In the example, above, the institution would report the data collected for calendar year 1999 by March 1, 2000.

The Board of Governors of the Federal Reserve System is handling the processing of the reports for all of the primary regulators. The reports should be submitted in a prescribed electronic format on a timely basis. The mailing address for submitting these reports is: Attention: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Avenue, N.W., 5th Floor, Washington, DC 20006.

Q2. *Should an institution develop its own program for data collection, or will the regulators require a certain format?*

A2. An institution may use the free software that is provided by the FFIEC to reporting institutions for data collection and reporting or develop its own program. Those institutions that develop their own programs must follow the precise format for the new

CRA data collection and reporting rules. This format may be obtained by contacting the CRA Assistance Line at (202) 872–7584.

Q3. *How should an institution report data on lines of credit?*

A3. Institutions must collect and report data on lines of credit in the same way that they provide data on loan originations. Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line is the amount that is considered originated. In the case of an increase to an existing line, the amount of the increase is the amount that is considered originated and that amount should be reported.

Q4. *Should renewals of lines of credit be reported?*

A4. No. Similar to loan renewals, renewals of lines of credit are not considered loan originations and should not be reported.

Q5. *When should merging institutions collect data?*

A5. Three scenarios of data collection responsibilities for the calendar year of a merger and subsequent data reporting responsibilities are described below.

- Two institutions are exempt from CRA collection and reporting requirements because of asset size. The institutions merge. No data collection is required for the year in which the merger takes place, regardless of the resulting asset size. Data collection would begin after two consecutive years in which the combined institution had year-end assets of at least $250 million or was part of a holding company that had year-end banking and thrift assets of at least $1 billion.
- Institution A, an institution required to collect and report the data, and Institution B, an exempt institution, merge. Institution A is the surviving institution. For the year of the merger, data collection is required for Institution A's transactions. Data collection is optional for the transactions of the previously exempt institution. For the following year, all transactions of the surviving institution must be collected and reported.
- Two institutions that each are required to collect and report the data merge. Data collection is required for the entire year of the merger and for subsequent years so long as the surviving institution is not exempt. The surviving institution may file either a consolidated submission or separate submissions for the year of the merger but must file a consolidated report for subsequent years.

Q6. *Can small institutions get a copy of the data collection software even though they are not required to collect or report data?*

A6. Yes. Any institution that is interested in receiving a copy of the software may send a written request to: Attn.: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Ave, N.W., 5th Floor, Washington, DC 20006.

They may also call the CRA Assistance Line at (202) 872–7584 or send Internet e-mail to CRAHELP@FRB.GOV.

Q7. *If a small institution is designated a wholesale or limited purpose institution, must it collect data that it would not otherwise be required to collect because it is a small institution?*

A7. No. However, small institutions must be prepared to identify those loans, investments and services to be evaluated under the community development test.

Section__.42(a) Loan Information Required to be Collected and Maintained

Q1. *Must institutions collect and report data on all commercial loans under $1 million at origination?*

A1. No. Institutions that are not exempt from data collection and reporting are required to collect and report only those commercial loans that they capture in the Call Report, Schedule RC–C, Part II, and in the TFR, Schedule SB. Small business loans are defined as those whose original amounts are $1 million or less *and* that were reported as either ''Loans secured by nonfarm or nonresidential real estate'' or ''Commercial and Industrial loans'' in Part I of the Call Report or TFR.

Q2. *For loans defined as small business loans, what information should be collected and maintained?*

A2. Institutions that are not exempt from data collection and reporting are required to collect and maintain in a standardized, machine readable format information on each small business loan originated or purchased for each calendar year:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination;
- The loan location; and
- An indicator whether the loan was to a business with gross annual revenues of $1 million or less.

The location of the loan must be maintained by census tract or block numbering area. In addition, supplemental information contained in the file specifications includes a date associated with the origination or purchase and whether a loan was originated or purchased by an affiliate. The same requirements apply to small farm loans.

Q3. *Will farm loans need to be segregated from business loans?*

A3. Yes.

Q4. *Should institutions collect and report data on all agricultural loans under $500,000 at origination?*

A4. Institutions are to report those farm loans that they capture in the Call Report, Schedule RC–C, Part II and Schedule SB of the TFR. Small farm loans are defined as those whose original amounts are $500,000 or less *and* were reported as either ''Loans to finance agricultural production and other loans to farmers'' or ''Loans secured by farmland'' in Part I of the Call Report and TFR.

Q5. *Should institutions collect and report data about small business and small farm loans that are refinanced or renewed?*

A5. An institution collects and reports information about refinancings but does not collect and report information about renewals. A *refinancing* typically involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. When an institution refinances a loan, it is considered a new origination and loan data should be collected and reported if otherwise required. Consistent with HMDA, however, if under the original loan agreement, the institution is unconditionally obligated to refinance the loan, or is obligated to refinance the loan subject to conditions within the borrower's control, the institution would not report these events as originations.

For purposes of the CRA data collection and reporting requirements, an extension of the maturity of an existing loan is a *renewal*, and is not considered a loan origination. Therefore, institutions should not collect and report data on loan renewals.

Q6. *Does a loan to the ''fishing industry'' come under the definition of a small farm loan?*

A6. Yes. Instructions for Part I of the Call Report and Schedule SB of the TFR include loans ''made for the purpose of financing fisheries and forestries, including loans to commercial fishermen'' as a component of the definition for ''Loans to finance agricultural production and other loans to farmers.'' Part II of Schedule RC–C of the Call Report and Schedule SB of the TFR, which serve as the basis of the

definition for small business and small farm loans in the revised regulation, capture both ''Loans to finance agricultural production and other loans to farmers'' and ''Loans secured by farmland.''

Q7. *How should an institution report a home equity line of credit, part of which is for home improvement purposes, but the predominant part of which is for small business purposes?*

A7. The institution has the option of reporting the portion of the home equity line that is for home improvement purposes under HMDA. That portion of the loan would then be considered when examiners evaluate home mortgage lending. If the line meets the regulatory definition of a ''community development loan,'' the institution should collect and report information on the entire line as a community development loan. If the line does not qualify as a community development loan, the institution has the option of collecting and maintaining (but not reporting) the entire line of credit as ''Other Secured Lines/Loans for Purposes of Small Business.''

Q8. *When collecting small business and small farm data for CRA purposes, may an institution collect and report information about loans to small businesses and small farms located outside the United States?*

A8. At an institution's option, it may collect data about small business and small farm loans located outside the United States; however, it cannot report this data because the CRA data collection software will not accept data concerning loan locations outside the United States.

Q9. *Is an institution that has no small farm or small business loans required to report under CRA?*

A9. Each institution subject to data reporting requirements must, at a minimum, submit a transmittal sheet, definition of its assessment area(s), and a record of its community development loans. If the institution does not have community development loans to report, the record should be sent with ''0'' in the community development loan composite data fields. An institution that has not purchased or originated any small business or small farm loans during the reporting period would not submit the composite loan records for small business or small farm loans.

Q10. *How should an institution collect and report the location of a loan made to a small business or farm if the borrower provides an address that consists of a post office box number or a rural route and box number?*

A10. Prudent banking practices dictate that an institution know the location of its customers or loan collateral. Therefore, institutions typically will know the actual location of their borrowers or loan collateral beyond an address consisting only of a post office box.

Many borrowers have street addresses in addition to post office box numbers or rural route and box numbers. Institutions should ask their borrowers to provide the street address of the main business facility or farm or the location where the loan proceeds otherwise will be applied. Once the institution receives this information from the borrower, it should assign a census tract or block numbering area to that location (geocode) and report that information as required under the regulation.

There may be cases in which a borrower cannot provide a street address because of the rural nature of the community. If a borrower can provide only a rural route and box number, or in those rare instances in which a borrower reports a post office box and the institution cannot determine the location of the business, the following guidance will apply, depending on the date the loan is originated or purchased:

- For loans originated or purchased in 1997, if an institution cannot determine the borrower's street address, the institution should geocode the location of the loan using the town, state, and zip code of the location of the post office as a proxy for the location of the borrower. In cases where the assigned location of the zip code for the rural route and box number or post office box encompasses more than one census tract or block numbering area, the institution should be able to provide a specific rationale for the census tract or block numbering area selected for geocoding purposes.
- For loans originated or purchased in 1998 or later, if the institution cannot determine the borrower's street address, the institution should report the borrower's state, county, MSA, if applicable, and ''NA,'' for ''not available,'' in lieu of a census tract or block numbering area code.

Section __.42(a)(2) Loan Amount at Origination

Q1. *When an institution purchases a small business or small farm loan, which amount should the institution collect and report—the original amount of the loan or the amount at purchase?*

A1. When collecting and reporting information on purchased small business and small farm loans, an institution collects and reports the amount of the loan at origination, not at the time of purchase. This is consistent with the Call Report's and TFR's use of the ''original amount of the loan'' to determine whether a loan should be reported as a ''loan to a small business'' or a ''loan to a small farm'' and in which loan size category a loan should be reported. When assessing the volume of small business and small farm loan purchases for purposes of evaluating lending test performance under CRA, however, examiners will evaluate an institution's activity based on the amounts at purchase.

Q2. *How should an institution collect data about multiple loan originations to the same business?*

A2. If an institution makes multiple originations to the same business, the loans should be collected and reported as separate originations rather than combined and reported as they are on the Call Report or TFR, which reflect loans outstanding, rather than originations. However, if institutions make multiple originations to the same business solely to inflate artificially the number or volume of loans evaluated for CRA lending performance, the agencies may combine these loans for purposes of evaluation under the CRA.

Q3. *How should an institution collect data pertaining to credit cards issued to small businesses?*

A3. If an institution agrees to issue credit cards to a business' employees, all of the credit card lines opened on a particular date for that single business should be reported as one small business loan origination rather than reporting each individual credit card line, assuming the criteria in the ''small business loan'' definition in the regulation are met. The credit card program's ''amount at origination'' is the sum of all of the employee/business credit cards'' credit limits opened on a particular date. If subsequently issued credit cards increase the small business credit line, the added amount is reported as a new origination.

Section__.42(a)(3) The Loan Location

Q1. *Which location should an institution record if a small business loan's proceeds are used in a variety of locations?*

A1. The institution should record the loan location by either the location of the business headquarters or the location where the greatest portion of the proceeds are applied, as indicated by the borrower.

Section__.42(a)(4) Indicator of Gross Annual Revenue

Q1. *When indicating whether a small business borrower had gross annual*

revenues of $1 million or less, upon what revenues should an institution rely?

A1. Generally, an institution should rely on the revenues that it considered in making its credit decision. For example, in the case of affiliated businesses, such as a parent corporation and its subsidiary, if the institution considered the revenues of the entity's parent or a subsidiary corporation of the parent as well, then the institution would aggregate the revenues of both corporations to determine whether the revenues are $1 million or less. Alternatively, if the institution considered the revenues of only the entity to which the loan is actually extended, the institution should rely solely upon whether gross annual revenues are above or below $1 million for that entity. However, if the institution considered and relied on revenues or income of a cosigner or guarantor that is not an affiliate of the borrower, the institution should not adjust the borrower's revenues for reporting purposes.

Q2. *If an institution that is not exempt from data collection and reporting does not request or consider revenue information to make the credit decision regarding a small business or small farm loan, must the institution collect revenue information in connection with that loan?*

A2. No. In those instances, the institution should enter the code indicating ''revenues not known'' on the individual loan portion of the data collection software or on an internally developed system. Loans for which the institution did not collect revenue information may not be included in the loans to businesses and farms with gross annual revenues of $1 million or less when reporting this data.

Q3. *What gross revenue should an institution use in determining the gross annual revenue of a start-up business?*

A3. The institution should use the actual gross annual revenue to date (including $0 if the new business has had no revenue to date). Although a start-up business will provide the institution with pro forma projected revenue figures, these figures may not accurately reflect actual gross revenue.

Section__.42(b) Loan Information Required To Be Reported

Section__.42(b)(1) Small Business and Small Farm Loan Data

Q1. *For small business and small farm loan information that is collected and maintained, what data should be reported?*

A1. Each institution that is not exempt from data collection and reporting is required to report in machine-readable form annually by March 1 the following information, aggregated for each census tract or block numbering area in which the institution originated or purchased at least one small business or small farm loan during the prior year:

- The number and amount of loans originated or purchased with original amounts of $100,000 or less;
- The number and amount of loans originated or purchased with original amounts of more than $100,000 but less than or equal to $250,000;
- The number and amount of loans originated or purchased with original amounts of more than $250,000 but not more than $1 million; and
- To the extent that information is available, the number and amount of loans to businesses and farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making its credit decision).

Section __.42(b)(2) Community Development Loan Data

Q1. *What information about community development loans must institutions report?*

A1. Institutions subject to data reporting requirements must report the aggregate number and amount of community development loans originated and purchased during the prior calendar year.

Q2. *If a loan meets the definition of a home mortgage, small business, or small farm loan AND qualifies as a community development loan, where should it be reported? Can FHA, VA and SBA loans be reported as community development loans?*

A2. Except for multifamily affordable housing loans, which may be reported by retail institutions both under HMDA as home mortgage loans and as community development loans, in order to avoid double counting, retail institutions must report loans that meet the definitions of home mortgage, small business, or small farm loans only in those respective categories even if they also meet the definition of community development loans. As a practical matter, this is not a disadvantage for retail institutions because any affordable housing mortgage, small business, small farm or consumer loan that would otherwise meet the definition of a community development loan will be considered elsewhere in the lending test. Any of these types of loans that occur outside the institution's assessment area can receive favorable consideration under the borrower characteristic criteria of the lending test. *See* Q&A4 under § __.22(b) (2) & (3).

Limited purpose and wholesale institutions also must report loans that meet the definitions of home mortgage, small business, or small farm loans in those respective categories; however, they must also report any loans from those categories that meet the regulatory definition of ''community development loans'' as community development loans. There is no double counting because wholesale and limited purpose institutions are not subject to the lending test and, therefore, are not evaluated on their level and distribution of home mortgage, small business, small farm and consumer loans.

Section __.42(b)(3) Home Mortgage Loans

Q1. *Must institutions that are not required to collect home mortgage loan data by the HMDA collect home mortgage loan data for purposes of the CRA?*

A1. No. If an institution is not required to collect home mortgage loan data by the HMDA, the institution need not collect home mortgage loan data under the CRA. Examiners will sample these loans to evaluate the institution's home mortgage lending. If an institution wants to ensure that examiners consider all of its home mortgage loans, the institution may collect and maintain data on these loans.

Section __.42(c) Optional data collection and maintenance

Section __.42(c)(1) Consumer loans

Q1. *What are the data requirements regarding consumer loans?*

A1. There are no data reporting requirements for consumer loans. Institutions may, however, opt to collect and maintain data on consumer loans. If an institution chooses to collect information on consumer loans, it may collect data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If an institution collects data for loans in a certain category, it must collect data for all loans originated or purchased within that category. The institution must maintain these data separately for each category for which it chooses to collect data. The data collected and maintained should include for each loan:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination or purchase;
- The loan location; and

• The gross annual income of the borrower that the institution considered in making its credit decision.

Section __.42(c)(1)(iv) Income of borrower

Q1. *If an institution does not consider income when making an underwriting decision in connection with a consumer loan, must it collect income information?*

A1. No. Further, if the institution routinely collects, but does not verify, a borrower's income when making a credit decision, it need not verify the income for purposes of data maintenance.

Q2. *May an institution list ''0'' in the income field on consumer loans made to employees when collecting data for CRA purposes as the institution would be permitted to do under HMDA?*

A2. Yes.

Section __.42(c)(2) Other Loan Data

Q1. *Schedule RC–C, Part II of the Call Report and schedule SB of the TFR do not allow financial institutions to report loans for commercial and industrial purposes that are secured by residential real estate. Loans extended to small businesses with gross annual revenues of $1 million or less may, however, be secured by residential real estate. Is there a way to collect this information on the software to supplement an institution's small business lending data at the time of examination?*

A1. Yes. If these loans promote community development, as defined in the regulation, the institution should collect and report information about these loans as community development loans. Otherwise, *at an institution's option,* it may collect and maintain data concerning loans, purchases, and lines of credit extended to small businesses and secured by residential real estate for consideration in the CRA evaluation of its small business lending. To facilitate this optional data collection, the software distributed free-of-charge by the FFIEC provides that an institution may collect this information to supplement its small business lending data by choosing loan type, ''Other Secured Lines/Loans for Purposes of Small Business,'' in the individual loan data. (The title of the loan type, ''Other Secured Lines of Credit for Purposes of Small Business,'' which was found in the instructions accompanying the 1996 data collection software, is being changed to ''Other Secured Lines/Loans for Purposes of Small Business'' in order to accurately reflect that lines of credit *and* loans may be reported under this loan type.) This information should be maintained at the institution but should *not* be submitted for central reporting purposes.

Q2. *Must an institution collect data on loan commitments and letters of credit?*

A2. No. Institutions are not required to collect data on loan commitments and letters of credit. Institutions may, however, provide for examiner consideration information on letters of credit and commitments.

Q3. *Are commercial and consumer leases considered loans for purposes of CRA data collection?*

A3. Commercial and consumer leases are not considered small business or small farm loans or consumer loans for purposes of the data collection requirements in 12 CFR § __.42(a) & (c)(1). However, if an institution wishes to collect and maintain data about leases, the institution may provide this data to examiners as ''other loan data'' under 12 CFR § __.42(c)(2) for consideration under the lending test.

Section __.42(d) Data on Affiliate Lending

Q1. *If an institution elects to have an affiliate's home mortgage lending considered in its CRA evaluation, what data must the institution make available to examiners?*

A1. If the affiliate is a HMDA reporter, the institution must identify those loans reported by its affiliate under 12 CFR part 203 (Regulation C, implementing HMDA). At its option, the institution may either provide examiners with the affiliate's entire HMDA Disclosure Statement or just those portions covering the loans in its assessment area(s) that it is electing to consider. If the affiliate is not required by HMDA to report home mortgage loans, the institution must provide sufficient data concerning the affiliate's home mortgage loans for the examiners to apply the performance tests.

Section __.43—Content and Availability of Public File

Section __.43(a) Information Available to the Public

Section __.43(a)(1) Public Comments

Q1. *What happens to comments received by the agencies?*

A1. Comments received by a Federal financial supervisory agency will be on file at the agency for use by examiners. Those comments are also available to the public unless they are exempt from disclosure under the Freedom of Information Act.

Q2. *Is an institution required to respond to public comments?*

A2. No. All institutions should review comments and complaints carefully to determine whether any response or other action is warranted. A small institution subject to the small institution performance standards is specifically evaluated on its record of taking action, if warranted, in response to written complaints about its performance in helping to meet the credit needs in its assessment area(s) (§ __.26(a)(5)). For all institutions, responding to comments may help to foster a dialogue with members of the community or to present relevant information to an institution's Federal financial supervisory agency. If an institution responds in writing to a letter in the public file, the response must also be placed in that file, unless the response reflects adversely on any person or placing it in the public file violates a law.

Q3. *May an institution include a response to its CRA Performance Evaluation in its public file?*

A3. Yes. However, the format and content of the evaluation, as transmitted by the supervisory agency, may not be altered or abridged in any manner. In addition, an institution that received a less than satisfactory rating during it most recent examination must include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The institution must update the description on a quarterly basis.

Section __.43(b) Additional Information Available to the Public

Section __.43(b)(1) Institutions Other Than Small Institutions

Q1. *Must an institution that elects to have affiliate lending considered include data on this lending in its public file?*

A1. Yes. The lending data to be contained in an institution's public file covers the lending of the institution's affiliates, as well as of the institution itself, considered in the assessment of the institution's CRA performance. An institution that has elected to have mortgage loans of an affiliate considered must include either the affiliate's HMDA Disclosure Statements for the two prior years or the parts of the Disclosure Statements that relate to the institution's assessment area(s), at the institution's option.

Section__.43(c) Location of Public Information

Q1. *What is an institution's ''main office''?*

A1. An institution's main office is the main, home, or principal office as designated in its charter.

Section__.44—Public Notice by Institutions

Q1. *Are there any placement or size requirements for an institution's public notice?*

A1. The notice must be placed in the institution's public lobby, but the size and placement may vary. The notice should be placed in a location and be of a sufficient size that customers can easily see and read it.

Section__.45—Publication of Planned Examination Schedule

Q1. *Where will the agencies publish the planned examination schedule for the upcoming calendar quarter?*

A1. The agencies may use the **Federal Register**, a press release, the Internet, or other existing agency publications for disseminating the list of the institutions scheduled to for CRA examinations during the upcoming calendar quarter. Interested parties should contact the appropriate Federal financial supervisory agency for information on how the agency is publishing the planned examination schedule.

Q2. *Is inclusion on the list of institutions that are scheduled to undergo CRA examinations in the next calendar quarter determinative of whether an institution will be examined in that quarter?*

A2. No. The agencies attempt to determine as accurately as possible which institutions will be examined during the upcoming calendar quarter. However, whether an institution's name appears on the published list does not conclusively determine whether the institution will be examined during that quarter. The agencies may need to defer a planned examination or conduct an unforeseen examination because of scheduling difficulties or other circumstances.

Appendix B to Part__CRA Notice

Q1. *What agency information should be added to the CRA notice form?*

A1. The following information should be added to the form:

OCC-supervised institutions only: The address of the deputy comptroller of the district in which the institution is located should be inserted in the appropriate blank. These addresses can be found at 12 CFR § 4.5(a).

OCC-, FDIC-, and Board-supervised institutions: ''Officer in Charge of Supervision'' is the title of the responsible official at the appropriate Federal Reserve Bank.

Appendix A

Regional Offices of the Bureau of the Census

To obtain median family income levels of census tracts, MSAs, block numbering areas and statewide nonmetropolitan areas, contact the appropriate regional office of the Bureau of the Census as indicated below. The list shows the states covered by each regional office.

Atlanta, (404) 730–3833

Alabama, Florida, Georgia

Boston, (617) 424–0510

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Charlotte, (704) 344–6144

District of Columbia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia

Chicago, (708) 562–1740

Illinois, Indiana, Wisconsin

Dallas, (214) 640–4470 or (800) 835–9752

Louisiana, Mississippi, Texas

Denver, (303) 969–7750

Arizona, Colorado, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming

Detroit, (313) 259–1875

Michigan, Ohio, West Virginia

Kansas City, (913) 551–6711

Arkansas, Iowa, Kansas, Minnesota, Missouri, Oklahoma

Los Angeles, (818) 904–6339

California

New York, (212) 264–4730

New York, Puerto Rico

Philadelphia, (215) 597–8313 or (215) 597–8312

Delaware, Maryland, New Jersey, Pennsylvania

Seattle, (206) 728–5314

Alaska, Hawaii, Idaho, Montana, Nevada, Oregon, Washington

Dated: September 29, 1997.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 97–26206 Filed 10–3–97; 8:45 am]

BILLING CODE 4810–33–P; 6714–01–P; 6210–01–P 6720–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 224–201033

Title: Broward County/Maritime Entertainment Terminal Agreement

Parties:

Broward County, Florida (Port Everglades)

Maritime Entertainment, Ltd., Inc.

Synopsis: The proposed Agreement authorizes Broward County to provide berthing and related terminal facilities, and passenger wharfage at a reduced rate, to Maritime Entertainment in exchange for its agreement to provide daily passenger cruise service from Port Everglades.

Dated: September 30, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–26360 Filed 10–3–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 21, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Stuart A. Cashin, Jr., Duluth, Georgia; to retain voting shares of Embry Bankshares, Inc., Duluth, Georgia, and thereby indirectly retain share of Embry National Bank, Lawrenceville, Georgia.

Board of Governors of the Federal Reserve System, October 1, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26447 Filed 10–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 31, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Midland Bancshares, Inc., Kincaid, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Midland Community Bank, Kincaid, Illinois.

B. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Greater Bay Bancorp, Palo Alto, California; to acquire 100 percent of the voting shares of Peninsula Bank of Commerce, Millbrae, California.

2. Heritage Financial Corporation, Olympia, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Savings Bank, Olympia, Washington. Applicant is converting from mutual to stock form.

Board of Governors of the Federal Reserve System, October 1, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26448 Filed 10–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 21, 1997.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Boston Private Bancorp, Inc., Boston, Massachusetts; to acquire Westfield Capital Management Company, Inc., Boston, Massachusetts, and thereby engage in financial and investment advisory activities, pursuant to § 225.28(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 1, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26446 Filed 10–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 090197 AND 091297

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Ferrous Processing and Trading Company, TBS Industrial Recycling, Inc., TBS Assets	97–3127	09/02/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 090197 AND 091297—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Questor Partners Fund, L.P., Zell/Chilmark Fund, L.P., Schwinn Cycling & Fitness Inc	97–3207	09/02/97
TPG Partners II, L.P., Zilog, Inc., Zilog, Inc	97–3233	09/02/97
BankAmerica Corporation, First Data Corporation, First Data Merchant Services Corporation	97–3243	09/02/97
Lee M. Bass, United States Filter Corporation, United States Filter Corporation	97–3272	09/02/97
Ceramicas Industriales, S.A., Metropolitan Life Insurance Company, Briggs Holdings, Inc.; Briggs Plumbing Products, Inc	97–3278	09/02/97
Timothy C. Collins, Merrill L. Nash, Symons Corporation	97–1934	09/03/97
Principal Mutual Life Insurance Company, PacifiCare Health Systems, Inc., FHP of Illinois, Inc	97–3160	09/03/97
American Disposal Services, Inc., Fred B. Barbara, Fred B. Barbara Trucking Co., Inc. (and) Shred-All	97–3183	09/03/97
Apollo Investment Fund III, L.P., HFS Incorporated, Property Resources Group, Inc	97–3196	09/03/97
Resurrection Health Care Corporation, Sisters of St. Francis Health Services, Inc., Alverno-Evanston Corporation	97–3215	09/03/97
SUPERVALU INC. Charles E. Benidt, Town & Country Super Markets, Inc	97–3235	09/03/97
SUPERVALU INC., Miller Enterprises, Inc., Miller Enterprises, Inc	97–3262	09/03/97
Harcourt General, Inc., Pearson, plc, Churchill Livingston Inc	97–3269	09/03/97
Masashi Yamada (Mr.), Mr. Robert L. Veloz, J.C. Carter Company, Inc	97–3276	09/03/97
MicroAge, Inc., Paul W. Rajewski, Access MicroSystems, Inc	97–3280	09/04/97
Lincoln National Corporation, CIGNA Corporation, CIGNA Associates, Inc.; CIGNA Financial Advisors, Inc	97–3195	09/05/97
Tele-Communications, Inc., Washington Post Company (The), Pro Am Sports System, Inc	97–3268	09/05/97
Robert Lee Kaaren, M.D., HNC Software, Inc., HNC Software, Inc	97–3290	09/05/97
The Surface Mount Technology Centre Inc., Ogden Corporation, Atlantic Design Company, Inc	97–3294	09/05/97
Michael E. Munayyer, HNC Software, Inc., HNC Software, Inc	97–3298	09/05/97
Ford Motor Company, Household International, Inc., Household Finance Corp. III, Household Finance Corp. II	97–3264	09/08/97
Mail-Well, Inc., Maurice J. Towery, National Color Graphics, Inc	97–3266	09/08/97
GS Capital Partners II, L.P., Estate of John A. Svenningsen, Amscan Holdings, Inc	97–3274	09/08/97
IXC Communications Inc., PSINet Inc., PSINet Inc	97–3279	09/08/97
CIS Technology Inc., Dennis Hayes, Hayes Microcomputer Products, Inc	97–3281	09/08/97
Carl H. Lindner, New Energy Company of Indiana, New Energy Company of Indiana	97–3291	09/08/97
Apollo Group, Inc., National Endowment for Financial Education, National Endowment for Financial Education	97–3305	09/08/97
Protective Life Corporation, Allstate Corporation (The), Lincoln Benefit Life Company	97–3320	09/08/97
Ogden Corporation, Pacific Enterprises, Pacific Energy	97–3323	09/08/97
Nalco Chemical Company, Larry Schramm, Chemical Technologies, Inc. and Cramer-Schramm, Inc	97–3331	09/08/97
Nalco Chemical Company, James R. Cramer, Chemical Technologies, Inc. and Cramer-Schramm, Inc	97–3332	09/08/97
Joe Balous, Edward Narens, Kenco Plastics, Inc.; Narens Design & Engineering, Inc	97–3333	09/08/97
Richard Nash, Edward Narens, Kenco Plastics, Inc.; Narens Design & Engineering, Inc	97–3334	09/08/97
Conseco, Inc., NAL Financial Group, Inc., NAL Financial Group, Inc	97–3337	09/08/97
URS Corporation, Woodward-Clyde Group, Inc., Woodward-Clyde Group, Inc	97–3344	09/08/97
Sybron International Corporation, Chase Instruments Corp., Chase Instruments Corp	97–3345	09/08/97
Green Equity Investors II, L.P., Watkins-Johnson Company, W–J TSMD, Inc	97–3348	09/08/97
Credit Suisse Group (a Swiss company), Elektrowatt AG, Elektrowatt AG	97–3355	09/08/97
Concentra Managed Care, Inc., Vencor, Inc., Vencor, Inc	97–3374	09/08/97
United States Filter Corporation, William A. Davis, Pacific Water Works Supply Company, Inc	97–3386	09/08/97
Paxar Corporation, International Imaging Material, Inc., International Imaging Material, Inc	97–3391	09/08/97
Vestar Capital Partners III, L.P., B. Joseph Rokus and Tari Rokus, Reid Plastics Holdings, Inc	97–3398	09/08/97
AmeriKing, Inc., Robert D. Green, B&J Restaurants, Inc	97–3317	09/09/97
Bruckmann, Rosser, Sherrill & Co., L.P., Delchamps, Inc., Delchamps, Inc	97–2804	09/11/97
Motorola, Inc., Pro-Log Corporation, Pro-Log Corporation	97–3167	09/11/97
California Physicians' Service, UniHealth, CareAmerica Health Plans, Inc.; CareAmerica Life	97–3214	09/11/97
Zurich Insurance Company, Lawrence K. Dodge, American Sterling Insurance Agency, Inc	97–3314	09/11/97
Omnicom Group, Inc., Eagle River Interactive, Inc., Graphic Media, Inc	97–3325	09/11/97
Sun Microsystems, Inc., Gemplus SCA (a French company), Integrity Arts, Inc	97–3341	09/11/97
IBP, Inc., James T. Hudson, Hudson Midwest Foods, Inc	97–3351	09/11/97
R. Emmett Boyle, Specialty Blanks, Inc., Specialty Blanks, Inc	97–3369	09/11/97
Florida Rock Industries, Inc., James A. Comyns, CAC Aggregates, Inc. and GKK Corporation	97–3211	09/12/97
France Telecom, WorldCom, Inc., IDB WorldCom, Inc.; IDB Media Group, Inc	97–3326	09/12/97
Walt Disney Company (The), Silver Screen Partners III, L.P., Disney-Silver Screen III Joint Venture	97–3350	09/12/97
Estate of Charles A. Sammons, Guaranty Reassurance Corporation, Guaranty Reassurance Corporation	97–3371	09/12/97
Republic Industries, Inc., Thomas A. & Roberts J. Coward, JHTC, Inc	97–3379	09/12/97
Advocat Inc., A. Steve Pierce and Mary Lou Pierce (Husband and Wife), Pierce Management Group First Partnership, et al	97–3384	09/12/97
Atchison Casting Corporation, Inverness Casting Group, Inc., Inverness Casting Group, Inc	97–3390	09/12/97
WPL Holdings, Inc., Interstate Power Company, Interstate Power Company	97–3403	09/12/97
WPL Holdings, Inc., IES Industries, Inc., IES Industries, Inc	97–3404	09/12/97
The Hitchcock Alliance, Weeks Hospital Association, Weeks Hospital Association	97–3406	09/12/97
Holland Chemical International, B.V., Coastal Chemical Co., Inc., Coastal Chemical Co., Inc	97–3407	09/12/97
Counsel Corporation, Transworld HealthCare, Inc, Health Management Inc. Assets	97–3408	09/12/97
Finlay Enterprises, Inc., Zale Corporation, Zale Delaware, Inc	97–3409	09/12/97
Grupo Industrial Durango, S.A. de C.V. (a Mexican company), Amcor Limited (an Australian company), Amcor Paper US, Inc	97–3433	09/12/97
Recovery Equity Investors II, L.P., David M. Roberts, bankruptcy trustee, Doran Texiles, Inc	97–3455	09/12/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580 (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–26388 Filed 10–3–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Appointments to the Medicare Payment Advisory Commission

AGENCY: General Accounting Office.

ACTION: Notice of appointments.

SUMMARY: The Balanced Budget Act of 1997 establishes the Medicare Payment Advisory Commission, with members to be appointed by the Comptroller General. This notice announces the appointment and terms of the initial members, and the designation of the chairman and vice chairman, of the Commission.

DATES: Appointments effective October 1, 1997.

ADDRESSES: The General Accounting Office is at 441 G St. NW., Washington, DC, 20548. The Office of the Chairman of the Medicare Payment Advisory Commission will be at 2120 L St. NW., Washington, DC, 20037–1527.

FOR FURTHER INFORMATION CONTACT: General Accounting Office: Walter S. Ochinko, 202–512–7157. Medicare Payment Advisory Commission: Lauren LeRoy, 202–653–7220, or Don Young, 202–401–8986.

SUPPLEMENTARY INFORMATION: Section 1805 of the Social Security Act, as added by section 4022 of the Balanced Budget Act of 1997 (Pub. L. 105–33, 111 Stat. 251, 350) provided for creation of the Medicare Payment Advisory Commission, comprising 15 members appointed by the Comptroller General. The Comptroller General is to designate one member as chairman and one member as vice chairman. Members serve 3-year terms, except that the Comptroller General is to establish staggered terms for the members first appointed.

The appointments, to be effective October 1, 1997, are: Gail R. Wilensky, Chair; Joseph P. Newhouse, Vice Chair; P. William Curreri, M.D.; Anne B. Jackson; Spencer Johnson; Peter Kemper; Judith R. Lave; Donald T. Lewers, M.D.; Hugh W. Long, William A. MacBain; Woodrow A. Myers, Jr., M.D.; Janet G. Newport; Alice F. Rosenblatt; John W. Rowe, M.D.; and Gerald M. Shea.

The following members will serve 1-year terms, to expire September 30, 1998: P. William Curreri, Anne B. Jackson, Spencer Johnson, Donald T. Lewers, M.D., and Janet G. Newport. The following members will serve 2-year terms, to expire September 30, 1999: Peter Kemper, Judith R. Lave, Hugh W. Long, William A. MacBain, and Gerald M. Shea. The following members will serve 3-year terms, to expire September 30, 2000: Gail R Wilensky, Joseph P. Newhouse, Woodrow A. Myers, Jr., M.D., Alice F. Rosenblatt, and John W. Rowe, M.D. Subsequent appointments will be for 3 years.

James F. Hinchman,

Acting Comptroller General of the United States.

[FR Doc. 97–26449 Filed 10–3–97; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Responsibilities of Awardees and Applicant Institutions for Reporting Possible Misconduct in Science (42 CFR Part 50 and PHS 6349)—0937–0198—Revision—As required by Section 493 of the Public Health Service Act, the Secretary by regulation shall require that applicant and awardee institutions receiving PHS funds must investigate and report instances of alleged or apparent misconduct in science. *Respondents:* State or local governments; Businesses or other for-profit; Non-profit institutions—Reporting Burden Information—*Number of Respondents:* 3607; *Number of Annual Responses:* 3,700; *Average Burden per Response:* 29.85 minutes; *Total Reporting Burden:* 1,841 hours—*Disclosure Burden Information—Number of Respondents:* 3,607; *Number of Annual Responses:* 3,667; *Average Burden per Response:* 30 minutes; *Total Disclosure Burden:* 1,834 hours—Recordkeeping Burden Information—*Number of Respondents:* 40; *Number of Annual Responses:* 140; *Average Burden per Response:* 7.03 hours; *Total Recordkeeping Burden:* 984 hours—*Total Burden*—4,659 hours. *OMB Desk Officer:* Allison Eydt

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: September 25, 1997.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 97–26347 Filed 10–2–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Agency information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: This notice announces the Agency for Health Care Policy and Research's. (AHCPR) intention to request the Office of Management and Budget (OMB) to allow a proposed information collection of the ''Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) for 1998 and 1999.'' In accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)), AHCPR invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by December 5, 1997.

ADDRESSES: Written comments should be submitted to: Ruth A. Celtnieks, Reports Clearance Officer, AHCPR, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Ruth A. Celtnieks, AHCPR Reports Clearance Officer, (301) 594–1406, ext. 1497.

SUPPLEMENTARY INFORMATION:

Proposed Project

''Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) for 1998 and 1999.''

The AHCPR plans to continue collection of the MEPS–IC. This survey collects information from employers (including public and private sectors) and other health insurance providers. The survey was first conducted in 1997.

The MEPS–IC is the integration of two previous surveys which collected similar information from two different samples. The two surveys were:

1. The 1994 National Employer Health Insurance Survey (NEHIS) sponsored by AHCPR, the National Center for Health Statistics (NCHS) and the Health Care Financing Administration (HCFA). The NEHIS had a sample drawn from (1) a list of private sector establishments, the Dunn Market Identifiers, provided by Dunn and Bradstreet, a major supplier of business information, (2) a list of all government entities, Federal, State and local, provided by the Census Bureau, and (3) a list of self-employed individuals provided by the NCHS; and

2. The 1987 Health Insurance Plans Survey (HIPS) sponsored by AHCPR's predecessor, the National Center for Health Statistics Research. The HIPS sample of employers and other health insurance providers generated from the 1987 National Medical Expenditure Survey, a household survey similar to the MEPS–HC.

As a result, the sample for the MEPS–IC is made up of two components:

1. A list sample of employers selected from three sample frames, private sector, government entities and self-employed individuals, available from the Bureau of the Census; and

2. A sample of employers and other health insurance providers identified by respondents to the MEPS-Household Component (MEPS–HC). The MEPS–HC is an annual household survey designed to collect medical expenditures and ancillary information for individuals.

Data will be produced in two forms: (1) files containing employer information from the list sample of selected employers; and (2) files containing calendar years 1997 and 1998 insurance data collected in 1998 and 1999 from employers and linked to information from the household respondents of the 1997 and 1998 MEPS–HC surveys.

The data are intended to be used for purposes such as:

- Generating national and State estimates of employer health care offerings;
- Producing aggregate data on national and State estimates of spending on employer-sponsored health insurance for analyzing results of national and State health care policy and providing information to guide future policy;
- Supply data to model the demand for health insurance; and
- Providing a valuable source of information concerning household responses regarding choices of health plans and costs and benefits of these plans, when pooled with data from the MEPS–HC.

These data provide the basis for researchers to address significant questions for employers and policymakers alike.

Method of Collection

The data will be collected using a combination of modes. AHCPR intends to first contact the employers by telephone. This contact will provide information on the availability of health insurance from the employer and essential persons to contact. Based upon this information, AHCPR will send a mail questionnaire to employers and others identified by employers. In order to assure high response rates, AHCPR will follow-up with a second mailing at an acceptable time interval, followed by a telephone call to collect data from those who have not responded by mail.

Data collected from each employer will include a description of the business (e.g., size, industry) and descriptions of health insurance plans available, plan enrollments, total plan costs and costs to employees.

For employers that can be matched to the MEPS–HC respondents, data will also be collected indicating the actual plan selected by the MEPS–HC respondent and the plan costs.

As part of the process, for larger employers wit high burdens, such as State employers and large firms, AHCPR will, if needed, perform personal visits and do customized collection, such as, acceptance of data in computerized formats. Annual burden estimates follow:

Initial Number of Respondents: 40,000.

Number of Surveys per Respondent: 1.

Average Burden per Respondent: .5 hour.

Estimated Annual Burden Total: 20,000 hours.

Request for Comments

Comments are invited on: (a) the necessity of the proposed collection; (b) the accuracy of the Agency's estimate of burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including 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.

Copies of these proposed collection plans and instruments can be obtained from the AHCPR Reports Clearance Officer (see above).

Dated: September 29, 1997.

John M. Eisenberg,

Administrator.

[FR Doc. 97–26352 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Adminstration for Children and Families

Submission for OMB Review; Comment Request

Title: Early Head Start Evaluation Father Study.

OMB No.: New Request.

Description: The Head Start Reauthorization Act of 1994 established a special initiative creating funding for services for families with infants and toddlers. In response the Administration on Children, Youth and Families (ACYF) designed the Early Head Start (EHS) program. In September 1995, ACYF awarded grants to 68 local programs to serve families with infants and toddlers. ACYF awarded grants to an additional 75 local programs in September 1996.

EHS programs are designed to produce outcomes in four domains: (1) child development, (2) family development, (3) staff development, and (4) community development. The Reauthorization required that this new initiative be evaluated. To study the effect of the initiative, ACYF awarded a contract through a competitive procurement to Mathematics Policy Research, Inc. (MPR) with a subcontract to Columbia University's Center for Young Children and Families. The evaluation will be carried out from October 1, 1995 through September 30, 2000. Data collection activities that are

the subject of this **Federal Register** notice are intended for the second phase of the EHS evaluation.

The sample for the assessments will be approximately 1,360 fathers from the 3,400 EHS sample families, whose mothers and infants/toddlers are participating in the study (see OMB #0970-0143) in 17 EHS study sites. Each family will be randomly assigned to a treatment group or a control group. The assessments will be conducted through personal interviewing, structured observations and videotaping. All data collection instruments have been designed to minimize the burden on respondents by minimizing interviewing and assessment time. Participation in the study is voluntary and confidential.

The information will be used by government managers, Congress and others to better understand the roles of fathers and father-figures with their children and in the EHS program.

Respondents: Fathers or father-figures of children whose families are in the EHS national evaluation sample (both program and control group families).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	average burden hours per response	Total burden hours
24-Month Father Interview	635	1	10	635
Father-Child Videotaping Protocol	168	1	0.3	50
Estimated Total Annual Burden				685

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having it full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Desk Officer for the Administration for Children Families.

Dated: September 29, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–26349 Filed 10–3–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegations of Authority

Notice is hereby given that I delegate to the Assistant Secretary for Children and Families, with authority to redelegate, the following authorities vested in the Secretary under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104–193, as amended now and hereafter.

(a) Authorities Delegated:

(1) Authority to administer the provisions of Title I, Block Grants for Temporary Assistance for Needy Families (TANF) under Sections 101–103, 106–110, 112, 115 and 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 1305 note, 42 U.S.C. 601 *et seq.*, and as amended now and hereafter. In addition, in exercising authority under Section 103, ''Section 413, Research, Evaluations, and National Studies,'' of the Social Security Act, the Administration for Children and Families is expected to consult with the Assistant Secretary for Planning and Evaluation.

(2) Authority to administer the provisions of the Child Care and Development Block Grant Amendments of 1996, 42 U.S.C. 9801 note, under Sections 601–615 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 1305 note, 42 U.S.C. 601 *et seq.*, and as amended now and hereafter.

(b) Effect on existing delegations. None.

These delegations shall be exercised under the Department's existing delegation of authority and policy on regulations. These delegations of authority are effective upon date of signature. In addition, I hereby, affirm and ratify any actions taken by the Assistant Secretary for Children and Families or any other Administration for Children and Families official which, in effect, involved the exercise of these authorities prior to the effective date of these delegations.

Dated: September 16, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–26346 Filed 10–3–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0397]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on recordkeeping requirements for manufacturers, importers, distributors, and retailers of impact-resistant lenses, including eyeglasses and sunglasses.

DATES: Submit written comments on the collection of information by December 5, 1997.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration,

12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Use of Impact-Resistant Lenses in Eyeglasses and Sunglasses—21 CFR 801.410(e) and (f)—(OMB Control Number 0910–0182)—Reinstatement

FDA has the statutory authority under sections 501, 502, and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351, 352, and 371(a)) to regulate medical devices. Section 801.410 (21 CFR 801.410) requires that lenses be rendered impact-resistant and capable of withstanding the impact test referred to as the ''referee test'' in the regulation. Under § 801.410(c)(1), eyeglasses and sunglasses must be fitted with impact-resistant lenses except in cases where an optometrist or physician finds that such lenses will not fulfill a patient's visual requirements.

Under § 801.410(e) and (f), manufacturers and distributors of impact-resistant lenses, both eyeglasses and sunglasses, are required to maintain certain records. Under § 801.410(e) manufacturers, distributors, retailers, and importers are required to maintain records such as invoice(s), shipping documents, and records of sale or distribution of all impact-resistant lenses, including finished prescription eyeglasses and sunglasses, which shall be kept and maintained for a period of 3 years. However, the names and addresses of individuals purchasing nonprescription eyeglasses and sunglasses at the retail level need not be kept and maintained by the retailer. Under § 801.410(f) any persons conducting ''referee'' (lens impact) tests in accordance with § 801.410(d) shall maintain the results thereof and a description of the test method and of the test apparatus for a period of 3 years.

These records are valuable to FDA when investigating complaints (i.e., eye injury complaints). If records were not maintained, FDA investigations would be made more difficult to conduct and ultimately the public would not have the necessary protection from substandard eyeglasses. The regulation is designed to protect the eyeglass wearer from potential eye injury resulting from shattering of ordinary eyeglass lenses. Examination of data available on the frequency of eye injuries resulting from the shattering of ordinary crown glass lenses indicates that the use of such lenses constitutes an avoidable hazard to the eye of the wearer. Between 50 and 60 percent of the American public wear prescription eye wear.

Firms subject to this regulation are not required to submit the written records to FDA. FDA normally reviews and may copy records during an inspection of the manufacturer. The manufacturers are required to have the records available to FDA on an ''as needed'' basis.

Respondents to this collection of information are manufacturers, importers, distributors, and retailers of impact-resistant sunglasses and eyeglasses.

The burden of maintaining sale and/or distribution records, as required by § 801.410(e), is estimated at 0 hours since firms are routinely retaining the records beyond the 3-year period for reasons of routine business practice. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the recordkeeping needed to comply is usual and customary because it would occur in the normal course of activities.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.410(f)	30	590,000	17,700,000	492	14,760

There are no capital costs or operating and maintenance costs associated with this collection.

There are approximately 30 manufacturers of eyeglasses in the U.S. Optical Manufacturers Association (OMA), which represents 98 percent of the domestic industry involved in lens manufacturing, and the association has stated to FDA that the regulation does not impose a burden on their members. This position is based on the fact that the recordkeeping and testing requirements of the regulation represent minimum requirements for a conscientious manufacturer.

Section 801.410(c)(1) states:

To protect the public more adequately from potential eye injury, eyeglasses and sunglasses must be fitted with impact-resistant lenses, except in those cases where the physician or optometrist finds that such lenses will not fulfill the visual requirements of the particular patient, directs in writing the use of other lenses, and gives written notification thereof to the patient.

Optometrists in the Center of Devices and Radiological Health's Office of Device Evaluation, FDA, have estimated that it should take a physician or optometrist approximately 2 minutes to write up a prescription and notification

for nonimpact-resistant lenses. Because most prescription orders are now filled by impact-resistant plastic lenses, and only one or two orders for nonimpact-resistant lenses are estimated to be completed annually, this de minimus burden is not included in the chart.

Dated: September 29, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26451 Filed 10–3–97 ; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0384]

Knickerbocker Biologicals, Inc.; Opportunity for Hearing on a Proposal to Revoke U.S. License No. 458–001

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 458–001) and product licenses issued to Knickerbocker Biologicals, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Source Leukocytes. The proposed revocation is based on the inability of authorized FDA employees to conduct an inspection of this facility, which is no longer in operation.

DATES: The firm may submit written requests for a hearing to the Dockets Management Branch by November 5, 1997, and any data and information justifying a hearing by December 5, 1997. Other interested persons may submit written comments on the proposed revocation by December 5, 1997.

ADDRESSES: Submit written requests for a hearing, any data and information justifying a hearing, and any written comments on the proposed revocation to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the establishment license (U.S. License 458–001) and product licenses issued to Knickerbocker Biologicals, Inc., doing business as Knickerbocker Blood Bank, 272 Willis Ave., Bronx, NY 10454, for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Source Leukocytes. Proceedings to revoke the licenses are being initiated because an attempted inspection of the facility by FDA revealed that the firm was no longer in operation.

In a certified, return-receipt letter dated November 14, 1996, FDA notified the Responsible Head of the firm that its attempt to conduct an inspection at Knickerbocker Biologicals, Inc., at 272 Willis Ave., Bronx, NY 10454, was unsuccessful because the facility was apparently no longer in operation, and requested that the firm notify FDA in writing of the firm's status. This letter was returned to the agency marked ''undeliverable; address unknown.''

On December 3, 1996, FDA visited three other known addresses of Knickerbocker Biologicals, Inc., New York, NY, and attempted to conduct an inspection. These attempts were also unsuccessful. Upon consultation, the U.S. Postal Service reported no information regarding a forwarding address or change of address for any of the last known locations.

In a certified, return-receipt letter sent to Knickerbocker Biologicals, Inc., dated January 24, 1997, and returned as undeliverable, FDA indicated that the attempts to conduct an inspection at the facility were unsuccessful. The letter also advised the Responsible Head that, under 21 CFR 601.5(b)(1) and (b)(2), when FDA finds that authorized employees have been unable to gain access to an establishment for the purpose of carrying out an inspection or the manufacturing of products or of a product has been discontinued to an extent that a meaningful inspection cannot be made, proceedings for license revocation may be instituted. In the same letter, FDA indicated that a meaningful inspection could not be made at the establishment and issued the firm notice of FDA's intent to revoke U.S. License No. 458–001 and announced its intent to offer an opportunity for a hearing.

Because FDA has made reasonable efforts to notify the firm of the proposed revocation and no response was received from the firm, FDA is proceeding under 21 CFR 12.21(b) and publishing this notice of opportunity for a hearing on a proposal to revoke the licenses of the above establishment.

FDA has placed copies of the documents relevant to the proposed revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include the following: (1) FDA letters to the Responsible Head dated November 14, 1996, and January 24, 1997; and (2) memorandum regarding the investigation and inspection dated December 9, 1996. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Knickerbocker Biologicals, Inc., may submit a written request for a hearing to the Dockets Management Branch by November 5, 1997, and any data and information justifying a hearing must be submitted by December 5, 1997. Other interested persons may submit comments on the proposed license revocation to the Dockets Management Branch by December 5, 1997. The failure of the licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA's procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data to justify a hearing on proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made within the required time with the required format or required analyses, the Commissioner of Food and Drugs will deny the hearing request, making findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from public disclosure under 21 CFR 10.20(j)(2)(i), 21 U.S.C. 331(j), or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 351 of the Public Health Service Act (42 U.S.C. 262) and sections 201, 501, 502,

505, and 701 of the Federal Food, Drug, and Cosmetic Acts (21 U.S.C. 321, 351, 352, 355, and 371), and under the authority delegated to Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: September 17, 1997.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 97–26454 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97C–0415]

Zauder Bros., Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Zauder Bros., Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of zinc sulfide as a color additive in externally applied cosmetics.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(d)(1) (21 U.S.C. 379e(d)(1))), notice is given that a color additive petition (CAP 7C0251) has been filed by Zauder Bros., Inc., c/o Schiff & Co., 1129 Bloomfield Ave., West Caldwell, NJ 07006. The petition proposes to amend the color additive regulations to provide for the safe use of zinc sulfide as a color additive in externally applied cosmetics.

The agency has determined under 21 CFR 25.32(r) 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.

Dated: September 11, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–26354 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F–0040]

Chemie Research and Manufacturing Co., Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition filed by Chemie Research and Manufacturing Co., Inc., proposing that the food additive regulations be amended to provide for the safe use of a glycerin extract of dried grapefruit seeds and pulp as an antimicrobial agent in the processing of fresh or frozen poultry, fish, and shellfish.

FOR FURTHER INFORMATION CONTACT: Valerie M. Davis, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3181.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 16, 1995 (60 FR 14286), FDA announced that a food additive petition (FAP 2A4336) had been filed by Chemie Research and Manufacturing Co., Inc., 160 Concord Dr., P.O. Box 181279, Casselberry, FL 32718–1279. The petition proposed that the food additive regulations be amended to provide for the safe use of a glycerin extract of dried grapefruit seeds and pulp as an antimicrobial agent in the processing of fresh or frozen poultry, fish, and shellfish.

By letter dated May 10, 1995, the agency notified the petitioner that consideration of the petitioned use for the glycerin extract of dried grapefruit seed and pulp would require the submission and evaluation of specific additional data. By letter of June 1, 1995, the petitioner provided a partial response to the agency's request for information and stated an intent to provide a complete response within 180 days. However, no further information was submitted within the 180-day time period.

By letter of July 24, 1996, FDA again requested that the necessary data be submitted within 30 days and stated that a failure to respond would be considered to be an agreement by the petitioner to withdraw the petition. Because FDA has received no response from the petitioner, and the required information has not been submitted, the petition is now withdrawn without prejudice to a future filing (21 CFR 171.7(b)). Future consideration of the use of a glycerin extract of dried grapefruit seeds and pulp as an antimicrobial agent in the processing of fresh or frozen poultry, fish, and shellfish will require submission of a new food additive petition.

Dated: September 22, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26413 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0412]

Mitsui Petrochemical Industries, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsui Petrochemical Industries, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene/propylene copolymers that contain up to 20 mole-percent of polymer units derived from propylene, with the remainder of the polymer consisting of ethylene, and having a minimum viscosity-average molecular weight of 95,000 and a minimum Mooney viscosity of 13 at up to 30 percent of other regulated polymer blends.

DATES: Written comments on the petitioner's environmental assessment by November 5, 1997.

ADDRESSES: Submit 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: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration,

200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4549) has been filed by Mitsui Petrochemical Industries, Ltd., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1520 *Olefin polymers* (21 CFR 177.1520) to provide for the safe use of ethylene/propylene copolymers that contain up to 20 mole-percent of polymer units derived from propylene, with the remainder of the polymer consisting of ethylene, and having a minimum viscosity-average molecular weight of 95,000 and a minimum Mooney viscosity of 13 at up to 30 percent of other regulated polymer blends.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 5, 1997 submit to the Dockets Management Branch (address above) written comments. 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. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 17, 1997.

Alan M. Rulis

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–26452 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0414]

Stilbene Whitening Agent Task Force; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Stilbene Whitening Agent Task Force has filed a petition proposing that the food additive regulations be amended to provide for the safe use of benzenesulfonic acid,2′2′-(1,2-ethenediyl)bis[5-[[4-[bis(2-hydroxyethyl-amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-,tetrasodium salt as an optical brightener in paper and paperboard intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4554) has been filed by Stilbene Whitening Agent Task Force, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of benzenesulfonic acid,2′2′-(1,2-ethenediyl)bis[5-[[4-[bis(2-hydroxyethyl)-amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-, tetrasodium salt as an optical brightener in paper and paperboard intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the 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.

Dated: September 17, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–26453 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96P–0181]

Determination that Chlorhexidine Gluconate Topical Tincture 0.5% Was Withdrawn From Sale for Reasons of Safety

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that chlorhexidine gluconate topical tincture 0.5% (Hibitane®) was withdrawn from sale for reasons of safety. The agency will not accept abbreviated new drug applications (ANDA's) for chlorhexidine gluconate topical tincture 0.5%.

FOR FURTHER INFORMATION CONTACT: Christine F. Rogers, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress passed into law the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the listed drug, which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was

withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)).

FDA regulations provide that any person may petition the agency for a determination as to whether a listed drug has been voluntarily withdrawn from sale for reasons of safety effectiveness (§ 314.161(b) (21 CFR 314.161(b))). Richard A. Hamer submitted a citizen petition dated May 24, 1996, under 21 CFR 10.25(a), 10.30, and 314.122(a), requesting that the agency determine whether chlorhexidine gluconate topical tincture 0.5% (Hibitane®) was withdrawn from sale for reasons of safety or effectiveness. Zeneca Pharmaceuticals (formerly Steuart Pharmaceuticals and ICI Americas) obtained approval of NDA 18–049 for chlorhexidine gluconate topical tincture 0.5% on December 18, 1978, as a patient preoperative skin preparation. The product was withdrawn from sale by the sponsor in early 1984. Because the sponsor discontinued marketing of the product, the agency currently lists chlorhexidine gluconate topical tincture 0.5% in the Orange Book's ''Discontinued Drug Product List.''

FDA has reviewed its records and, under §§ 314.161 and 314.162(a)(2), has determined that chlorhexidine gluconate topical tincture 0.5% was withdrawn from sale for reasons of safety. Specifically, the product was withdrawn because of the significant number of reports received concerning chemical and thermal burns associated with the use of the product. Therefore, chlorhexidine gluconate topical tincture 0.5% will be removed from the list of drug products with effective approvals published in FDA's publication, ''Approved Drug Products with Therapeutic Equivalence Evaluations.'' FDA will not accept ANDA's that refer to this drug product.

Dated: September 26, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26353 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0410]

Guidance for Industry on SUPAC–MR, Modified Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes for Chemistry, Manufacturing, and Controls; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''SUPAC–MR: Modified Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation.'' The purpose of this guidance document is to provide insight and recommendations to pharmaceutical sponsors of new drug applications (NDA's), abbreviated new drug applications (ANDA's), and abbreviated antibiotic applications (AADA's) who intend to change the components or composition, the manufacturing (process or equipment), the scale-up/scale-down of manufacture, and/or the site of manufacture of a modified release solid oral formulation during the postapproval period. This guidance document represents the agency's current thinking on scale-up and postapproval changes (SUPAC) for modified release solid oral dosage forms regulated by the Center for Drug Evaluation and Research (CDER).

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of ''SUPAC–MR: Modified Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mehul U. Mehta, Center for Drug Evaluation and Research (HFD–860), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–0501.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''SUPAC–MR: Modified Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation.'' The purpose of this guidance document is to provide insight and recommendations to pharmaceutical sponsors of NDA's, ANDA's, and AADA's who intend to change: (1) The components or composition; (2) the manufacturing (process or equipment); (3) the scale-up/scale-down of manufacture; and/or (4) the site of manufacture of a modified release solid oral formulation during the postapproval period. The guidance document defines the following: (1) Levels of change; (2) recommended chemistry, manufacturing, and controls (CMC) tests to support each level of change; (3) recommended in vitro dissolution release tests and/or in vivo bioequivalence tests to support each level of change; and (4) documentation to support the change.

For postapproval changes for modified release dosage forms that affect components and composition, manufacturing process or equipment changes, scale-up, and site change, this guidance supersedes the recommendations in section 4.G of the *Office of Generic Drugs Policy and Procedure Guide 22–90* (FDA, September 11, 1990). For all other dosage forms and changes, this guidance does not affect the recommendations in *Guide 22–90*.

This guidance document represents the agency's current thinking on SUPAC for modified release solid oral dosage forms regulated by CDER. 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, at any time, submit written comments on the guidance document 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. A copy of the guidance

document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

An electronic version of this guidance is also available on the Internet at http://www.fda.gov/cder/guidance/index.htm.

Dated: September 29, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26412 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Estimation Methodology for Children With a Serious Emotional Disturbance (SED)

AGENCY: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Solicitation of comments.

SUMMARY: This notice describes the proposed methodology for identifying and estimating the number of children with a serious emotional disturbance (SED) within each State. This notice is being served as part of the requirement of Public Law 102–321, the ADAMHA Reorganization Act of 1992.

COMMENT PERIOD: The Administrator is requesting written comments which must be received on or before December 5, 1997.

ADDRESSES: Comments should be sent to Judith Katz-Leavy, M.Ed., Senior Policy Analyst, Office of Policy, Planning, and Administration, Center for Mental Health Services, Parklawn Building Room 15–87, 5600 Fishers Lane, Rockville, MD 20857. (301) 443–1563 fax.

FOR FURTHER INFORMATION CONTACT: A detailed paper outlining the estimation methodology described here is available from: Judith Katz-Leavy M.Ed., Senior Policy Analyst, Office of Policy, Planning, and Administration, Center for Mental Health Services, Parklawn Building Room 15–87, 5600 Fishers Lane, Rockville, MD 20857. (301)443–1563 fax.

Background

Public Law 102–321, the ADAMHA Reorganization Act of 1992, amended the Public Health Service Act and created the Substance Abuse and Mental Health Services Administration (SAMHSA). The Center for Mental Health Services (CMHS) was established within SAMHSA to coordinate Federal efforts in the prevention, treatment, and promotion of mental health. Title II of Public Law 102–321 establishes a Block Grant for Community Mental Health Services (Block Grant) administered by CMHS, which permits the allocation of funds to States for the provision of community mental health services to children with a serious emotional disturbance and adults with a serious mental illness. Public Law 102–321 stipulates that States estimate the incidence (number of new cases) and prevalence (total number of cases in a year) in their applications for Block Grant funds, see 42 U.S.C. 300 (2). The statute also requires the Secretary to establish definitions for adults with a serious mental illness and children with a serious emotional disturbance. In addition, the Secretary is required to develop standardized methods for the states to use in providing the estimates required as part of their block grant applications. See 42 U.S.C. 300 (2). As part of the process of implementing this new block grant, definitions of the terms ''children with a serious emotional disturbance'' and ''adults with a serious mental illness'' were announced on May 20, 1993, in **Federal Register** Volume 58, No 96, p. 29422. Subsequently, a group of technical experts was convened by CMHS to develop an estimation methodology to ''operationalize the key concepts'' in the definition of children with a serious emotional disturbance. A similar group has prepared an estimation methodology for adults with a serious mental illness.

Serious Emotional Disturbance (SED)

The CMHS definition is that ''children with serious emotional disturbance'' are persons:

—From birth up to age 18;
—Who currently or at any time during the past year;
—Have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM–III–R
—That resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities (p.29425).

The definition goes on to indicate that, ''these disorders include any mental disorder (including those of biological etiology) listed in DSM–III–R or their ICD–9–CM equivalent (and subsequent revisions) with the exception of DSM–III–R 'V' codes, substance use, and developmental disorders, which are excluded, unless they co-occur with another diagnosable serious emotional disturbance'' (p. 29425).

Further, the definition indicates that, ''Functional impairment is defined as difficulties that substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally-appropriate social, behavioral, cognitive, communicative, or adaptive skills. Functional impairments of episodic, recurrent, and continuous duration are included unless they are temporary and expected responses to stressful events in their environment. Children who would have met functional impairment criteria during the referenced year without the benefit of treatment or other support services are included in this definition'' (p. 29425).

The first decision that was made was to focus on community epidemiological studies done in the United States that used either the DSM–III–R, or its predecessor, the DSM–III, and that provided information on the prevalence of mental disorders using a structured interview procedure. The group decided that given the relatively small number of community epidemiological studies that had been conducted in the United States, it would be a mistake to exclude those few studies that had used the DSM–III, given its considerable similarity to the DSM–III–R.

The most frequently used structured interview procedure was the Diagnostic Interview Schedule for Children (DISC), originally developed by A. Costello and his colleagues (A. Costello, Edelbrock, Dulcan, Kalas, & Klaric, l984), which includes both child and parent versions. Other interview procedures include the Diagnostic Interview for Children and Adolescents (DICA, Herjanic & Reich, l982), the Child and Adolescent Psychiatric Assessment (CAPA, Angold & E. Costello, l995), and the Composite International Diagnostic Interview (CIDI, Kessler et al, 1994).

The group elected to consider that a child met the criteria of a diagnosable disorder either if a diagnosis was obtained from his/her own report on the structured interview, or from the parent's report on the structured interview, or from the combination of the youth's report and the parent's report, even if neither one met the criteria separately. While there are other approaches to combining data from two or more sources that were considered and have been used (Cohen, Velez, & Kohn, l987; Reich & Earls, 1987), the group chose to use this ''either/or'' approach because it was believed that

discrepant responses can be a source of valuable information.

The greater challenge for the group was operationalizing the concept of ''functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities'' (**Federal Register**, l993, p. 29425). Part of the difficulty was in identifying appropriate measures, and understanding the inter-relationship between the different measures, but the greatest difficulty was in determining the appropriate threshold or cut-off point on a scale for concluding that there was functional impairment that was ''substantially'' interfering with functioning.

After much discussion, it was decided that in the absence of any ''gold standard'' that could be used as a basis for establishing such a cut-off point, and in the absence of any social validation process that has established a consensus on what the threshold should be, data would be presented for cut-off points at two levels of functional impairment. This has the benefit of providing additional information to planners and policy-makers to use, and to stimulate further discussion and research to try to better establish an appropriate threshold. The higher prevalence rate to be reported, which uses the more inclusive or less conservative cut-off point, still meets the definition of ''seriously emotionally disturbed.'' The less inclusive and more conservative estimate can be used for more targeted efforts to plan on behalf of a more limited number of children whose level of functional impairment is especially severe.

A variety of measures of impairment were used in the community studies, and their psychometric properties were reviewed for the group by Hodges (l994). The most frequently used measure is a global measure, the Children's Global Assessment Scale (Bird, Canino, Rubio-Stipec, & Ribera, 1987; Shaffer, Gould, Brasic, Ambrosini, Fisher, Bird, & Ahwalia, 1983), on which a youngster receives a rating ranging from 0 to 100 with lower scores indicating greater impairment. Scores are given in ten point intervals, and for each score there is a narrative description of the meaning of the score.

The group considered several potential cut-off points on the CGAS, and decided to use a score of 60 or lower as the cut-off point for the less conservative definition of serious emotional disturbance. The narrative description for 60 is:

''Variable functioning with sporadic difficulties or symptoms in several but not all social areas. Disturbance would be apparent to those who encounter the child in a dysfunctional setting or time but not to those who see the child in settings where functioning is appropriate.''

This decision was made partly on the basis of the work by Bird and his colleagues that indicates that, ''Empirical work has demonstrated that the optimal cut-off score on the CGAS that demonstrates definite impairment is a score lower than 6l'' (Bird, Shaffer, Fisher, Gould, Staghezza, Chen, & Hoven, l993, p. 103).

The score of 50 will be used as the more stringent cut-off point to denote the more severe impairment. The narrative description for 50 is: ''Moderate degree of interference in functioning in most social areas or severe impairment of functioning in one area, such as might result from, for example, suicidal preoccupations and ruminations, school refusal and other forms of anxiety, obsessive rituals, major conversion symptoms, frequent anxiety attacks, frequent episodes of aggressive or other anti-social behavior with some preservation of meaningful social relationships''.

Data Sources

There are no national epidemiological studies of mental disorders for children and/or adolescents that have been conducted in the United States. This deficit makes it difficult to derive prevalence rates that are generalizable to the entire United States. In the absence of national studies, the group chose to examine the results from eight smaller, and more localized studies including, Kashani, et.al (1987), Costello, et. al (1988) (1994), Bird, et. al (1988), Kessler, et. al (1994), Jensen, et. al (1995), MECA (Lahey, et. al, 1996, Shaffer, et. al, 1996), and Costello, et. al (1995). (see Table 1 for a summary of these studies).

The group of technical experts determined that it is not possible to develop estimates of incidence using currently available data. However, it is important to note that incidence is always a subset of prevalence. In the future, incidence and prevalence data will be collected.

TABLE ONE.—SUMMARY OF STUDIES

Study	Measure and DSM system	SystemSample size and age	Measure of impairment
Kashani et al 1987	DICA/DSMIII	N=150, 14–16 yr. olds	Rating of 3 or 4 by Clinicians on 4 Point Scale of Need for Tx and Impairment.
Costello et al 1988	DISC 1.3 DSMIII	Screened=789, Interviewed=278, 7–11 yr. olds.	CGAS 60 or less.
1994 (follow-up)	DISC 2.3 DSMIIIR	Screened=789, Interviewed=263, 12–18 yr. olds.	CGAS 60 or less.
Bird et al 1988	DISC 1.3*/DSMIII	n=777 first stage n=386 second stage 4–16 yr. olds	CGAS 60 or less.
Kessler et al 1994	CIDI/DSMIII–R (adult diagnoses).	n=600 (about) 15–17 yr. olds (Part of study of 15–54 yr. olds).	Aggregation of 5 Measure.
Jensen et al 1995	DISC2.1/DSMIIIR	n=295 6–17 yr. old	•In tx or in need of tx. •Internal Impairment (1 or more). •Internal Impairment (2 Domains or more).
MECA (Lahey et al, 1996 Shaffer et al, 1996).	DISC2.1/DSMIII–R	n=1265 9–17 yr. olds	•CGAS 60 or Less. •CGAS 50 or less. •Internal Impairment, (3 or more), (5 or more).

TABLE ONE.—SUMMARY OF STUDIES—Continued

Study	Measure and DSM system	SystemSample size and age	Measure of impairment
Costello et al 1995	CAPA/DSMIII–R	2 stages n=4500 9, 11, and 13 yr. olds	•Internal Impairment, (1 or more), (2 or more), (3 or more). •CGAS (60 or less) CAFAS (20 or higher).

Estimation Procedures

Based on the CMHS definition of serious emotional disturbance, and the existing data bases which provide prevalence rates that can be applied to this definition, it is estimated that the prevalence rate of serious emotional disturbance in children 9–17 years of age is in the range of 9–13 percent. Presently, the data are inadequate to estimate prevalence rates for children under the age of nine. It is also concluded that if a more stringent definition of impairment is desired than was used for the estimated range of 9–13 percent, then the range is from 5–9 percent. The difference between the two estimates is that the measured level of functional impairment is greater in the second estimate and has been characterized in Figure 1 as ''extreme functional impairment.'' Children at both levels of impairment are considered to have a ''serious emotional disturbance'' however; the group of children falling into the range of 5–9 pecent constitutes a subset of the 9–13 percent.

It should be noted that the estimated prevalence range for 9–17 year olds is higher than the range recommended by Kessler et al. (1995) for serious mental illness in adults (5.7 percent). The higher estimate for 9–17 years olds is consistent with the fact that using the National Comorbidity Study (NCS) data base, which served as the main data base for the estimation of prevalence in adults, Kessler found that the 12 month prevalence for 15–17 year olds was 8.7 percent. The twelve month prevalance for 18–54 year olds was 6.5 percent. To further understand this difference, however, it is important to recognize that within the 18–54 year range there are differences associated with age. For example, in Kessler's first article, it was reported that ''disorders are consistently most prevalent in the youngest cohort (age range 15–24 years) and generally decline monotonically with age'' (Kessler et al., 1994, p. 13). This was also the case with serious mental illness, as reported by Kessler et al. (1995). This finding of highest prevalence rates in youngest adults with rates decreasing with increasing age was not only obtained in the NCS but also in the Epidemiological Catchment Area study, completed in the early 1980s (Regier et al., 1988). Also, the longitudinal research by Cohen et al. (1993), and the findings by Reinherz et al. (1993) on 17–19 year olds point to especially high prevalence rates for older adolescents.

Within the 9–17 year age range, the data are adequate to permit determination of gender and socio-economic differences but are not adequate to permit determination of race differences. The comparative analyses by Costello & Messer (l995) are particularly useful for looking at gender and socio-economic differences. Both for global and specific measures of impairment, they find the prevalence rates of serious emotional disturbance in the samples already mentioned to be about twice as high in low socio-economic groups as in high socio-economic groups. This finding is consistent for every one of the seven data bases included in the analysis by Costello & Messer (l995). Jensen et al. (l995) fail to find different prevalence rates by socio-economic status in their study. However, as they point out the socio-economic range in their sample was limited by the fact that all of the youngsters were military dependents.

The following steps were taken to adjust for the difference in state socio-economic circumstances. The 1995 estimates of children and adolescents with serious emotional disturbance by state are provided in Table 3.

Step 1

States were sorted by poverty rates (1995), in ascending order. Using this sort order, States were initially classified into three groups of equal proportions, i.e., the first 17 states were put into Group A; the next 17 States into Group B; the remaining 17 States, into Group C. However, in reviewing the results, we noted that observations 17 and 18 differed by .01 percent. Observation number 18 was included in group A. For this reason, Group A has 18 cases, Group B has 16 cases, and Group C has 17 cases. Group A is the group that has a relatively low percentage of children in poverty. Group B is the mid point, and Group C is the group with the highest percentage of children in poverty.

Step 2

At a level of functioning of 50 (LOF=50), the number of children and adolescents with SED is calculated to be between 5–7 percent of the number of youth 9–17 years for Group A. For Group B, the estimate is between 6–8 percent of the number of youth 9–17 years. The estimated SED population for Group C is calculated to be between 7–9 percent of the number of youth 9–17 years.

Step 3

At a level of functioning of 60 (LOF=60), the number of children and adolescents with SED is calculated to be between 9–11 percent of the number of youth 9–17 years for Group A. For Group B, the estimate is between 10–12 percent of the number of youth 9–17 years. The estimated SED population for Group C is calculated to be between 11–13 percent of the number of youth 9–17 years.

TABLE 2.—1995 ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE; STATE ESTIMATES ALGORITHMS

States	Estimated population			
	LOF*=50		LOF*=60	
	Lower limit (percent)	Upper limit (percent)	Lower limit (percent)	Upper limit (percent)
Group A, Lowest percent in poverty	5	7	9	11
Group B, Medium percent in poverty	6	8	10	12
Group C, Highest percent in poverty	7	9	11	13

*LOF=Level of functioning from the Children's Global Assessment Scale.

TABLE 3.—1995 ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE BY STATE

	State	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
				Lower limit	Upper limit	Lower limit	Upper limit
	Total	33,706,204		2,118,269	2,792,391	3,466,516	4,140,636
1	New Hampshire	147,695	4.07	7,385	10,339	13,293	16,246
2	Alaska	90,955	8.96	4,548	6,367	8,186	10,005
3	New Jersey	932,671	9.60	46,634	65,287	83,940	10,259
4	Utah	349,086	9.76	17,454	24,436	31,418	3,839
5	Minnesota	643,892	11.30	32,195	45,072	57,950	70,828
6	Colorado	491,930	11.34	24,597	34,435	44,274	54,112
7	Nebraska	231,037	11.62	11,552	16,173	20,793	25,414
8	Missouri	709,439	11.74	35,472	49,661	63,850	78,038
9	Kansas	354,722	12.55	17,736	24,831	31,925	39,019
10	Wisconsin	706,004	12.56	35,300	49,420	63,540	77,660
11	Hawaii	143,901	13.97	7,195	10,073	12,951	15,829
12	North Dakota	91,443	14.13	4,572	6,401	8,230	10,059
13	Virginia	790,359	14.38	39,518	55,325	71,132	86,939
14	Nevada	186,695	14.41	9,335	13,069	16,803	20,536
15	Indiana	758,633	15.24	37,932	53,104	68,277	83,450
16	Rhode Island	115,176	15.36	5,759	8,062	10,366	12,669
17	Delaware	85,396	15.56	4,270	5,978	7,686	9,394
18	Maine	160,434	15.57	8,022	11,230	14,439	17,648
19	Vermont	76,500	15.79	4,590	6,120	7,650	9,180
20	Maryland	608,209	15.80	36,493	48,657	60,821	72,985
21	Wyoming	75,106	16.21	4,506	6,008	7,511	9,013
22	Georgia	942,161	16.30	56,530	75,373	94,216	113,059
23	Massachusetts	680,101	17.12	40,806	54,408	68,010	81,612
24	Iowa	385,583	17.39	23,135	30,847	38,558	46,270
25	Washington	714,567	17.81	42,874	57,165	71,457	85,748
26	Connecticut	378,473	18.03	22,708	30,278	37,847	45,417
27	Pennsylvania	1,462,731	18.07	87,764	117,018	146,273	175,528
28	Oregon	411,543	18.22	24,693	32,923	41,154	49,385
29	Michigan	1,275,452	18.36	76,527	102,036	127,545	153,054
30	Ohio	1,451,220	19.33	87,073	116,098	145,122	174,146
31	Idaho	183,829	20.57	11,030	14,706	18,383	22,059
32	South Dakota	108,855	20.74	6,531	8,708	10,886	13,063
33	North Carolina	879,091	21.06	52,745	70,327	87,909	105,491
34	Kentucky	504,373	21.25	30,262	40,350	50,437	60,525
35	Illinois	1,517,182	22.14	106,203	136,546	166,890	197,234
36	Tennessee	658,573	22.23	46,100	59,272	72,443	85,614
37	Montana	126,834	22.39	8,878	11,415	13,952	16,488
38	Arkansas	337,718	22.44	23,640	30,395	37,149	43,903
39	Texas	2,623,654	24.53	183,656	236,129	288,602	341,075
40	California	3,968,950	24.97	277,827	357,206	436,585	515,964
41	Oklahoma	457,496	24.98	32,025	41,175	50,325	59,474
42	Arizona	542,019	25.31	37,941	48,782	59,622	70,462
43	Florida	1,623,697	25.50	113,659	146,133	178,607	211,081
44	New York	2,141,435	25.51	149,900	192,729	235,558	278,387
45	West Virginia	231,390	26.93	16,197	20,825	25,453	30,081
46	Alabama	547,671	27.50	38,337	49,290	60,244	71,197
47	Louisiana	639,158	29.69	44,741	57,524	70,307	83,091
48	South Carolina	470,875	32.11	32,961	42,379	51,796	61,214
49	Washington, DC	48,365	35.33	3,386	4,353	5,320	6,287
50	New Mexico	251,231	36.59	17,586	22,611	27,635	32,660
51	Mississippi	392,694	37.03	27,489	35,342	43,196	51,050

Analyses show very similar prevalence rates for girls and boys in the seven sites. The absence of gender differences is also apparent in the findings of Jensen et al. (1995). Kessler (1995), however, reports a higher prevalence rate in females than males using the adult diagnostic categories, and an older adolescent sample (15–17 year olds). There is no indication that overall prevalence rate of serious emotional disturbance differs by gender within the 9–17 year age range although there clearly are gender differences in prevalence of particular diagnoses, such as conduct disorder and depression, and there are suggestions that the rates may diverge in later years of adolescence.

Overall, there is support for the use of socio-economic status as a correction factor in developing a methodology for the estimation of the prevalence of serious emotional disturbance. There is no empercial basis at this point for using other correction factors.

Conclusions

Of the 33 million children and adolescents between the ages of 9–17 in the United States, 9–13 percent or 3.5-4 million of these youngsters have a serious emotional disturbance at a score of 60 or lower on the Children's Global Assessment Scale. A more stringent definition of impairment, representing a score of 50 or lower on the Children's Global Assessment Scale shows a range of 5–9 percent or 2.1–2.8 million youngsters with a serious emotional disturbance (see Figure 1). Currently there are not sufficient studies to determine the prevalence rate in very young children ages birth—8. Therefore the estimated number of children with serious emotional disturbance presented here is a low estmate since it only included data for 9–17 year olds.

Limitations

There are several limitations for these estimates. First, it must be recognized that these estimated ranges are based on the findings from many modest-sized studies which varied not only in population but often in instruments that were used (particularly for measurement of impairment), methods that were used to collect the data, and even the diagnostic system that was used.

Second, there are only two studies that include youngsters under the age of nine, and these studies are not adequate to provide a base for any estimate of the prevalence of serious emotional disturbance for children under the age of nine. The estimate presented here is intended for children between nine and 17 years of age.

Third, the data are also inadequate to determine prevalence estimates for children of different racial and ethnic backgrounds. Several of the studies included youngsters of color in their sample and two studies were done exclusively on Hispanic youngsters in Puerto Rico (Bird et al., 1988, & one of the MECA sites). However, the sample sizes are too small and not sufficiently representative of African-American, Hispanic, Asian American, or native American populations to permit estimates to be made.

Fourth, with the absence of any large national studies, it is not possible to determine whether rates differ in urban versus rural areas, or different regions of the country.

Scope of Application

Inclusion in or exclusion from the definition is not intended to confer or deny eligibility for any service or benefit at the Federal, State, or local levels. Only a portion of children with a serious emotional disturbance seek treatment in any given year. Due to the episodic nature of serious emotional disturbance, some children and adolescents may not require mental health service at any particular time. Additionally, the definition is not intended to restrict the flexibility or responsibility of the State or local government to tailor publicly funded service systems to meet local needs and priorities. However, all individuals whose services are funded through Federal Community Mental Health Services Block Grant funds must fall within the criteria set forth in these definitions. Any ancillary use of these definitions for purposes other than those identified in the legislation is outside the purview and control of CMHS.

It is anticipated that additional work will be done in future years to refine and update the estimation methodology. CMHS will keep States apprised as this work develops.

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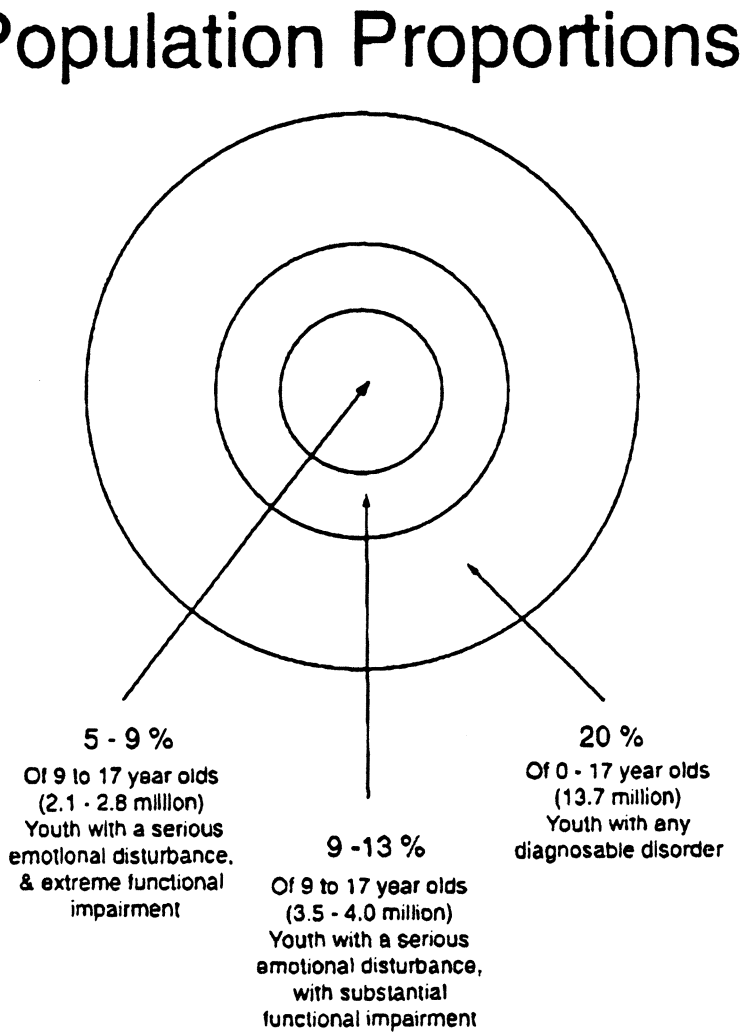
BILLING CODE 4160–20–U

Figure 1



BILLING CODE 4160–20–C

Dated: September 22, 1997.

Richard Kopanda,

Executive Officer SAMHSA.

[FR Doc. 97–26372 Filed 10–3–97; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974—Notice of Establishment of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new system of records to be maintained by the Interior Service Center. The system, entitled ''Computerized ID Security System—Interior, OS–01,'' will include information pertaining to Departmental employees and other individuals who have had access to the Main and South Interior Buildings. The information contained in this system will be used for the purpose of operating and maintaining a computerized security access-card system. The system will enhance the security of the Main and South Interior Buildings, while enabling the Department to assure the safety of building occupants in the event of an emergency. Individuals entering or leaving the Main or South Interior Buildings will be required to scan a computerized identification (ID) card, equipped with a magnetic device, through a card reading device. The device will identify the card holder based on personal information encoded on the card, and will either authorize entry or deny access to the building in question.

The potential impact on the privacy of individuals covered by the system will be minimal. Data pertaining to the date and time of entry and exit of an Interior employee will not be disclosed to supervisors, managers, or any other persons (other than the individual to whom the information applies) to verify time and attendance records for personnel-related purposes because 5 U.S.C. 6106 prohibits Federal Executive agencies (other than the Bureau of

Engraving and Printing) from using a ''recording clock'' within the District of Columbia, unless used as part of a flexible schedule program under 5 U.S.C. 6120 et seq. Unless retained for specific ongoing security or safety investigations, records related to date and times of exit and entry of all individuals covered by the system will be retained for a period of no longer than 2 years.

The notice is published in its entirety below.

As required by the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), the Office of Management and Budget, the Seante Committee on Governmental Affairs, and the House Committee on Government Operations have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Written comments on this proposal can be addressed to the Office of the Secretary Privacy Act Officer, Interior Service Center, 1849 ''C'' Street NW, Mail Stop 1414 MIB, Washington, DC 20240, telephone (202) 208–6045, e-mail Sue__Ellen__Sloca@ios.doi.gov. Comments received within 40 days of publication in the **Federal Register** will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: September 30, 1997.

Tim Vigotsky,

Director, Interior Service Center.

INTERIOR/OS–01

SYSTEM NAME:

Computerized ID Security System—Interior, OS–01.

SYSTEM LOCATION:

(1) Data covered by this system is maintained in the following location: U.S. Department of the Interior, Office of the Secretary, Interior Service Center, Facilities Management and Services, Physical Security Office, Room 1229 Main Interior Building, 1849 C Street NW., Washington, DC 20240.

(2) Security access to data covered by this system is available at all locations within the vicinity of the Main Interior Building and the South Interior Building complex where staffed guard stations are established.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have had access to the Main and South Interior Buildings. These include, but are not limited to, the following groups: Current agency employees, former agency employees, agency contractors, persons authorized to perform or to use services provided in the Main and South Interior Buildings (e.g., Department of the Interior Federal Credit Union, Interior Recreation Association Fitness Center, etc.) volunteers, and visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on current agency employees, former agency employees, and agency contractors include the following data fields: Name, Social Security number, date of birth, signature, image (photograph), hair color, eye color, height, weight, organization/office of assignment, telephone number of emergency contact (optional/voluntary data field), date of entry, time of entry, time of exit, security access category, number of ID security cards issued, ID security card issue date, ID security care expiration date, and ID security card serial number.

Records maintained on all other individuals covered by the system include the following data fields: Name, Social Security number (or one of the following: Drivers License number, ''Green Card'' number, Visa number, or other ID number), U.S. citizenship (yes or no/logical data field), date of entry, time of entry, time of exit, purpose for entry, agency point of contact, security access category, number of ID security cards issued, ID security card issue date, ID security card expiration data, and ID security card serial number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5. U.S.C. 301; Presidential Memorandum on Upgrading Security at Federal Facilities, June 28, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purposes of the system are:

(1) To ensure the safety and security of the Main and South Interior Buildings and their occupants.

(2) To verify that all persons entering the buildings are authorized to enter them.

(3) To track and control ID security cards issued to persons entering the buildings.

Disclosures outside the Department of the Interior may be made:

(1) To security service companies that provide monitoring and maintenance support for the system.

(2) To the Federal Protective Service, and appropriate Federal, State, and local law enforcement agencies to investigate emergency response situations or to investigate and prosecute the violation of law, statute, rule, regulation, order or license.

(3) To the U.S. Department of Justice or to a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

(4) To a congressional office in connection with an inquiry an individual covered by the system has made to the congressional office.

(5) To representatives of the General Services Administration or the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904.

Note: Disclosures within the Department of the Interior of data pertaining to date and time of entry and exit of an agency employee may not be made to supervisors, managers, or any other persons (other than the individual to whom the information applies) to verify employee time and attendance record for personnel actions because 5 U.S.C. 6106 prohibits Federal Executive agencies (other than the Bureau of Engraving and Printing) from using a recording clock within the District of Columbia, unless used as part of a flexible schedule program under 5 U.S.C. 6120 et seq.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in computerized form on a non-removable hard disk. Record backups are stored on removable diskettes and/or tapes.

RETRIEVABILITY:

Records are retrievable by name, social Security number, other ID number, image (photograph), organization/office of assignment, agency point of contact, security access, category, date of entry, time of entry, time of exit, ID security card issue date, ID security card expiration date, and ID security card serial number.

SAFEGUARDS:

The computer on which records are stored is located in an office that is secured by an alarm system and off-

master key access. The computer itself is key-locked and access to the system is password-protected. Access granted to individuals at guard stations is password-protected; each person granted access to the system at guard stations must be individually authorized to use the system. A Privacy Act Warning Notice appears on the monitor screen when records containing information on individuals are first displayed. Backup diskettes/tapes are stored in a locked and controlled room in a secure, off-site location.

RETENTION AND DISPOSAL:

Records relating to persons covered by the system are retained in accordance with General Records Schedule 18, Item No. 17. Unless retained for specific, ongoing security investigations:

(1) Records relating to individuals other than employees are destroyed two years after ID security card expiration date.

(2) Records relating to date and time of entry and exit of employees are destroyed two years after date of entry and exit.

(3) All other records relating to employees are destroyed two years after ID security card expiration date.

SYSTEM MANAGER(S) AND ADDRESS:

Buildings Manager, U.S. Department of the Interior, Interior Service Center, Facilities Management and Services, Buildings Manager's Office, m.s. 1221, 1849 C Street NW., Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on him or her should address his/her request to the Buildings Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.60.)

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the Buildings Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.63.)

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the Buildings Manager. The request must be in writing and signed by the requester. (See 43 CFR 2.71.)

RECORD SOURCE CATEGORIES:

Individuals covered by the system, supervisors, and designated approving officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–26345 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for Issuance of an Incidental Take Permit to the California Department of Forestry and Fire Protection

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce; and California Department of Forestry and Fire Protection.

ACTION: Notice of Intent.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (collectively ''the Services''), and the California Department of Forestry and Fire Protection intend to prepare an Environmental Impact Statement/ Environmental Impact Report for: (1) approval of a Habitat Conservation Plan, and issuance of an incidental take permit, pursuant to section 10(a) of the Endangered Species Act of 1973, as amended; and (2) approval of the Jackson Demonstration State Forest's Sustained Yield Plan by the California Department of Forestry and Fire Protection, including consideration of conservation measures or plans addressing State-listed species. The Habitat Conservation Plan will cover forest management and recreation activities on the Jackson Demonstration State Forest in Mendocino County, California. The California Department of Forestry and Fire Protection (Applicant) intends to request an incidental take permit for the northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmoratus marmoratus*), American peregrine falcon (Falco peregrinus anatum), and coho salmon (*Oncorhynchus kisutch*). It is anticipated that the Applicant may also seek coverage for approximately 20 unlisted species of concern (fish, wildlife, and plants) under specific provisions of the permit, should these species be listed in the future.

Public Involvement: This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Pursuant to regulations at 40 CFR (sections 1501.7 and 1508.22), the Services are seeking suggestions and information from other agencies and the public on the scope of issues and alternatives to be considered in preparation of the Environmental Impact Statement. To satisfy both Federal and State environmental policy act requirements, the above Federal and California agencies are conducting a joint scoping process for the preparation of environmental documents.

DATES: In order to expedite the planning process, the above agencies request all scoping comments on this notice be received by October 31, 1997. A public scoping meeting for interested persons to comment on the scope of the Environmental Impact Statement has been scheduled for Wednesday, October 8, 1997, from 7 p.m. to 10 p.m., at the Cotton Auditorium Fort Bragg Middle School, 500 North Harold Street, Fort Bragg, California.

ADDRESSES: Comments regarding the scope of the Environmental Impact Statement should be addressed to Mr. Bruce Halstead, Project Leader, Coastal California Fish and Wildlife Office, 1125 16th Street, Room 209, Arcata, California 95521–5582; telephone (707) 822–7201. Written comments may also be sent by facsimile to (707) 822–8411. Comments received will be available for public inspection by appointment during normal business hours (Monday through Friday; 8:00 a.m. to 5:00 p.m.) at the above office. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

FOR FURTHER INFORMATION: Contact Ms. Amedee Brickey, at the above address.

SUPPLEMENTARY INFORMATION: The Applicant manages the Jackson Demonstration State Forest, a 50,195-acre area in Mendocino County, California. The Jackson Demonstration State Forest is managed for a variety of benefits including ''demonstration'' forestry projects, watershed, fisheries, and wildlife in cooperation with University of California at Berkeley, Humboldt State University, the California Department of Fish and Game, the U.S. Forest Service's Pacific Southwest Experiment Station, and others. Estimated annual timber volume growth on the forest is 46 million board feet with a total volume for the property of 2.3 billion board feet, 4 times greater than when the forest was acquired by the Applicant fifty years ago. The annual volume harvested is about 28 million board feet or about 1.2 percent of the total inventory. The Jackson Demonstration State Forest also provides recreation in the form of camping, biking, horse riding and

hiking, and protects a number of prehistoric and archaeological sites.

The Environmental Impact Statement will evaluate various forest and recreation management alternatives for the planning area, including a current project alternative, a baseline forest management alternative, and at least two enhanced conservation alternatives.

The current project alternative would include continuing forest management of the Jackson Demonstration State Forest to meet or exceed current Forest Practice Rules. As a demonstration forest, the current forest management practices on the Jackson Demonstration State Forest go beyond the current California Forest Practice Rules in terms of biological resource protection. This alternative defines the moderate timber productivity management situation and the moderate wildlife protection management situation.

The baseline forest management alternative would include current Forest Practice Rules only. This alternative defines the maximum timber productivity management situation and the minimum wildlife protection management situation.

The first enhanced conservation alternative would take a multi-species approach, and include measures for maintaining or enhancing habitat for listed species covered under the permit as well as some unlisted species. This alternative is expected to include a well developed monitoring and adaptive management program that is sufficient to minimize significant adverse impacts on the habitat of sensitive species. The timber program under this alternative, while falling short of competitive economic efficiency, would be expected to provide a sustainable and economically viable timber harvest program. The timber program would substantially exceed the requirements of the State Forest Practice Rules. This alternative would define a moderate to conservative timber production management situation and a moderate wildlife conservation management situation.

The second enhanced conservation alternative would describe an increased level of habitat conservation for listed and unlisted species, relative to the first enhanced conservation alternative, to reduce the risk of significant adverse impacts. This alternative would set the most restrictive forest management practices in recognition of scientific uncertainty regarding potential impacts of timber management activities on sensitive species and their habitats. While expected to provide increased protection for covered species, this alternative would limit the ability of the Jackson Demonstration State Forest to function as a demonstration and timber production forest. This enhanced conservation alternative would define a timber management situation that is reduced to a low or custodial management level and an enhanced wildlife conservation management situation.

Once completed, it is expected that the Applicant will submit the Habitat Conservation Plan as part of the incidental take permit application process, as required under the provisions of section 10(a)(2)(A) of the Endangered Species Act. It is anticipated that the permit application for incidental take will include the northern spotted owl, marbled murrelet, American peregrine falcon, and coho salmon. The permit application is also expected to include an agreement covering conservation of certain unlisted species. The Services will evaluate the incidental take permit application and associated Habitat Conservation Plan in accordance with section 10(a) of the Endangered Species Act, and its implementing regulations.

Environmental review of the permit application, including the Habitat Conservation Plan, will be conducted in accordance with the requirements of the National Environmental Policy Act and its implementing regulations. A No Action/No Project alternative will be considered consistent with the requirements of the National Environmental Policy Act and the California Environmental Quality Act.

The Applicant will also be preparing a Sustained Yield Plan pursuant to the provisions under Article 6.75 of the California Forest Practice Rules, including consideration of conservation measures or plans addressing state-listed species under the California Endangered Species Act. It is expected that a section 2090 or 2081 agreement will be issued by the California Department of Fish and Game under the California Fish and Game code for selected state-listed species that potentially occur on the Jackson Demonstration State Forest.

Dated: September 29, 1997.

Don Weathers,

Acting, Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–26398 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62051]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following land in Elko County, Nevada has been examined and identified as suitable for disposal by direct sale, including the mineral estate of no more than nominal value, under Section 203 and Section 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719) at no less than fair market value:

Mount Diablo Meridian, Nevada

T. 34 N., R. 55 E., section 8, E½NE¼SW¼, NE¼NW¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼.

Comprising 55.00 acres, more or less.

The above described land is being offered as a direct sale to Elko General Hospital, a political subdivision of Elko County. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The land has been identified as suitable for disposal by the Elko Resource Management Plan. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency.

The land is prospectively valuable for oil and gas, and geothermal resources, but not for other minerals. Therefore, the mineral estate, excluding oil and gas, and geothermal resources, will be conveyed simultaneously with the sale of the surface estate. Acceptance of the sale offer will constitute an application to purchase the mineral estate having no known value. A non-refundable fee of $50.00 will be required with the purchase money. Failure to submit the purchase money and the non-refundable filing fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public

land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the **Federal Register** of a Notice of Termination of Segregation, or 270 days from date of this publication, which ever occurs first.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

2. Oil and gas and geothermal resources. A more detailed description of this reservation, which will be included in the patent document, is available for review at the Elko Field Office.

The patent, when issued, will be subject to those rights granted to Elko County, its successors, or assigns, as a holder of a right-of-way grant for an access road. For a period of 45 days from the date of publication in the **Federal Register**, interested parties my submit comments to the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada 89801. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: September 25, 1997.

David Stout,

Acting District Manager.

[FR Doc. 97–26369 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska Outer Continental Shelf (OCS) Region Offshore Advisory Committee; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Alaska OCS Region Offshore Advisory Committee of the Minerals Management Service will meet on November 6th and continue on November 7th (if necessary), 1997.

The agenda will cover the following principal subjects:

—the alternatives and mitigating measures for Proposed OCS oil and gas lease Sale 170, Beaufort Sea.

The meeting is open to the public. Upon request, interested parties may make oral presentations or submit written materials to the Alaska OCS Region Offshore Advisory Committee. Such requests should be made no later than October 29, 1997. Requests to make oral statements should be accompanied by a summary of the statement to be made. All oral presentations and written statements submitted before the conclusion of the meeting will be made part of the meeting record and will be made available to the Committee for its discussions. For more information, call Michele Hope at (907) 271–6424.

Transcripts of the Alaska OCS Region Offshore Advisory Committee meeting will be available for public inspection and copying at the Minerals Management Service in Anchorage, Alaska.

DATES: Thursday, November 6, 1997, 9:00 am to 5:00 pm and will continue on Friday, November 7, 1997, 9:00 am to 12 noon, if necessary.

ADDRESSES: The meeting will be held at the University Plaza Building, 949 East 36th Ave., Minerals Management Service, 3rd Floor Conference Room, Anchorage, Alaska 99508. Requests for oral presentations to be made on November 6th can be made to the same address or by phone, Attention: Michele Hope at (907) 271–6424.

FOR FURTHER INFORMATION CONTACT: Michele Hope at the address and phone number listed above.

Authority: Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: September 30, 1997.

Robert J. Brock,

Acting Regional Director, Alaska OCS Region, Minerals Management Service.

[FR Doc. 97–26390 Filed 10–3–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Agency Information Collection Activities: Existing Collection; Comment Request

ACTION: Extension of an existing collection; OMB emergency approval request; Standard Form 95, Claim for Damage, Injury, or Death.

The Department of Justice, Civil Division, Torts Branch, has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13 (a)(1)(i) and (a)(2)(i) of the Paperwork Reduction Act of 1995. The Civil Division has determined that it cannot reasonably comply with the normal clearance procedures under this Part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. This information collection is needed prior to the expiration of established time periods. OMB approval has been requested by October 31, 1997. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, *Attention*: Mr. Patrick Boyd, 202–395–5871, Department of Justice Desk Officer, Washington, D.C. 20530.

Comments regarding the emergency submission of this information collection may be forwarded by facsimile to Mr. Boyd at 202–395–7285.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the Civil Division, Torts Branch, requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments are encouraged and will be accepted until December 5, 1997. During the 60-day regular review ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Jeffrey Axelrad, 202–616–4400, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, D.C. 20044. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Claim for Damage, Injury, or Death.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form SF95. Civil Division, Torts Branch, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Businesses. This information is needed to present a claim against the United States Government under the Federal Tort Claims Act, 28 U.S.C. § 2675(a).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300,000 respondents at 6 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,800,000 annual burden hours.

If additional information is required during the first 60 days of this same regular review period, contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: September 29, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–26361 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–12–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive, Environmental Response, Compensation and Liability Act (''CERCLA'')

Notice is hereby given that a proposed Consent Decree in *United States* v. *Blue Ridge Electric Membership Corp. et al.,* (Civil Action No. 5:97–CV–138–V) was lodged on September 16, 1997 with the United States District Court for the Western District of North Carolina.

Pursuant to Sections 107 and 113(g)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (''CERCLA''), 42 U.S.C. §§ 9607 and 9613(g)(2), the United States sought the recovery of response costs incurred as a result of a removal action conducted at the Oak Hill Superfund Site located near Lenoir, Caldwell County, North Carolina. Pursuant to the terms of the Consent Decree, Blue Ridge Electric Membership Corp. and Duke Energy Corporation have agreed to pay the United States $1,881,638.34, plus accrued interest, in reimbursement of the United States' past response costs. The Consent Decree includes a covenant not to sue by the United States for past response costs under Section 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. § 6973.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *U.S.* v. *Blue Ridge Electric Membership Corp. et al.,* DOJ #90–11–3–1738. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Consent Decree may be examined at the office of the United States Attorney, Suite 1700 of the Carillon Building, 227 W. Trade Street, Charlotte, NC 28202; the Region 4 office of the Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, GA 30303; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check for the reproduction costs. If you want a copy of the Consent Decree (plus attachments), then the amount of the check should be $6.00 (24 pages at 25 cents per page). The check should be made payable to the Consent Decree Library.

Walker Smith,

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

[FR Doc. 97–26421 Filed 10–3–97; 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, as Amended

Consistent with Departmental policy, 28 CFR § 50.7, and 42 U.S.C. § 9622(d), notice is hereby given that on September 19, 1997, a proposed consent decree in *United States* v. *Ray O. Parker & Son, et al.,* Civil Action No. 2:97–CV–313, was lodged with the United States District Court for the District of Vermont. This proposed consent decree resolves the United States claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9601 *et seq.,* on behalf of the U.S. Environmental Protection Agency (''EPA'') against 15 defendants relating to response costs that have been or will be incurred at or from a Site known as the Parker Landfill Superfund Site (''Site'') located in the Town of Lyndon, Vermont and to the performance of a portion of the remedial action at the Site.

The consent decree has two components. The first aspect of the settlement requires six defendants to perform a portion of the remedial action at the Site, comprised of the construction of the cap at the Site. In addition, nine parties have entered into a *de minimis* settlement pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g). Under the terms of the *de minimis* settlement, the nine defendants will pay $1,134,000 for past and future response costs at the Site, plus a premium payment, which amount will be paid to the six parties performing work at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Parker & Son, et al.,* D.J. Ref. 90–11–2–1120.

The proposed consent decree may be examined at the Office of the United States Attorney, 11 Elmwood Ave., Burlington, Vt. 05401, at the Region I office of the Environmental Protection Agency, JFK Federal Building, Boston, Ma., 02203–2211, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $40.75 payable to the Consent Decree Library.

Bruce Gelber,

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

[FR Doc. 97–26428 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, and 42 U.S.C. § 9622(d), notice is hereby given that on September 8, 1997, the United States of America, on behalf of the United States Environmental Protection Agency (''EPA'') lodged with the United States District Court for the Western District of Washington a civil complaint against defendants Seattle Disposal Company, John Bancero, Josie Razore, and their respective marital communities (''the SDC defendants''), Washington Waste Hauling and Recycling, Inc. (''Washington Waste Hauling''), Monsanto Company, the Board of Regents of the University of Washington, Lockheed Martin Corporation, the Port of Seattle, Sears, Roebuck & Company, R.W. Rhine, Inc., the City of Mercer Island, Washington, the Seattle School District, and Quemetco, Inc., in the civil action styled *United States* v. *Seattle Disposal Company, et al.*, Civil Action No. C97–1462–Z. The complaint states claims for relief against the defendants under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. Secs. 9606 & 9607, for an order requiring the implementation of the permanent environmental remedy selected by EPA for the Site, and for the recovery of costs incurred in response to releases of hazardous substances at the Tulalip Landfill Superfund Site in Marysville, Washington (''the Site''). The complaint also states claims for relief against the Tulalip Tribes under Section 309 of the Clean Water Act (''the Act''), 33 U.S.C. 1319, for civil penalties and injunctive relief for discharges of pollutants from the landfill in violation of Section 301 of the Act, 33 U.S.C. Sec. 1311. The Tulalip Tribes of Washington and the Tulalip Section 17 Corporation (together ''the Tulalip Tribes'') are listed as a defendants-in-intervention in the complaint and intend to file a motion to intervene in this action prior to the entry of the consent decrees.

On September 8 the United States also lodged three consent decrees in this action resolving all of the claims for relief stated against the defendants in the complaint. The first consent decree resolves the United States' claims against defendant Washington Waste Hauling and defendants-in-intervention the Tulalip Tribes. This consent decree requires defendant Washington Waste Hauling to implement the remedy selected by EPA for the Site and conduct operation and maintenance of the remedy for up to five years. The consent decree also requires the Tulalip Tribes to take over operation and maintenance of the remedy after Washington Waste Hauling fulfills its operation and maintenance obligations. The consent decree also requires the Tulalip Tribes to pay $1,000,000 toward operation and maintenance costs at the Site.

To second consent decree resolves the United States' claims against the SDC defendants. This consent decree requires the SDC defendants to pay $9.5 million towards the cost of implementing EPA's selected remedy for the Site and reimbursement of costs incurred by EPA in response to releases of hazardous substances at the Site.

The third consent decree resolves the United States' claims against the remaining defendants, and the potential counterclaims against the United States Navy and the Bureau of Indian Affairs of the United States Department of Interior (''BIA'') with respect to the Site. The consent decree requires the remaining defendants and the settling federal agencies to pay $4,645,457.00 toward the cost of implementing EPA's selected remedy for the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* versus *Seattle Disposal Company, et al.*, DOJ Ref. #90–11–3–1412.

The proposed consent decrees may be examined at the office of the United States Attorney, 1010 Fifth Avenue, Seattle, WA 98104; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting copies please refer to the referenced case, specify which decree or decrees you would like to receive, and enclose a check payable to the Consent Decree Library (25 cents per page reproduction costs): the decree with Seattle Disposal Company, Mr. Razore and Mr. Banchero, $10.50 without attachments, or $71.25 with attachments; the decree with Washington Waste Hauling, $41.50 without attachments, or $215.25 with attachments; the decree with the remaining defendants (referred to as ''Generator Defendants''), $17.75 without attachments, or $176.00 with attachments.

Joel Gross,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 97–26422 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on June 24, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to the membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies have joined CableLabs: First Nations Cable Inc., Ontario, CANADA; Loudoun

Telecommunications Ltd., Sterling, VA; and Pioneer Cable, Inc., Monument, CO.

No other changes have been made in either the membership or planned activity of CableLabs. Membership remains open and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 Fed. Reg. 34593). The last notification with respect to membership changes was filed with the Department on March 26, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 14, 1997 (62 Fed. Reg. 26569).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–26427 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum

Notice is hereby given that, on February 14, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Enterprise Computer Telephony Forum (''ECTF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lernout & Hauspie, Wemmel, BELGIUM; Com2001 Technologies, San Diego, CA; Linkon Corporation, Fairfield, CT; Rheterox, Los Gatos, CA; Tandem Computers, Cupertino, CA; and Texas Instruments, Dallas, TX, have become Principal Members. AT&T Wireless, Kirland, WA; CallWare Technologies, Salt Lake City, UT; Elektro-Automatikk AS, Sola, NORWAY; Heurikon Corporation, Kanagawa, JAPAN; Loughborough Sound Images PLC, Loughborough, ENGLAND; Madge Networks Ltd., Madison, WI; Micologica Computersysteme, Bargteheide, GERMANY; Netaccess, Salem, NH; Nokia Telecommunications, Helsinki, FINLAND; Paradyne, Largo, FL; Pika Technologies, Ontario, CANADA; Prior Data Science, Ontario, CANADA; Sonetech, Inc., Sterling, WA; Syntellect, Phoeniz, AZ; T-Netix, Inc., Piscataway, NJ; Voice Control Systems, Cambridge, MA; and Voice Technologies Group, Buffalo, NY, have become Auditing Members. NationsBank, Charlotte, NC; and UCA&L, Buffalo, NY, have become User Members.

Apple Computers; Networks Unlimited; Bellcore; Hewlett-Packard Company; MCI; and Novell Corporation are no longer Principal Members.

Brite Voice Systems; Lernout & Hauspie; Texas Instruments; Berkeley Speech Technologies; Computer & Communications Research; Comverse Technologies, Inc.; CTI Market Solutions; DeTeWe Kommunikations Systeme; Gammalink Corporation; Garex AS; Harris; Itec Telecom; NationsBank; Pagemart; Samsung; Shared Resource Exchange; Silicon Automation Exchange, Inc.; Sprint Products Group, Inc.; SDX; Technology Marketing Partners; Telecom Italia; Teleprocessing Systems, Inc.; Telinet; Telprint; Trio Information Systems; UCA&L; Wildfire Communications, Inc.; and Winbond Electronics Corporation are no longer Auditing Members.

Digital Systems International (an Auditing Member) has changed its name to Mosaix.

No other changes have been made in the membership, nature or objectives of ECTF. Membership remains open, and ECTF intends to file additional written notifications disclosing all changes in membership.

On February 20, 1996, ECTF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 1996 (61 Fed. Reg. 22074).

The last notification was filed with the Department on January 3, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 19, 1997 (62 Fed. Reg. 33440).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–26426 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IOPS.ORG Project

Notice is hereby given that, on July 2, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Corporation For National Research Initiatives (''CNRI'') has filed written notifications on behalf of a Joint Venture between CNRI and participants known as the IOPS.ORG (''IOPS'') Project simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are CNRI, Reston, VA; ANS CO+RE Systems, Inc., Elmsford, NY; AT&T Corporation, Basking Ridge, NJ; BBN Corporation, Cambridge, MA; EarthLink Network, Inc., Pasadena, CA; GTE Intelligent Network Services Incorporated, Irving, TX; MCI Telecommunications, Washington, DC; NETCOM On-Line Communications Services, Inc., San Jose, CA; PSINet, Inc., Herndon, VA; Sprint Communications Company, L.P., Kansas City, MO; and UUNET Technologies, Inc., Fairfax, VA.

The nature of the Project will be to promote, in the public interest, industry cooperation on the joint engineering efforts to help ensure an operational global Internet, by addressing issues that require coordination and information-sharing across and among Internet service providers, and to support engineering analysis, system simulation and testing, and interaction with other groups and organizations as appropriate for the accomplishment of its goal of improving the reliability and robustness of the Internet.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–26424 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 the Open Group, L.L.C.

Notice is hereby given that, on July 16, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the partie and (2) the nature and objective of the venture. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the Associate members of TOG, which, by virtue of such status are not entitled to vote or appoint representatives, are as follows: T. Rowe Price Investment Technologies Inc., Baltimore, MD; NCD Corporation, Beaverton, OR: ETH Zuerich, Zurich, Switzerland; Oak Ridge National Laboratory, Oak Ridge, TN; Post UND, Telekom, Austria; EC-Leasing, Moscow, Russia; Digital Equipment Corporation Japan, Tokyo, Japan; Research Environment for Global, Kawasaki, Japan; IBM Korea, Inc., Seoul, Korea; Shiman Associates Inc., Brookline, MA; Naval Underwater Warfare Center Newport, RI; Attachmate Canada, Inc., Burnaby, Canada; and Nippon Telegraph and Telephone Corp., Minato-ku, Japan.

No other changes have been made in either the membership or planned activity of the group research project. Membership in TOG will remain open and TOG will file additional written notifications disclosing all changes in membership.

On April 21, 1997 The Open Group filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on June 13, 1997 (62 FR 32371).

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 97–26425 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum E&P Research Cooperative

Notice is hereby given that, on August 22, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.*, (''the Act''), Petroleum E&P Research Cooperative (''Cooperative'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Elf Exploration Production of Pau, FRANCE has become a new member of the Cooperative

No other changes have been made in either the membership or planned activities of the Cooperative. Membership in this venture remains open, and the Cooperative intends to file additional written notification disclosing all changes in membership.

On January 16, 1997, Petroleum E&P Research Cooperative filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 13, 1997 (62 FR 6801).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–26423 Filed 10–3–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 97–18]

Voluntary Protection Program

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice, proposed information collection request; submitted for public comment and recommendations.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burdens, is conducting a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instrument are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the approval for the paperwork requirements for participation in the Voluntary Protection Programs (VPP).

DATES: Written comments must be submitted on or before December 5, 1997.

Comments should:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including their validity of the methodology and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket ICR–97–18. U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–7894. Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Oliver, Directorate of Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7266. Copies of the referenced information collection requests are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Ms. Oliver at (202) 219–7266 or B. Bielaski at (202) 219–7177. For electronic copies of the information collection request on Voluntary Protection Programs, contact

the Labor News Bulletin Board (202) 219–4784; or OSHA's Web Page on Internet at http://www.osha.gov/ and click on *Standards.*

SUPPLEMENTARY INFORMATION:

Background

The Occupational Safety and Health Administration (OSHA) will be requesting approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in the Voluntary Protection Programs requirements. This notice initiates the process for OSHA to request an OMB approval.

As part of OMB's and OSHA's continuing paperwork reduction effort, OSHA seeks to reduce that paperwork burden hours in the Voluntary Protection Program based on input from parties interested in the regulatory scope of that regulation. The purpose of this notice is to solicit public comment on OSHA's paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimates. Interested parties are requested to review OSHA's estimates, which are based on information from historical program data, to comment on their accuracy or appropriateness in today's workplace situation. OSHA bases its existing estimates upon information from participants of the Voluntary Protection Programs and is interested in learning whether they are outdated.

Current Action

This notice requests a PRA approval from OMB for the paperwork required for participation in the Voluntary Protection Programs. In order to determine if an applicant worksite meets VPP requirements, i.e., has a safety and health program that provides effective worker safety and health protection, OSHA must receive an application that describes the program in detail.

Applications: 18,000 hours per year.

Type of Review: New Approval.

Agency: Occupational Safety and Health Administration, U.S. Department of Labor.

Title: Voluntary Protection Programs.

OMB Number: No number assigned.

Agency Number: Docket No. ICR–97–18.

Frequency: On Occasion.

Affected Public: Business.

Number of Respondents: 90–100 per year.

Estimated Time Per Respondent: 200 hours.

Total Burden Hours: 18,000.

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

Signed this 22nd day of August, 1997.

Paula O. White,

Director, Directorate of Federal-State Operations.

[FR Doc. 97–26391 Filed 10–3–97; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

Grant Awards to Applicants for Funds To Provide Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 1998

AGENCY: Legal Services Corporation.

ACTION: Announcement of 1998 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 1998.

DATES: All comments and recommendations must be received on or before the close of business on November 5, 1997.

ADDRESS: Legal Services Corporation—Competitive Grants, Legal Services Corporation, 750 First Street, N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Carolyn Naidu, Grants Analyst, Office of Program Operations, (202) 336–8907.

SUPPLEMENTARY INFORMATION: Pursuant to the Corporation's announcement of funding availability on April 24, 1997 (62 FR 20038) and Grant Renewal applications due at September 15, 1997, the LSC will award funds to one or more of the following organizations to provide civil legal services in the indicated service areas.

Service area	Applicant name
AL–1	Legal Services Corporation of Alabama, Inc.
AL–2	Legal Services of North-Central Alabama, Inc.
AL–3	Legal Services of Metro Birmingham, Inc.
MAL	Legal Services Corporation of Alabama, Inc.
AK–1	Alaska Legal Services Corporation.
NAK–1	Alaska Legal Services Corporation.
AZ–1	Pinal & Gila Counties Legal Aid Society.
AZ–2	DNA-People's Legal Services, Inc.
AZ–3	Community Legal Services, Inc.
AZ–4	Southern Arizona Legal Aid, Inc.
NAZ–1	Pinal & Gila Counties Legal Aid Society.
NAZ–2	Community Legal Services, Inc.
NAZ–3	Papago Legal Services, Inc.
NAZ–4	Southern Arizona Legal Aid, Inc.
NAZ–5	DNA-People's Legal Services, Inc.
MAZ	Community Legal Services, Inc.
AR–1	Ozark Legal Services.
AR–2	Legal Services of Northeast Arkansas, Inc.
AR–3	Western Arkansas Legal Services, Inc.
AR–4	East Arkansas Legal Services.
AR–5	Center For Arkansas Legal Services.
MAR	Center For Arkansas Legal Services.
CA–1	California Indian Legal Services, Inc.
CA–2	Greater Bakersfield Legal Assistance, Inc.
CA–3	Central California Legal Services.
CA–4	Legal Aid Foundation of Long Beach.
CA–5	Legal Aid Foundation of Los Angeles.
CA–6	Legal Aid Society of Alameda County.

Service area	Applicant name
CA–7	Channel Counties Legal Services Association.
CA–8	San Fernando Valley Neighborhood Legal Services, Inc.
CA–9	Legal Services Program for Pasadena and San Gabriel-Pomona Valley.
CA–10	Legal Aid Society of San Mateo County.
CA–11	Contra Costa Legal Services Foundation.
CA–12	Inland Counties Legal Services Inc.
CA–13	Legal Services of Northern California Inc.
CA–14	Legal Aid Society of San Diego, Inc.
CA–15	California Rural Legal Assistance, Inc.
CA–16	San Francisco Neighborhood Legal Assistance Foundation.
CA–17	Legal Aid of Marin.
CA–18	Community Legal Services, Inc.
CA–19	Legal Aid Society of Orange County, Inc.
CA–21	Central California Legal Services.
CA–23	Redwood Legal Assistance.
CA–25	Legal Aid for the Central Coast.
NCA–1	California Indian Legal Services, Inc.
MCA	California Rural Legal Assistance, Inc.
CO–2	Colorado Rural Legal Services, Inc.
CO–3	Legal Aid Society of Metropolitan Denver, Inc.
CO–5	Pikes Peak/Arkansas River Legal Aid.
NCO–1	Colorado Rural Legal Services, Inc.
MCO	Colorado Rural Legal Services, Inc.
CT–1	Statewide Legal Services of Connecticut, Inc.
NCT–1	(Publication of FY98 Competition is underway).
MCT	Statewide Legal Services of Connecticut, Inc.
DE–1	Legal Services Corporation of Delaware, Inc.
MDE	Legal Aid Bureau, Inc.
DC–1	Neighborhood Legal Services Program of the District of Columbia.
FL–1	Central Florida Legal Services, Inc.
FL–2	Legal Aid Service of Broward County, Inc.
FL–3	Florida Rural Legal Services, Inc.
FL–4	Jacksonville Area Legal Aid, Inc.
FL–5	Legal Services of Greater Miami, Inc.
FL–6	Legal Services of North Florida, Inc.
FL–7	Greater Orlando Area Legal Services, Inc.
FL–8	Bay Area Legal Services, Inc.
FL–9	Withlacoochee Area Legal Services, Inc.
FL–10	Three Rivers Legal Services, Inc.
FL–11	Northwest Florida Legal Services, Inc.
FL–12	Gulfcoast Legal Services, Inc.
MFL	Florida Rural Legal Services, Inc.
GA–1	Atlanta Legal Aid Society, Inc.
GA–2	Georgia Legal Services Program.
MGA	Georgia Legal Services Program.
GU–1	Guam Legal Services Corporation.
HI–1	Legal Aid Society of Hawaii.
NHI–1	Native Hawaiian Legal Corporation.
MHI	Legal Aid Society of Hawaii.
ID–1	Idaho Legal Aid Services, Inc.
NID–1	Idaho Legal Aid Services, Inc.
MID	Idaho Legal Aid Services, Inc.
IL–1	Cook County Legal Assistance Foundation, Inc.
IL–2	Legal Assistance Foundation of Chicago.
IL–3	Land of Lincoln Legal Assistance Foundation, Inc.
IL–4	Prairie State Legal Services, Inc.
IL–5	West Central Illinois Legal Assistance.
MIL	Legal Assistance Foundation of Chicago.
IN–1	Legal Services of Maumee Valley, Inc.
IN–2	Legal Services of Northwest Indiana, Inc.
IN–3	Legal Services Organization of Indiana, Inc.
IN–4	Legal Services Program of Northern Indiana, Inc.
MIN	Legal Services Organization of Indiana, Inc.
IA–1	Legal Services Corporation of Iowa.
IA–2	Legal Aid Society of Polk County.
MIA	Legal Services Corporation of Iowa.
KS–1	Kansas Legal Services, Inc.
MKS	Kansas Legal Services, Inc.
KY–1	Northern Kentucky Legal Aid Society, Inc.
KY–2	Legal Aid Society, Inc.
KY–3	Central Kentucky Legal Services, Inc.
KY–4	Northeast Kentucky Legal Services, Inc.
KY–5	Appalachian Research and Defense Fund of Kentucky.
KY–6	Cumberland Trace Legal Services, Inc.

Service area	Applicant name
KY–7	Western Kentucky Legal Services, Inc.
MKY	Appalachian Research and Defense Fund of Kentucky.
LA–1	Capital Area Legal Services Corporation.
LA–2	Southwest Louisiana Legal Services Society, Inc.
LA–3	North Louisiana Legal Assistance Corporation.
LA–4	New Orleans Legal Assistance Corporation.
LA–5	Northwest Louisiana Legal Services, Inc.
LA–6	Acadiana Legal Service Corporation.
LA–7	Kisatchie Legal Services Corporation.
LA–8	Southeast Louisiana Legal Services Corporation.
MLA	Acadiana Legal Service Corporation.
ME–1	Pine Tree Legal Assistance, Inc.
NME–1	Pine Tree Legal Assistance, Inc.
MME	Pine Tree Legal Assistance, Inc.
MD–1	Legal Aid Bureau, Inc.
MMD	Legal Aid Bureau, Inc.
MA–1	Volunteer Lawyers Project of the Boston Bar Association, Inc.
MA–2	South Middlesex Legal Services, Inc.
MA–3	Legal Services for Cape Cod and Islands, Inc.
MA–4	Merrimack Valley Legal Services, Inc.
MA–5	New Center for Legal Advocacy.
MA–10	Massachusetts Justice Project, Inc.
MMA	Massachusetts Justice Project, Inc.
MI–1	Legal Services of Southeastern Michigan, Inc.
MI–2	Legal Services Organization of Southcentral Michigan.
MI–3	Wayne County Neighborhood Legal Services, Inc.
MI–4	Legal Services of Eastern Michigan.
MI–5	Legal Aid of Central Michigan.
MI–6	Lakeshore Legal Services, Inc.
MI–7	Oakland Livingston Legal Aid.
MI–8	Berrien County Legal Services Bureau, Inc.
MI–9	Legal Services of Northern Michigan, Inc.
MI–10	Legal Aid of Western Michigan.
MI–11	Legal Aid Bureau of Southwestern Michigan, Inc.
NMI–1	Michigan Indian Legal Services, Inc.
MMI	Legal Services of Southeastern Michigan, Inc.
MP–1	Micronesian Legal Services Corporation.
MN–1	Legal Aid Service of Northeastern Minnesota.
MN–2	Judicare of Anoka County, Inc.
MN–3	Central Minnesota Legal Services, Inc.
MN–4	Legal Services of Northwest Minnesota.
MN–5	Southern Minnesota Regional Legal Services, Inc.
NMN–1	Anishinabe Legal Services, Inc.
MMN	Southern Minnesota Regional Legal Services, Inc.
MS–1	Central Mississippi Legal Services.
MS–2	North Mississippi Rural Legal Services, Inc.
MS–3	South Mississippi Legal Services Corporation.
MS–4	East Mississippi Legal Services Corporation.
MS–5	Southeast Mississippi Legal Services Corporation.
MS–6	Southwest Mississippi Legal Services Corporation.
NMS–1	East Mississippi Legal Services Corporation.
MMS	Central Mississippi Legal Services.
MO–1	Southeast Missouri Legal Services, Inc.
MO–2	Meramec Area Legal Aid Corporation.
MO–3	Legal Aid of Western Missouri.
MO–4	Legal Services of Eastern Missouri, Inc.
MO–5	Mid-Missouri Legal Services Corporation.
MO–6	Legal Aid of Southwest Missouri.
MMO	Legal Aid of Western Missouri.
MT–1	Montana Legal Services Association.
NMT–1	Montana Legal Services Association.
MMT	Montana Legal Services Association.
NE–1	Legal Services of Southeast Nebraska.
NE–2	Legal Aid Society, Inc.
NE–3	Western Nebraska Legal Services, Inc.
NNE–1	Legal Aid Society, Inc.
MNE	Western Nebraska Legal Services, Inc.
NV–1	Nevada Legal Services, Inc.
NNV–1	Nevada Legal Services, Inc.
MNV	Nevada Legal Services, Inc.
NH–1	New Hampshire Legal Services, Inc.
MNH	Pine Tree Legal Assistance, Inc.
NJ–1	Cape-Atlantic Legal Services, Inc.
NJ–2	Warren County Legal Services, Inc.

Service area	Applicant name
NJ–3	Camden Regional Legal Services, Inc.
NJ–4	Union County Legal Services Corporation.
NJ–5	Hunterdon County Legal Service Corporation.
NJ–6	Bergen County Legal Services.
NJ–7	Hudson County Legal Services Corporation.
NJ–8	Essex-Newark Legal Services Project, Inc.
NJ–9	Middlesex County Legal Services Corporation.
NJ–10	Passaic County Legal Aid Society.
NJ–11	Somerset-Sussex Legal Services Corporation.
NJ–12	Ocean-Monmouth Legal Services, Inc.
NJ–13	Legal Aid Society of Mercer County.
NJ–14	Legal Aid Society of Morris County.
MNJ	Camden Regional Legal Services, Inc.
NM–1	DNA-People's Legal Services, Inc.
NM–2	Legal Aid Society of Albuquerque, Inc.
NM–3	Southern New Mexico Legal Services, Inc.
NM–4	Northern New Mexico Legal Services, Inc.
MNM	Southern New Mexico Legal Services, Inc.
NNM–1	Southern New Mexico Legal Services, Inc.
NNM–2	DNA-People's Legal Services, Inc.
NNM–3	Indian Pueblo Legal Services, Inc.
NY–1	Legal Aid Society of Northeastern New York, Inc.
NY–3	Legal Aid for Broome and Chenango, Inc.
NY–4	Neighborhood Legal Services, Inc.
NY–5	Chautauqua County Legal Services, Inc.
NY–6	Chemung County Neighborhood Legal Services, Inc.
NY–7	Nassau/Suffolk Law Services Committee, Inc.
NY–8	Legal Aid Society of Rockland County, Inc.
NY–9	Legal Services for New York City.
NY–10	Niagara County Legal Aid Society, Inc.
NY–13	Legal Services of Central New York, Inc.
NY–14	Legal Aid Society of Mid-New York, Inc.
NY–15	Westchester/Putnam Legal Services.
NY–16	North Country Legal Services, Inc.
NY–17	Southern Tier Legal Services.
NY–18	Monroe County Legal Assistance Corporation.
MNY	Legal Aid Society of Mid-New York, Inc.
NC–1	Legal Services of North Carolina, Inc.
NC–2	Legal Services of Southern Piedmont, Inc.
NC–3	North Central Legal Assistance Program, Inc.
NC–4	Legal Aid Society of Northwest North Carolina, Inc.
NNC–1	Legal Services of North Carolina, Inc.
MNC	Legal Services of North Carolina, Inc.
ND–1	Legal Assistance of North Dakota, Inc.
ND–2	North Dakota Legal Services, Inc.
NND–1	Legal Assistance of North Dakota, Inc.
NND–2	North Dakota Legal Services, Inc.
MND	Southern Minnesota Regional Legal Services, Inc.
OH–1	Western Reserve Legal Services.
OH–2	Stark County Legal Aid Society.
OH–3	Legal Aid Society of Cincinnati.
OH–4	The Legal Aid Society of Cleveland.
OH–5	The Legal Aid Society of Columbus.
OH–6	Ohio State Legal Services.
OH–7	Legal Aid Society of Dayton, Inc.
OH–8	Legal Aid Society of Lorain County, Inc.
OH–9	Butler-Warren Legal Assistance Association.
OH–10	Allen County-Blackhoof Area Legal Services Association.
OH–11	Ohio State Legal Services.
OH–12	Advocates for Basic Legal Equality, Inc.
OH–13	The Toledo Legal Aid Society.
OH–14	Wooster-Wayne Legal Aid Society, Inc.
OH–15	Northeast Ohio Legal Services.
OH–16	Rural Legal Aid Society of West Central Ohio.
MOH	Advocates for Basic Legal Equality, Inc.
OK–1	Legal Aid of Western Oklahoma, Inc.
OK–2	Legal Services of Eastern Oklahoma, Inc.
NOK–1	Oklahoma Indian Legal Services, Inc.
MOK	Legal Aid of Western Oklahoma, Inc.
OR–1	Oregon Legal Services Corporation.
OR–2	Lane County Legal Aid Service, Inc.
OR–3	Multnomah County Legal Aid Service, Inc.
OR–4	Marion-Polk Legal Aid Service, Inc.
NOR–1	Oregon Legal Services Corporation.

Service area	Applicant name
	Native American Program dba Northwest Center for Indian Law.
MOR	Oregon Legal Services Corporation.
PA–1	Philadelphia Legal Assistance Center.
PA–2	Legal Services, Inc.
PA–3	Delaware County Legal Assistance Association, Inc.
PA–4	Bucks County Legal Aid Society.
PA–5	Laurel Legal Services, Inc.
PA–6	Southern Alleghenys Legal Aid, Inc.
PA–7	Central Pennsylvania Legal Services.
PA–8	Neighborhood Legal Services Association.
PA–9	Northern Pennsylvania Legal Services, Inc.
PA–10	Keystone Legal Services, Inc.
PA–11	Southwestern Pennsylvania Legal Aid Society, Inc.
PA–12	Legal Aid of Chester County, Inc.
PA–13	Legal Services of Northeastern Pennsylvania, Inc.
PA–14	Susquehanna Legal Services.
PA–15	Northwestern Legal Services.
PA–16	Southern Alleghenys Legal Aid, Inc.
PA–17	Lehigh Valley Legal Services, Inc.
PA–18	Montgomery County Legal Aid Service.
PA–19	Central Pennsylvania Legal Services.
MPA	Philadelphia Legal Assistance Center.
PR–1	Puerto Rico Legal Services, Inc.
PR–2	Community Law Office, Inc.
MPR	Puerto Rico Legal Services, Inc.
RI–1	Rhode Island Legal Services, Inc.
MRI	Rhode Island Legal Services, Inc.
SC–1	Neighborhood Legal Assistance Program, Inc.
SC–2	Palmetto Legal Services.
SC–3	Carolina Regional Legal Services Corporation.
SC–4	Legal Services Agency of Western Carolina, Inc.
SC–5	Piedmont Legal Services, Inc.
SC–6	Piedmont Legal Services, Inc.
MSC	Neighborhood Legal Assistance Program, Inc.
SD–1	Black Hills Legal Services, Inc.
SD–2	East River Legal Services Corporation.
SD–3	Dakota Plains Legal Services, Inc.
NSD–1	Dakota Plains Legal Services, Inc.
MSD	Black Hills Legal Services, Inc.
TN–1	Southeast Tennessee Legal Services, Inc.
TN–2	Legal Services of Upper East Tennessee, Inc.
TN–3	Knoxville Legal Aid Society, Inc.
TN–4	Memphis Area Legal Services, Inc.
TN–5	Legal Aid Society of Middle Tennessee.
TN–6	Rural Legal Services of Tennessee, Inc.
TN–7	West Tennessee Legal Services.
TN–8	Legal Services of South Central Tennessee, Inc.
MTN	Legal Services of Upper East Tennessee, Inc.
TX–1	Legal Aid of Central Texas.
TX–2	Coastal Bend Legal Services.
TX–3	Legal Services of North Texas.
TX–4	El Paso Legal Assistance Society.
TX–5	West Texas Legal Services, Inc.
TX–6	Gulf Coast Legal Foundation.
TX–7	Coastal Bend Legal Services.
TX–8	Bexar County Legal Aid Association, Inc.
TX–9	Heart of Texas Legal Services Corporation.
TX–10	Texas Rural Legal Aid, Inc.
TX–11	East Texas Legal Services, Inc.
NTX–1	Texas Rural Legal Aid, Inc.
MTX	Texas Rural Legal Aid, Inc.
UT–1	Utah Legal Services, Inc.
NUT–1	Utah Legal Services, Inc.
MUT	Utah Legal Services, Inc.
VT–1	Legal Services Law Line of Vermont, Inc.
MVT	Legal Services Law Line of Vermont, Inc.
VI–1	Legal Services of the Virgin Islands.
VA–1	Legal Services of Northern Virginia, Inc.
VA–2	Piedmont Legal Services, Inc.
VA–3	Rappahannock Legal Services, Inc.
VA–4	Southwest Virginia Legal Aid Society, Inc.
VA–5	Peninsula Legal Aid Center, Inc.
VA–6	Central Virginia Legal Aid Society, Inc.
VA–7	Legal Aid Society of New River Valley, Inc.

Service area	Applicant name
VA–8	Legal Aid Society of Roanoke Valley.
VA–9	Tidewater Legal Aid Society.
VA–10	Virginia Legal Aid Society, Inc.
VA–11	Southside Virginia Legal Services, Inc.
VA–12	Blue Ridge Legal Services, Inc.
VA–13	Client Centered Legal Services of Southwest Virginia, Inc.
MVA	Peninsula Legal Aid Center, Inc.
WA–1	Northwest Justice Project.
NWA–1	Northwest Justice Project.
MWA	Northwest Justice Project.
WV–1	Appalachian Research and Defense Fund, Inc.
WV–2	Legal Aid Society of Charleston.
WV–3	West Virginia Legal Services Plan, Inc.
MWV	West Virginia Legal Services Plan, Inc.
WI–1	Legal Action of Wisconsin, Inc.
WI–2	Wisconsin Judicare, Inc.
WI–3	Legal Services of Northeastern Wisconsin, Inc.
WI–4	Western Wisconsin Legal Services, Inc.
NWI–1	Wisconsin Judicare, Inc.
MWI	Legal Action of Wisconsin, Inc.
WY–4	Wind River Legal Services, Inc.
NWY–1	Wind River Legal Services, Inc.
MWY	Wind River Legal Services, Inc.

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area indicated is served by one of the organizations listed above, although none of the listed organizations are guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about January 1, 1998.

Dated: October 1, 1997.

John A. Tull,

Director, Office of Program Operations.

[FR Doc. 97–26445 Filed 10–3–97; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–003 and 50–247]

Consolidated Edison Company of New York, Inc. (Indian Point Nuclear Generating Unit Nos. 1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80, by issuance of an Order, the transfer of control of Facility Operating License Nos. DPR–5 and DPR–26, for the Indian Point Nuclear Generating Units No. 1 (IP1) and No. 2 (IP2), located in Westchester County, New York, to the extent such transfer would be affected by the proposed corporate reorganization of Consolidated Edison Company of New York, Inc. (Con Ed, the licensee), holder of the licenses.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the transfer of control of the licenses, to the extent affected by the reorganization of Con Ed by establishment of a holding company. Con Ed would become a wholly-owned subsidiary of the holding company and would continue to be the licensee for IP1 and IP2. The proposed action is in accordance with Con Ed's application dated December 24, 1996.

The Need for the Proposed Action

The proposed action is needed to the extent the proposed reorganization of Con Ed will effect a transfer of control of the licenses. Con Ed has submitted that the proposed restructuring will enable it to better prepare to implement changes resulting from electric industry restructuring, and will enhance the insulation of Con Ed's nuclear utility business from business risks associated with non-nuclear enterprises.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed corporate restructuring and concludes that there will be no physical or operational changes to IP1 and IP2. The corporate restructuring will not affect the qualifications or organizational affiliation of the personnel who operate or maintain the facility, as Con Ed will continue to be responsible for the operation of IP2 and the maintenance and possession of IP1, which is permanently shut down.

The Commission has evaluated the environmental impact of the proposed action and had determined that the probability or consequences of accidents would not be increased by the proposed action, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the proposed action would not affect routine 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 plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission concluded that there are not 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

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Indian Point Nuclear Generating Unit No. 2, dated November 1976.

Agencies and Persons Contacted

In accordance with its stated policy, on July 23, 1997, the staff consulted with the New York State Official, Heidi Volk, of the New York State Research and Development Authority 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 December 24, 1996, which is available for public inspection at the Commission Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 24th day of September 1997.

For the Nuclear Regulatory Commission.

Jefferey F. Harold,

Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26406 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–6622]

Pathfinder Mines Corporation; Notice of Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of application from Pathfinder Mines Corporation to change three site-reclamation milestones in Condition 50 of Source Material License SUA–442 for the Shirley Basin, Wyoming Uranium Mill site.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated September 11, 1997, an application from Pathfinder Mines Corporation (PMC) to amend License Condition (LC) 50 of its Source Material License No. SUA–442 for the Shirley Basin, Wyoming uranium mill site. The license amendment application proposes to modify LC 50 to change the completion date for three site-reclamation milestones. The new dates proposed by PMC would extend completion of placement of the interim cover over tailings pile by two years, completion of placement of the final radon barrier by three years, and completion of placement of the erosion protection cover by three years.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

SUPPLEMENTARY INFORMATION: The portion of LC 50 with the proposed changes would read as follows:

A. (2) Placement of the interim cover to decrease the potential for tailings dispersal and erosion-December 31, 1999.

A. (3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m^2/s above background-December 31, 2002.

B. (1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of Appendix A of 10 CFR Part 40-December 31, 2003.

PMC's application to amend LC 50 of Source Material License SUA-442, which describes the proposed changes to the license condition and the reasons for the request is being made available for public inspection at the NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR Part 2, Subpart L. ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), and person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike. Rockville MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Pathfinder Mines Corporation, 935 Pendell Boulevard, P.O. Box 730, Mills, Wyoming 82644, Attention: Tom Hardgrove; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated: at Rockville, Maryland, this 26th day of September 1997.

Joseph J. Holonich,

Chief Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–26401 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

Public Service Electric & Gas Company (Atlantic City Electric Company, Hope Creek Generating Station); Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–57 issued to Public Service Electric & Gas Company for operation of the Hope Creek (HC) Generating Station located at the licensee's site in Salem County, New Jersey.

The proposed amendment would change Technical Specification 3/4.11.1, ''Liquid Effluents—Concentration.'' The proposed change adds a requirement to perform weekly sampling and monthly and quarterly composite analyses of the station service water system (SSWS) when the reactor auxiliaries cooling system (RACS) is contaminated.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The fact that the RACS operating pressure can be greater than the SSWS fluid pressures at a[n] RACS heat exchanger does not increase the probability of an accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. Upon receipt of a LOCA [loss-of-coolant accident] signal, the RACS heat exchangers are automatically isolated from the balance of the SSWS and the RACS supply and return header containment isolation valves automatically close. The change only affects the consequences of a malfunction of passive components, such as seals and heat exchanger tubing, cooled by the RACS system. Since the plant systems associated with these proposed changes will still be capable of: (1) Meeting all applicable design basis requirements; and (2) retain the capability to mitigate the consequences of accidents described in the HC UFSAR, the proposed changes were determined to be justified. While the consequences of contaminated leakage from the RACS to SSWS are increased slightly, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

The resulting estimated total effective dose equivalent in UNRESTRICTED AREAS is well within the limits of 10 CFR 20.1301(a)(1) and Hope Creek LCO [limiting condition for operation] 3.11.1.2.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Plant response to contaminated leakage from the RACS to SSWS is the same as the response to leakage from the safety auxiliaries cooling system (SACS) to SSWS which is already evaluated. Therefore the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The estimated total effective dose equivalent in UNRESTRICTED AREAS resulting from this proposed change is less than 1 millirem and so is well within the limits of 10 CFR 20.1301(a)(1) and LCO 3.11.1.2.

Effluent concentration levels will remain within the limits of LCO 3.11.1.1. Therefore the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 5, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070. 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 party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: 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 Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038, 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 amendment dated September 29, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 30th day of September 1997.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Project Directorate I–2 Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation

[FR Doc. 97–26402 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

Public Service Electric & Gas Company (Atlantic City Electric Company, Hope Creek Generating Station); Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–57 issued to Public Service Electric & Gas Company for operation of the Hope Creek Generating Station located at the licensee's site in Salem County, New Jersey.

This proposed amendment would add a surveillance requirement in Section 3/4.5.1 to perform a monthly valve position verification for each of the four residual heat removal (RHR) cross-tie valves.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed surveillance requirement to perform a monthly valve position verification

for each of the four cross-tie valves is an additional requirement that provides an added barrier for ensuring that proper cross-tie valve positions are maintained. The change therefore makes the Technical Specifications more restrictive. The proposed change does not affect the performance of the RHR system, the performance of any other system required to mitigate the consequences of an accident, or any accident initiating mechanisms.

The proposed Technical Specification change therefore does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed surveillance requirement to perform a monthly valve position verification for each of the four cross-tie valves is an additional requirement that provides an added barrier for ensuring that proper cross-tie valve positions are maintained. The change therefore makes the Technical Specifications more restrictive. The proposed change does not affect the RHR design function, does not prevent the RHR system from providing adequate cooling, and does not adversely affect the design basis function or operation of any other plant system. In addition, the change does not result in any event previously deemed incredible being made credible.

The proposed Technical Specification change therefore does not create the possibility of a new or different accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed surveillance requirement to perform a monthly valve position verification for each of the four cross-tie valves is an additional requirement that provides an added barrier for ensuring that proper cross-tie valve positions are maintained. The change therefore makes the Technical Specifications more restrictive. The acceptance criteria for postulated design basis accidents affected by the RHR System define the acceptable margin of safety. This proposal does not result in exceeding the design limits of the RHR System or components affected by the RHR System.

The proposed Technical Specification change therefore does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 5, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070. 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 party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such

a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: 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 Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038, 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 amendment dated September 24, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 30th day of September 1997.

For the Nuclear Regulatory Commission original signed by

Leonard N. Olshan,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26403 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390]

Tennessee Valley Authority, Watts Bar Nuclear Plant; Exemption

I

On February 7, 1996, the Nuclear Regulatory Commission issued Facility Operating License No. NPF–90 to Tennessee Valley Authority (TVA or the Licensee) for the Watts Bar Nuclear Plant. The license stipulated, among other things, that the facility is subject to all rules, regulations, and orders of the Commission.

II

In its letter dated June 20, 1997, the licensee requested an exemption from the Commission's regulations. Section 50.60 of Title 10 of the Code of Federal Regulations, ''Acceptance Criteria for Fracture Prevention Measures for Lightwater Nuclear Power Reactors for Normal Operation,'' states that all lightwater nuclear power reactors must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary as set forth in Appendices G and H to 10 CFR Part 50. Appendix G to 10 CFR Part 50 defines pressure/temperature (P/T) limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests to which the pressure boundary may be subjected over its service lifetime. It also states that the American Society of Mechanical Engineers Boiler and Pressure Code (ASME Code) edition and addenda specified in 10 CFR 50.55a are applicable. It is specified in 10 CFR 50.60(b) that alternatives to the described requirements in Appendices G and H to 10 CFR Part 50 may be used when an exemption is granted by the Commission under 10 CFR 50.12.

To prevent low-temperature overpressure transients that would produce pressure excursions exceeding the 10 CFR Part 50, Appendix G, P/T limits while the reactor is operating at low temperatures, the licensee installed a low-temperature overpressure protection (LTOP) system. The system includes pressure-relieving devices called power-operated relief valves (PORVs). The PORVs are set at a pressure low enough so that if an LTOP transient occurred, the mitigation system would prevent the pressure in the reactor vessel from exceeding the 10 CFR Part 50, Appendix G, P/T limits. To prevent the PORVs from lifting as a result of normal operating pressure surges (e.g., reactor coolant pump starting, and shifting operating charging pumps) with the reactor coolant system in a solid water condition, the operating pressure must be maintained below the PORV setpoint. Applying the LTOP instrument uncertainties required by the staff's approved methodology results in an LTOP setpoint that establishes an operating window that is too narrow to permit reasonable system makeup and pressure control.

To prevent these difficulties, the licensee has requested to use the ASME Code Case N–514, ''Low Temperature Overpressure Protection,'' which designates the allowable pressure as 110 percent of that specified by 10 CFR Part 50, Appendix G. This would provide an increased band to permit system makeup and pressure control. ASME Code Case N–514 is consistent with guidelines developed by the ASME Working Group on Operating Plant Criteria to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure-relieving devices used for LTOP. The content of this ASME Code Case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI and has been incorporated into the latest draft of Regulatory Guide 1.147 (Draft Regulatory Guide DG–1050, Revision 12 of Regulatory Guide 1.147, Inservice Inspection Code Case Applicability ASME Section XI, dated May 1997). However, 10 CFR 50.55a, ''Codes and Standards,'' only authorizes addenda through the 1988 Addenda.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public

health or safety, and are consistent with the common defense and security and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in question is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR Part 50, Appendix G, is to establish fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences, to which the pressure boundary may be subjected over its service lifetime. Section IV.A.2 of Appendix G requires that the reactor vessel be operated with P/T limits at least as conservative as those obtained by following the methods of analysis and the required margins of safety of Appendix G of the ASME Code.

Appendix G of the ASME Code requires that the P/T limits be calculated: (a) using a safety factor of two on the principal membrane (pressure) stresses; (b) assuming a flaw at the surface with a depth of one-quarter (¼) of the vessel wall thickness and a length of six (6) times its depth; and (c) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the Watts Bar reactor vessel material.

In determining the setpoint for LTOP events, the licensee proposed to use safety margins based on an alternate methodology consistent with the ASME Code Case N–514 guidelines. The ASME Code Case N–514 allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel would not exceed 110 percent of the P/T limits of the existing ASME Code Appendix G. This results in a safety factor of 1.8 on the principal membrane stresses. All other factors, including assumed flaw size and fracture toughness, remain the same. Although this methodology would reduce the safety factor on the principal membrane stress, the proposed criteria will provide adequate margins of safety on the reactor vessel during LTOP transients, and thus will satisfy the underlying purpose of 10 CFR 50.60 for fracture toughness requirements. Further, by relieving the operational restrictions, the potential for undesirable lifting of the PORV would be reduced, thereby improving plant safety.

IV

For the foregoing reasons, the NRC staff has concluded that the licensee's proposed use of the alternate methodology in determining the acceptable setpoint for LTOP events will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), in that application of 10 CFR 50.60 is not necessary in order to achieve the underlying purpose of this regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby grants an exemption from 10 CFR 50.60 such that in determining the setpoint for LTOP events, the Appendix G curves for P/T limits are not exceeded by more than 10 percent. This exemption permits using the safety margins recommended in the AMSE Code Case N–514, in lieu of the safety margins required by 10 CFR Part 50, Appendix G. This exemption is applicable only to LTOP conditions during normal operation.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the exemption will have no significant impact on the quality of the human environment (62 FR 50630).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of September 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26405 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Termination of the Technical Specifications Plus Electronic Bulletin Board System (BBS)

Notice is hereby given that effective October 15, 1997, the Nuclear Regulatory Commission (NRC) will terminate the operation of the Tech Specs Plus BBS that provided a source of electronic copies of the NRCs Standard Technical Specifications. Information on the NRC's Standard Technical Specifications can be obtained from the NRC's web site at url: http://www.nrc.gov/NRR/sts/sts.htm.

Dated at Rockville, Maryland, this 30th day of September 1997.

For the Nuclear Regulatory Commission.

William D. Beckner,

Chief, Technical Specifications Branch, Associate Director for Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26404 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Wednesday, October 8, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Wednesday, October 8

3:30 pm Affirmation Session (Public Meeting)

A: Changes to paragraph (h) of 10 CFR Part 50.55a, ''Codes and Standards''

B: Sequoyah Fuels Corp. & General Atomic: Docket No. 40–8027–EA; LBP–95–18 and LBP–96–24, Memoranda and Orders (Approving Settlement) (Tentative)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill, (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–26509 Filed 10–2–97; 11:42 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1070 (which should be mentioned in all correspondence concerning this draft guide), is titled ''Sampling Plans Used for Dedicating Simple Metallic Commercial Grade Items for Use in Nuclear Power Plants.'' The guide is intended for Division 1, ''Power Reactors.'' This draft guide is being developed to describe methods acceptable to the NRC staff for complying with the NRC's regulations with regard to quality assurance requirements when using a sampling plan for dedicating simple metallic commercial grade items for unrestricted use in nuclear power plants.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on Draft Regulatory Guide DG–1070. Comments may be accompanied by additional relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by December 1, 1997.

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

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Printing, Graphics and Distribution Branch; or by fax at (301) 415–5272. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 19th day of September 1997.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 97–26400 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–U

SECURITIES AND EXCHANGE COMMISSION

[REl. No. IC–22837; 812–10802]

Salomon Brothers Inc; Notice of Application

September 30, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an Order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1), under section 6(c) of the Act for an exemption from section 14(a), and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Salomon Brothers Inc. (''Salomon'') requests an order with respect to DECS Trusts and future trusts that are substantially similar and for which Salomon will serve as a principal underwriter (collectively, the ''Trusts'') that would (i) permit other registered investment companies to own a greater percentage of the total outstanding voting stock (the ''Securities'') of any Trust than that permitted by section 12(d)(1), (ii) exempt the Trusts from the initial net worth requirements of section 14(a), and (iii) permit the Trusts to purchase U.S. government securities from Salomon at the time of a Trust's initial issuance of securities.

FILING DATES: The application was filed on September 26, 1997. By letter dated September 30, 1997, applicant's counsel stated that an amendment, the substance of which is incorporated in this notice, will be filed during the notice period.

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 Salomon 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 Salomon, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Salomon, Seven World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, 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 from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. Salomon will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the Securities issued to the public by each Trust.

2. Each Trust will, at the time of its issuance of Securities, (i) enter into one or more forward purchase contracts (the ''Contracts'') with a counterparty to purchase a formulaically-determined number of a specified equity security or securities (the ''Shares'') of one specified issuer,[1] and (ii) in some cases, purchase certain U.S. Treasury securities (''Treasuries''), which may include interest-only or principal-only securities maturing at or prior to the

[1] No Trust will hold Contracts relating to the Shares of more than one issuer.

Trust's termination. The Trusts will purchase the Contracts from counterparties that are not affiliated with either the relevant Trust or Salomon. The investment objective of each Trust will be to provide to each holder of Securities (''Holder'') (i) current cash distributions from the proceeds of any Treasuries, and (ii) participation in, or limited exposure to, changes in the market value of the underlying Shares.

3. In all cases, the Shares will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value of the Shares, that will be delivered to a Trust pursuant to the Contracts may be fixed (*e.g.*, one Share per Security issued) or may be determined pursuant to a formula, the product of which will vary with the price of the Shares. A formula generally will result in each Holder of Securities receiving fewer Shares as the market value of the Shares increases, and more Shares as their market value decreases.[2] At the termination of each Trust, each Holder will receive the number of Shares per Security, or the value of the Shares, as determined by the terms of the Contracts, that is equal to the Holder's *pro rata* interest in the Shares or amount received by the Trust under the Contracts.[3]

4. Securities used by the Trusts will be listed on a national securities exchange or traded on the National Association of Securities Dealers Automated Quotation System. Thus, the Securities will be ''national market system'' securities subject to public price quotation and trade reporting requirements. After the Securities are issued, the trading price of the Securities is expected to vary from time to time based primarily upon the price of the underlying Shares, interest rates, and other factors affecting conditions and prices in the debt and equity markets. Salomon currently intends, but will not be obligated, to make a market in the Securities of each Trust.

5. Each Trust will be internally managed by three trustees and will not have any separate investment adviser. The trustees will have no power to vary the investments held by each Trust. A bank qualified to serve as a trustee under the Trust Indenture Act of 1939, as amended, will act as custodian for each Trust's assets and as paying agent, registrar, and transfer agent with respect to the Securities of each Trust. The bank will have no other affiliation with, and will not be engaged in any other transaction with, and Trust. The day-to-day administration of each Trust will be carried out by Salomon or the bank.

6. The Trusts will be structured so that the trustees are not authorized to sell the Contracts or Treasuries unless a default occurs under a Contract and the Contract is accelerated. The Trusts will hold the Contracts until maturity, at which time they will be settled according to their terms. However, in the event of the bankruptcy or insolvency of any counterparty to a Contract with a Trust, or the occurrence of any other default provided for in the Contract, the obligations of the counterparty under the Contract will be accelerated and the available proceeds of the Contract will be distrubited to the Security Holders.

7. The trustees of each Trust will be selected initially by Salomon, together with any other initial Holders, or by the grantors of the Trust. The Holders of each Trust will have the right, upon the declaration in writing or vote of more than two-thirds of the outstanding Securities of the Trust, to remove a trustee. Holders will be entitled to a full vote for each Security held on all matters to be voted on by Holders and will not be able to cumulate their votes in the election of trustees. The investment objectives and policies of each Trust may be changed only with the approval of a ''majority of the Trust's outstanding Securities''[4] or any greater number required by the Trust's constituent documents. Unless Holders so request, it is not expected that the Trusts will hold any meetings of Holders, or that Holders will ever vote.

8. The Trusts will not be entitled to any rights with respect to the Shares until any Contracts requiring delivery of the Shares of the Trust are settled, at which time the Shares will be promptly distributed to Holders. The Holders, therefore, will not be entitled to any rights with respect to the Shares (including voting rights or the right to receive any dividends or other distributions) until receipt by them of the Shares at the time the Trust is liquidated.

9. Each Trust will be structured so that its organizational and ongoing expenses will not be borne by the Holders, but rather, directly or indirectly, by Salomon, the counterparties, or another third party, as will be described in the prospectus for the relevant Trust. At the time of the original issuance of the Securities of any Trust, there will be paid to each of the administrator, the custodian, and the paying agent, and to each trustee, a one-time amount in respect of such agent's fee over its term. Any expenses of the Trust in excess of this anticipated amount will be paid as incurred by a party other than the Trust itself (which party may be Salomon).

Applicant's Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A)(i) of the Act prohibits any registered investment company from owning more than 3% of the total outstanding voting stock of any other investment company. Section 12(d)(1)(C) of the Act similarly prohibits any investment company, other investment companies having the same investment adviser, and companies controlled by such investment companies from owning more than 10% of the total outstanding voting stock of any closed-end investment company.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1), if, and to the extent that, the exemption is consistent with the public interest and protection of investors.

3. Salomon believes, in order for the Trusts to be marketed most successfully, and to be traded at a price that most accurately reflects their value, that it is necessary for the Securities of each Trust to be offered to large investment companies and investment company complexes. Salomon states that these investors seek to spread the fixed costs of analyzing specific investment opportunities by making sizable investments in those opportunities. Conversely, Salomon asserts that it may not be economically rational for these investors, or their advisers, to take the time to review an investment opportunity if the amount that the investor would ultimately be permitted to purchase is immaterial in light of the total assets of the investment company or investment company complex. Therefore, Salomon argues that these

[2] A formula is likely to limit the Holder's participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder's exposure to any depreciation in the underlying Shares. It is anticipated that the Holders will receive a yield greater than the ordinary dividend yield on the Shares at the time of the issuance of the Securities, which is intended to compensate Holders for the limit on the Holders' participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

[3] The contracts may provide for an option on the part of a counterparty to deliver Shares, cash, or a combination of Shares and cash to the Trust at the termination of each Trust.

[4] A ''majority of the Trust's outstanding Securities'' means the lesser of (i) 67% of the Securities represented at a meeting at which more than 50% of the outstanding Securities are represented, and (ii) more than 50% of the outstanding Securities.

investors should be able to acquire Securities in each Trust in excess of the limitations imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C). Salomon requests that the SEC issue an order under section 12(d)(1)(J) exempting the Trusts from these limitations.

4. Salomon states that section 12(d)(1) was designed to prevent one investment company from buying control of other investment companies and creating complicated pyramidal structures. Salomon also states that section 12(d)(1) was intended to address the layering of costs to investors.

5. Salomon believes that the concerns about pyramiding and undue influence generally do not arise in the case of the Trusts because neither the trustees nor the Holders will have the power to vary the investments held by each Trust or to acquire or dispose of the assets of the Trusts. To the extent that Holders can change the composition of the board of trustees or the fundamental policies of each Trust by vote, Salomon argues that any concerns regarding undue influence will be eliminated by a provision in the charter documents for the Trusts that will required any investment companies owning voting stock of any Trust in excess of the limits imposed by sections 12(d)(1)(A)(i) and 12(d)(1)(C) to vote their Securities in proportion to the votes of all other Holders. Salomon also believes that the concern about undue influence through a threat to redeem does not arise in the case of the Trusts because the Securities will not be redeemable.

6. Section 12(d)(1) also was designed to address the excessive costs and fees that may result from multiple layers of investment companies. Salomon believes that these concerns do not arise in the case of the Trusts because of the limited ongoing fees and expenses incurred by the Trusts and because generally these fees and expenses will be borne, directly or indirectly, by Salomon or another third party, not by the Holders. In addition, the Holders will not, as a practical matter, bear the organizational expenses (including underwriting expenses) of the Trusts. Salomon asserts that the organizational expenses effectively will be borne by the counterparties in the form of a discount in the price paid to them for the Contracts, or will be borne directly by Salomon, the counterparties, or other third parties. Thus, a Holder will not pay duplicative charges to purchase Securities of any Trust. Finally, there will be no duplication of advisory fees because the Trusts will be internally managed by their trustees.

7. Salomon believes that the investment product offered by the Trusts serves a valid business purpose. The Trusts, unlike most registered investment companies, are not marketed to provide investors with either professional investment asset management or the benefits of investment in a diversified pool of assets. Rather, Salomon asserts that the Securities are intended to provide Holders with an investment having unique payment and risk characteristics, including an anticipated higher yield than the ordinary dividend yield on the Shares at the time of the issuance of the Securities.

8. Salomon believes that the purposes and policies of section 12(d)(1) are not implicated by the Trusts and that the requested exemption from section 12(d)(1) is consistent with the public interest and the protection of investors.

B. Section 14(a)

1. Section 14(a) of the Act requires, in pertinent part, that an investment company have a net worth of at least $100,000 before making any public offering of its shares. The purpose of section 14(a) is to ensure that investment companies are adequately capitalized prior to or simultaneously with the sale of their securities to the public. Rule 14a–3 exempts from section 14(a) unit investment trusts that meet certain conditions in recognition of the fact that, once the units are sold, a unit investment trust requires much less commitment on the part of the sponsor than does a management investment company. Rule 14a–3 provides that a unit investment trust investing in eligible trust securities shall be exempt from the net worth requirement, provided that the trust holds at least $100,000 of eligible trust securities at the commencement of a public offering.

2. Salomon argues that, while the Trusts are classified as management companies, they have the characteristics of unit investment trusts. Investors in the Trusts, like investors in a unit investment trust, will not be purchasing interests in a managed pool of securities, but rather in a fixed and disclosed portfolio that is held until maturity. Salomon believes that the make-up of each Trust's assets, therefore, will be ''locked-in'' for the life of the portfolio, and there is no need for an ongoing commitment on the part of the underwriter.

3. Salomon states that, in order to ensure that each Trust will become a going concern, the Securities of each Trust will be publicly offered in a firm commitment underwriting, registered under the Securities Act of 1933, and resulting in net proceeds to each Trust of at least $10,000,000. Prior to the issuance and delivery of the Securities of each Trust to the underwriters, the underwriters will enter into an underwriting agreement pursuant to which they will agree to purchase the Securities subject to customary conditions to closing. The underwriters will not be entitled to purchase less than all of the Securities of each Trust. Accordingly, Salomon states that either the offering will not be completed at all or each Trust will have a net worth substantially in excess of $100,000 on the date of the issuance of the Securities. Salomon also does not anticipate that the net worth of the Trusts will fall below $100,000 before they are terminated.

4. Section 6(c) of the Act provides that the SEC may exempt persons or transactions if, and to the extent that, the 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. Salomon requests that the SEC issue an order under section 6(c) exempting the Trusts from the requirements of section 14(a). Salomon believes that the exemption is appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act.

C. Section 17(a)

1. Sections 17(a) (1) and (2) of the Act generally prohibit the principal underwriter, or any affiliated person of the principal underwriter, of a registered investment company from selling or purchasing any securities to or from that investment company. The result of these provisions is to preclude the Trusts from purchasing Treasuries from Salomon.

2. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company involved and the purposes of the Act. Salomon requests an exemption from sections 17(a) (1) and (2) to permit the Trusts to purchase Treasuries from Salomon.

3. Salomon states that the policy rationale underlying section 17(a) is the concern that an affiliated person of an investment company, by virtue of this relationship, could cause the investment company to purchase securities of poor quality from the affiliated person or to

overpay for securities. Salomon argues that it is unlikely that it would be able to exercise any adverse influence over the Trusts with respect to purchases of Treasuries because Treasuries do not vary in quality and are traded in one of the most liquid markets in the world. Treasuries are available through both primary and secondary dealers, making the Treasury market very competitive. In addition, market prices on Treasuries can be confirmed on a number of commercially available information screens. Salomon argues that because it is one of a limited number of primary dealers in Treasuries, it will be able to offer the Trusts prompt execution of their Treasury purchases at very competitive prices.

4. Salomon states that it is only seeking relief from section 17(a) with respect to the initial purchase of the Treasuries and not with respect to an ongoing course of business. Consequently, investors will know before they purchase a Trust's Securities the Treasuries that will be owned by the Trust and the amount of the cash payments that will be provided periodically by the Treasuries to the Trust and distributed to Holders. Salomon also asserts that whatever risk there is of overpricing the Treasuries will be borne by the counterparties and not by the Holders because the cost of the Treasuries will be calculated into the amount paid on the Contracts. Salomon argues that, for this reason, the counterparties will have a strong incentive to monitor the price paid for the Treasuries, because any overpayment could result in a reduction in the amount that they would be paid on the Contracts.

5. Salomon believes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person, that the proposed transaction is consistent with the policy of each of the Trusts, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policies and provisions of the Act.

Applicant's Condition

Salomon agrees that the order granting the requested relief will be subject to the following conditions:

1. Any investment company owning voting stock of any Trust in excess of the limits imposed by section 12(d)(1) of the Act will be required by the Trust's charter documents to vote its Trust shares in proportion to the vote of all other Holders.

2. The trustees of each Trust, including a majority of the trustees who are not interested persons of the Trust, (i) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (ii) will make and approve such changes as deemed necessary; and (iii) will determine that the transactions made pursuant to the order were effected in compliance with such procedures.

3. The Trusts (i) will maintain and preserve in an easily accessible place a written copy of the procedures (and any modifications to such procedures), and (ii) will maintain and preserve for the longer of (a) the life of the Trusts and (b) six years following the purchase of any Treasuries, the first two years in an easily accessible place, a written record of all Treasuries purchased, whether or not from Salomon, setting forth a description of the Treasuries purchased, the identity of the seller, the terms of the purchase, and the information or materials upon which the determinations described below were made.

4. The Treasuries to be purchased by each Trust will be sufficient to provide payments to Holders of Securities that are consistent with the investment objectives and policies of the Trust as recited in the Trust's registration statement and will be consistent with the interests of the Trusts and the Holders of its Securities.

5. The terms of the transactions will be reasonable and fair to the Holders of the Securities issued by each Trust and will not involve overreaching of the Trust or the Holders of Securities of the Trust on the part of any person concerned.

6. The fee, spread, or other remuneration to be received by Salomon will be reasonable and fair compared to the fee, spread, or other remuneration received by dealers in connection with comparable transactions at such time, and will comply with section 17(e)(2)(C) of the Act.

7. Before any Treasuries are purchased by the Trust, the Trust must obtain such available market information as it deems necessary to determine that the price to be paid for, and the terms of, the transaction is at least as favorable as that available from other sources. This will include the Trust obtaining and documenting the competitive indications with respect to the specific proposed transaction from two other independent government securities dealers. Competitive quotation information must include price and settlement terms. These dealers must be those who, in the experience of the Trust's trustees, have demonstrated the consistent ability to provide professional execution of Treasury transactions at competitive market prices. They also must be those who are in a position to quote favorable prices.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26399 Filed 10–3–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39139; File No. SR–NASD–97–59]

Self-Regulatory Organizations; Order Granting Temporary Approval on an Accelerated Basis of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Short Sale Rule

September 26, 1997.

On August 14, 1997, the national Association of Securities Dealers, Inc. (''NASD'') or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 [2] thereunder to amend Rule IM–3350 to provide that a ''legal'' short sale must be effected at a price equal to or greater than the offer price when the inside spread is less than 1/16th. Notice of the proposed rule change, together with the substance of the proposal, was published in the **Federal Register**.[3] No comments on the proposed rule change have been received, to date. This order grants temporary approval on an accelerated basis to the proposed rule change through January 15, 1998. At the expiration of rule, the Commission will consider permanent approval of the proposed rule change in unison with the Commission's consideration of the permanent approval of the NASD's short sale rule.[4]

[1] 15 U.S.C. 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

[3] Securities Exchange Act Release No. 38975 (August 26, 1997), 62 FR 46535 (September 3, 1997) [File No. SR–NASD–97–59].

[4] *See also* companion release Securities Exchange Act Release No. 39140. The short sale rule was originally adopted in June of 1994 for Nasdaq National Market securities on a pilot basis with a termination date of March 5, 1996. Securities Exchange Act Release No.34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) [File No. SR–NASD–92–12]. The pilot was subsequently extended through

Continued

I. Background

The NASD's short sale rule prohibits member firms from effecting short sales [5] at or below the current inside bid as disseminated by Nasdaq whenever that bid is lower than the previous inside bid.[6] The rule currently provides that a short sale is a ''legal'' short sale in a ''down'' bid situation if it is effected at a price at least 1/16th above the inside bid (''Minimum Increment Rule''). The Minimum Increment Rule was implemented to ensure that short sales were not effected at prices so close to the inside bid during down markets that the short sales were inconsistent with the underlying purposes of the short sale rule (*i.e.* to prohibit market destabilizing and abusive short sales in declining markets).

Now that all Nasdaq stocks can potentially trade with a 1/16th spread or less, due to, among other things, the new SEC Order Handling Rules, and in light of the movement toward smaller minimum quotation variations generally, consideration was given to modifying the Minimum Increment Rule for stocks with an inside spread less than 1/16th. Accordingly, the NASD is proposing an amendment to the Minimum Increment Rule to provide that a ''legal'' short sale must be effected at a price equal to or greater than the offer price when the inside spread is less than 1/16th. There would be no change to the current definition for stocks with a spread of 1/16th or greater. For example, if the inside market for ABCD is 10 1/4–10 5/16, a legal short sale in a down market would have to be effected at a price equal to or greater than 10 5/16 (*i.e.*, 1/16th above the current inside bid). However, if the inside market is 5 1/32–5 2/32, a legal short sale in a down market could be effected at a price equal to the inside offer of 5 2/32.

In addition, to help ensure that market participants do not adjust their quotations to circumvent the short sale rule, the NASD is proposing an amendment to the Minimum Increment Rule to provide that a market maker or customer could not bring about or cause the inside spread for a stock to narrow in a declining market (*e.g.*, lowering its offer to create an inside spread less than 1/16th) for the purpose of facilitating the execution of a short sale at a price less than 1/16th above the inside bid.

Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that temporary approval on an accelerated basis of the NASD's proposed rule change through January 15, 1998, is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act.[7] Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Given the Commission's temporary approval of the short sale rule, the Commission believes that the proposed rule change is a reasonable approach to preserve the short sale rule's underlying purpose and effect when the inside spread is less than 1/16th.

The Commission also finds good cause for approving on a temporary basis the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof. The Commission believes that it is appropriate to accelerate temporary approval of the proposed rule change through January 15, 1998, because accelerated approval will allow NASD members, without delay, to effect ''legal'' short sales consistent with the underlying purpose and effect of the NASD's short sale rule in situations where the inside spread is less than 1/16th, while the NASD and the Commission consider the effect of the short sale rule.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–97–59 be, and hereby is, approved on a temporary basis through January 15, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26357 Filed 10–3–97; 8:45 am]

BILLING CODE 8010–01–M

October 1, 1997. Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) [File No. SR–NASD–96–41]; *See also* Securities Exchange Act Release No. 36171 (August 30, 1995), 60 FR 46651 (September 7, 1995) [File No. SR–NASD–95–35]; Securities Exchange Act Release No. 37492 (July 29, 1996), 61 FR 40963 (August 5, 1996) [File No. SR–NASD–96–30]; Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) (File No. SR–NASD–96–41]. On August 8, 1997, the NASD submitted a proposed rule change (SR–NASD–97–58) to the Commission to implement the short sale rule on a permanent basis.

[5] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale, members must adhere to the definition of a ''short sale'' contained in Securities Exchange Act Rule 3b–3, 17 CFR 240.3b–3, which rule is incorporated into Nasdaq's short sale rule as NASD Rule 3350(k)(l).

[6] Nasdaq calculates the inside bid or best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis), and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow and a ''down bid'' is denoted by a red ''down'' arrow. Accordingly, absent an exemption from the rule, a member cannot effect a short sale at or below the inside bid for a security in its proprietary account or a customer's account if there is a red arrow next to the security's symbol on the screen.

[7] 15 U.S.C.§ 78*o*(b)(6) (1994).

[8] 17 CFR 200.30–3(a)(12) (1997).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39140; File No. SR–NASD–97–65]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Extending the Pilot Program of the NASD's Short Sale Rule

September 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on September 4, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Rule 3350 to extend the pilot program of the NASD's short sale rule from October 1, 1997 until January 15, 1998. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

[1] 15 U.S.C. § 78s(b)(1)(1994).

[2] 17 CFR 240.19b–4 (1997).

NASD Rule 3350

(1) This section shall be in effect until *January 15, 1998* (October 1, 1997).

* * * * *

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 NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

1. Background and Description of the NASD's Short Sale Rule

On June 29, 1994, the SEC approved the rule applicable to short sales [3] in Nasdaq National Market (''NNM'') securities on an eighteen-month pilot basis through March 5, 1996.[4] The termination date for the pilot program for the Rule was subsequently extended until October 1, 1997.[5]

The Rule prohibits member firms from effecting short sales at or below the current inside bid as disseminated by Nasdaq whenever that bid is lower than the previous inside bid.[6] The Rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m., Eastern Time). To ensure that market maker activities that provide liquidity and continuity to the market are not adversely constrained when the Rule is invoked, the Rule provides an exemption to ''qualified'' Nasdaq market makers (*i.e.*, those market makers that meet the Primary Market Maker (''PMM'') standards). Even if a market maker is able to avail itself of the qualified market maker exemption, it can only utilize the exemption from the Rule for transactions that are made in connection with bona fide market making activity. If a market maker does not satisfy the requirements to be a qualified market maker, it can remain a market maker in the Nasdaq system, although it can not take advantage of the exemption from the Rule.

Since the Rule has been in effect, there have been three methods used to determine whether a market maker is eligible for the market maker exemption. Specifically, from September 4, 1994 through February 1, 1996, Nasdaq market makers who maintained a quotation in a particular NNM security for 20 consecutive business days without interruption were exempt from the Rule for short sales in that security, provided the short sales were made in connection with bona fide market making activity (the ''20-day'' test). From February 1, 1996 until February 14, 1997, the ''20-day'' test was replaced with a four-part quantitative test known as the Nasdaq PMM Standards.[7] On February 14, 1997, the PMM standards were waived for all NNM securities due to the effects of the SEC's Order Handling Rules and corresponding NASD rule change and system modifications on the operation of the four quantitative standards.[8] For example, among other effects, the requirement that market makers display customer limit orders adversely affected the ability of market makers to satisfy the ''102% Average Spread Standard.'' Nasdaq is presently in the process of formatting revised PMM standards that focus principally on whether a market maker is a ''net'' provider of liquidity.

Furthermore, in an effort to not constrain the legitimate hedging needs of options market makers, the Rule contains a limited exception for standardized options market makers. The Rule also contains an exemption for warrant market makers similar to the one available for options market makers. The Rule also incorporates seven exemptions contained in Rule 10a–1 under the Act (''Rule 10a–1'') that are relevant to trading on Nasdaq.[9]

2. Proposal To Extend the Short Sale Rule

When the Commission approved the Rule on a temporary basis, it made specific findings that the Rule was consistent with Sections 11A, 15A(b)(6), 15A(b)(9), and 15A(b)(11) of the Act. Specifically, the Commission stated that, ''recognizing the potential for problems associated with short selling, the changing expectations of Nasdaq market participants and the competitive disparity between the exchange markets and the OTC market, the Commission believes that regulation of short selling of NNM securities in consistent with the Act.'' [10] In addition, the Commission stated that it ''believes that the NASD's short sale bid-test, including the market

[3] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale members must adhere to the definition of a ''short sale'' contained in Rule 3b–3 of the Act, which rule is incorporated into Nasdaq's Rule by NASD Rule 3350(k)(1).

[4] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) [File No. SR–NASD–92–12] (''Short Sale Rule Approval Order'').

[5] The Rule was extended on several occasions. Securities Exchange Act Release No. 36532 (November 30, 1995), 60 FR 62519 (December 6, 1995) [File No. SR–NASD–95–58]; *See also* Securities Exchange Act Release No. 36171 (August 30, 1995), 60 FR 46651 (September 7, 1995) [File No. SR–NASD–95–35]. The most recent extension of the pilot program through October 1, 1997, was approved by the SEC to afford the NASD a better opportunity to examine the effectiveness of the Rule and the impact of the market maker exemption from the Rule. Securities Exchange Act Release No. 37917 (November 1, 1996), 61 FR 57934 (November 8, 1996) [File No. SR–NASD–96–41]. In this connection, in order to enhance its ability to examine the impact of the market maker exemption, the NASD received SEC approval of its proposal to require market makers to mark their ACT reports to denote when they have relied on the market maker exemption. Securities Exchange Act Release No. 38240 (February 5, 1997), 62 FR 6290 (February 11, 1997) [File No. SR–NASD–96–52].

[6] Nasdaq calculates the inside bid or best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis) and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow and a ''down bid'' is denoted by a red ''down'' arrow. To effect a ''legal'' short sale on a down bid, the short sale must be executed at a price at least a 1/16th of a point above the current inside bid. Conversely, if the security's symbol has a green up arrow next to it, members can effect short sales in the security without any restrictions.

[7] Under the PMM Standards, a market maker was required to satisfy at least two of the following four criteria each month to be eligible for an exemption from the Rule: (1) The market maker must be at the best bid or best offer as shown on Nasdaq no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its ''proportionate'' volume in the stock. If a PMM did not satisfy the threshold standards after a particular review period, the market maker lost its designation as a PMM (*i.e.*, the ''P'' next to its market maker identification was removed). Market makers could requalify for designation as a PMM by satisfying the threshold standards in the next review period.

[8] Securities Exchange Act Release No. 38294 (February 14, 1997), 62 FR 8289 (February 24, 1997) [File No. SR–NASD–97–07].

[9] *See* NASD Rule 3350(c) (2)–(8). The Rule also provides that a member not currently registered as a Nasdaq market maker in a security that has acquired the security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of the Rule notwithstanding that such member may not have a net long position in such security, if and to the extent that such member's short position in such security is subject to one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities. In addition, the NASD has recognized that SEC staff interpretations to Rule 10a–1 dealing with the liquidation of index arbitrage positions and an ''international equalizing exemption'' are equally applicable to the NASD's Rule.

[10] Short Sale Rule Approval Order, *supra* note 4, at 34891.

maker exemption, is a reasonable approach to short sale regulation of Nasdaq National Market securities and reflects the realities of its market structure.'' [11] However, in light of the Commission's concerns with adverse comments made about the Rule and the Commission's own concerns with the structure and impact of the Rule,[12] the Commission determined to approve the Rule on a temporary basis to afford the NASD and the SEC an opportunity to study the effects of the Rule and its exemptions.[13] To address these concerns, in July 1996 and in August 1997, the NASD's Economic Research Department prepared two separate studies on the economic impact of the Rule, which concluded, among other things, that the Rule had no adverse impact on the market.[14] Accordingly, on August 8, 1997, the NASD submitted a proposed rule change that requested permanent approval of the Rule.

The NASD notes that while the short sale pilot is set to expire on October 1, 1997, Nasdaq currently is working diligently to develop effective PMM standards, which the NASD plans to file shortly with the Commission. The NASD notes that any PMM standards it might propose are integrally related to the Rule, that is, changes to PMM standards may have an impact on the Rule because it will define the parameters under which market makers qualify for PMM status and thus may execute ''legal'' short sales. Therefore, the NASD believes that any PPM standards that the NASD may propose may have an impact on whether the Commission ultimately grants the NASD's request for permanent approval of the Rule. Accordingly, in light of these factors and expiration of the Rule on October 1, 1997, the NASD is proposing to extend the Rule's pilot until January 15, 1998. The NASD believes this extension will afford the NASD time to formulate and submit to the Commission revised PMM standards and will allow the Commission to review on a contemporaneous basis these two integrally related proposed rule changes (*i.e.*, the short sale and PMM rules).

The NASD believes the proposed rule change is consistent with Sections 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Specifically, the NASD believes that extending the pilot period for the Rule will ensure continuity in regulation while the Commission considers the proposed PMM standards and permanent approval of the Rule.

The NASD also believes the proposed rule change is consistent with Section 15A(b)(6) of the Act because the Rule is premised on the same anti-manipulation and investor protection concerns that underlie the SEC's own short sale rule, Rule 10a–1 under the Act (''Rule 10a–1''). In particular, as with Rule 10a–1, the NASD believes its Rule promotes just and equitable principles of trade by permitting long sellers access to market prices at any time, while constraining the execution of potentially abusive and manipulative short sales at or below the bid in a declining market. In addition, as with Rule 10a–1, Nasdaq believes its Rule removes impediments to a free and open market for long sellers and helps to assure liquidity at bid prices that might otherwise be usurped by short sellers. Lastly, because the immediate beneficiaries of the Rule are shareholders of NNM companies, Nasdaq believes its Rule is designed to protect investors and the public interest. At the same time, given that the Rule does not constrain short sales in a raising market or prohibit the execution of short sales in a declining market above bid prices, Nasdaq believes the Rule does not diminish the important pricing efficiency and liquidity benefits that legitimate short selling activity provides.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that its proposal to extend the effectiveness of the Rule until January 15, 1998, be approved on an accelerated basis prior to October 1, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the NASD's proposed rule change seeking to extend the pilot of the Rule through January 15, 1998, is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act which requires that the NASD rules be designed, among other things, to facilitate securities transaction and to protect investors and the public interest. The Commission believes that the proposed rule change is consistent with the Act because extension of the pilot will allow the Commission and the NASD to consider the potential problems associated with short selling, the changing expectations of Nasdaq market participants and the potential for competitive disparity between the exchange markets and the OTC market. This extension also will afford NASD time to formulate and submit to the Commission revised PMM

[11] *Id.* at 34892.

[12] When the NASD's Rule was first considered by the Commission, the SEC received 397 comment letters on the proposal, with 275 comments opposed to the Rule and 122 comments in favor of the Rule. Those commenters opposed to the Rule argued that: (1) The NASD had failed to provide sufficient evidence of the need for the Rule or demonstrate the appropriateness of the Rule based on a ''bid'' test instead of ''tick'' test; (2) the PMM standards will have negative effects on both market makers and the Nasdaq market; and (3) the Rule is inconsistent with the requirements of the Act.

[13] In particular, before considering any NASD proposal to extend, modify, permanently implement or terminate the Rule, the Commission requested that the NASD examine: (1) The effects of the Rule on the amount of short selling; (2) the length of time that the Rule is in effect (*i.e.*, the duration of down bid situations); (3) the amount of non-market maker short selling permitted under the Rule; (4) the extent of short selling by market makers exempt from the Rule; (5) whether there have been any incidents of perceived ''abusive short selling''; (6) the effects of the Rule on spreads and volatility; (7) whether the behavior of bid prices has been significantly altered by the Rule; and (8) the effect of permitting short selling based on a minimum increment of 1/16th.

[14] In July 1996, the NASD's Economic Analysis Department completed a study on the economic impact of the Rule, which concluded that the Rule has had no adverse impact on the market. The Economic Impact of the Nasdaq Short Sale Rule, NASD Economic Research Department (July 23, 1996) (''July 1996 Short Sale Study''). In the same month, NASD submitted a proposal to adopt the Rule on a permanent basis. Securities Exchange Act Release No. 37942 (July 29, 1996), 61 FR 40693 (SR–NASD–96–30). Because the NASD believed additional quantitative analysis was necessary to evaluate the effects of the Rule, the NASD withdrew this rule filing. In August 1997, the NASD's Economic Analysis Department completed a second study on the economic impact of the Rule, which further concluded that the Rule has had no adverse impact on the market. The Nasdaq Stock Market Short Sale Rule: Analysis of Market Quality Effects and The Market Maker Exemption, NASD Economic Research Department (August 7. 1997) (''August 1997 Short Sale Study'').

standards and will allow the Commission to review on a contemporaneous basis these two integrally related rules (*i.e.*, the short sale and PMM rules).

The Commission also finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof. The Commission believes that it is appropriate to approve on an accelerated basis the extension through January 15, 1998, of the pilot program of the Rule to ensure the continuous operation of the Rule and to allow the NASD and the Commission time to review the operation of the Rule, which is set to expire on October 1, 1997.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the NASD's principal offices. All submissions should refer to File No. SR–NASD–97–65 and should be submitted by October 27, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–97–65 be, and hereby is, approved through January 15, 1998.[15]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26359 Filed 10–3–97; 8:45 am]

BILLING CODE 8010–01–M

[15] *See also* companion release Securities Exchange Act Release No. 39139.

[16] 17 CFR 200.30–3(a)(12) (1997).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

1. Disability Report—0960–0141. The information collected on Form SSA–3368–BK is needed for the determination of disability by the State Disability Determination Services. This version of the form will be used in those SSA offices and State DDS offices that are piloting SSA's Reengineered Disability System. The information will be used to develop medical evidence and to assess the alleged disability. The respondents are applicants for disability benefits.

Number of Respondents: 36,500.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated annual Burden: 18,250 hours.

2. Pain Report—Child—0960–0540. The information collected on form SSA–3371–BK by the Social Security Administration is used to make a determination of disability for a child under the title XVI program. This information is essential to the adjudication of a claim. The respondents are applicants for title XVI child disability benefits.

Number of Respondents: 250,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 62,500 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: September 30, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–26410 Filed 10–3–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501, *et seq.*) this notice announces that the Information Collection Requests (ICRs) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and it's expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 24, 1997 [61 FR, 34101–34102].

DATES: Comments on this notice must be received on or before December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, 202/366–9721. Telephone: (202) 366–3784.

SUPPLEMENTARY INFORMATION:

Office of the Secretary, Office of Aviation Analysis

Title: Procedures and Evidence Rules for Air Carrier Authority Applications.

OMB Control Number: 2105–0023.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Persons seeking initial or continuing authority to engage in air transportation of persons, property, and/or mail.

Abstract: In order to determine the fitness of persons seeking authority to engage in air transportation, the Department collects information from them about their ownership,

citizenship, managerial competence, operating proposal, financial condition, and compliance history. The specific information to be filed by respondents is set forth in 14 CFR Parts 201 and 204.

Estimated Annual Burden Hours: 4,900.

Title: Use and Change of Names of Air Carriers, Foreign Air Carriers, and Commuter Air Carriers, 14 CFR Part 215.

OMB Control Number: 2106–0043.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Persons seeking to use or change the name or trade name in which they hold themselves out to the public as an air carrier or foreign air carrier.

Abstract: In accordance with the procedures set forth in 14 CFR Part 215, before a holder of certificated, foreign, or commuter air carrier authority may hold itself out to the public in any particular name or trade name, it must register that name or trade name with the Department, and notify all other certificated, foreign, and commuter air carriers that have registered the same or similar name(s) of the intended name registration.

Estimated Annual Burden Hours: 87.4.

These information collection submissions are available for inspection at the Air Carrier Fitness Division (X–56), Office of Aviation Analysis, DOT, at the address above. Copies of 14 CFR Part 215 can be obtained from Ms. Carol Woods at the address and telephone number shown above.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 26, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–26381 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Task Force on Assistance to Families in Aviation Disasters Open Meeting

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice of meeting.

SUMMARY: The Task Force on Assistance to Families in Aviation Disasters will hold a meeting to discuss assistance to families of passengers involved in aviation accidents. The meeting is open to the public.

DATES: The meeting will be held on Wednesday, October 8, 1997, from 9:00 a.m. to 6:00 p.m. and on Thursday, October 9, 1997, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meetings will take place Room 2230 of Department of Transportation (DOT) Headquarters, 400 7th Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven R. Okun, Task Force Executive Director, telephone 202–366–4702, or Marc C. Owen, Task Force Staff Director, mailing address, 400 7th Street SW., Room 5424, Washington, DC 20590, telecopier 202–366–7147, and telephone 202–366–6823.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix), DOT gives notice of a meeting of the Task Force on Assistance to Families in Aviation Disasters (Task Force). The Task Force was established by the Aviation Disaster Family Assistance Act of 1996 to develop recommendations on ways to improve the treatment of families of passengers involved in aviation accidents. The meeting is open to the public both days. In particular, topics for discussion on both days include a review of draft recommendations to be included in the Task Force's final report to Congress.

Issued in Washington, D.C., on September 29, 1997.

Steven R. Okun,

Task Force Executive Director, Department of Transportation.

[FR Doc. 97–26393 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–065]

National Boating Safety Activities: Funding for National Nonprofit Public Service Organizations

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: The Coast Guard seeks applications for grants and cooperative agreements from national nongovernmental, nonprofit, public service organizations. These grants and cooperative agreements would be used to fund projects on various subjects promoting boating safety on the national level. This notice provides information about the grant and cooperative agreement application process and some of the subjects that the Coast Guard would like to see studied.

DATES: Application packages may be obtained on or after October 1, 1997. Proposals for the fiscal year 1998 grant cycle must be received before 4:30 p.m. eastern time December 31, 1997.

ADDRESSES: Application packages may be obtained by calling the Coast Guard Infoline 800–368–5647. Submit proposals to: Commandant (G–OPB–1g), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 3100, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Alley, Office of Boating Safety, U.S. Coast Guard (G–OPB–1g/room 3100), 2100 Second Street, SW, Washington, DC 20593–0001; 202–267–0954. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 800–368–5647, or read it on the Office of Boating Safety Web Site at URL address www.uscgboating.org/.

SUPPLEMENTARY INFORMATION: Title 26, United States Code, section 9504, establishes the Boat Safety Account of the Aquatic Resources Trust Fund. From this trust fund, the majority of funds are allocated to the States, and up to 5% of these funds may be distributed by the Coast Guard for grants and cooperative agreements to national, nonprofit, public service organizations for national boating safety activities. It is anticipated that $2,750,000 will be available for fiscal year 1998. Twenty-two awards totaling $2,250,000 were made in fiscal year 1997 ranging from $9,000 to $426,409. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by the Director of Operations Policy, U.S. Coast Guard. Applicants must be national, nongovernmental, nonprofit, public service organizations and must establish that their activities are, in fact, national in scope. An application package may be obtained by writing or calling the point of contact listed in **ADDRESSES** on or after October 1, 1997. The application package contains all necessary forms, an explanation of how the grant program is administered, and a checklist for submitting a grant application. Specific information on organization eligibility, proposal requirements, award procedures, and financial administration procedures may be obtained by contacting the person listed in **FOR FURTHER INFORMATION CONTACT**.

Some areas of continuing and particular interest for grant funding include the following:

1. Develop and Conduct a National Annual Safe Boating Campaign. The Coast Guard seeks a grantee to develop and conduct the 1999 year-round National Annual Safe Boating Campaign that targets specific boater marker segments and recreational boating safety topics. This year-round campaign must support the organizational objectives of the Recreational Boating Safety Program to save lives, reduce the number of boating accidents and associated health care costs, as well as support the nationwide grassroots activity of the many volunteer groups who coordinate local media events, education programs, and public awareness activities. Products must include, but are not limited to: situation analysis, post campaign component evaluation processes, measures of effectiveness, marketing strategy, distribution plan, and final report. All print, audio and video material must be designed to emphasize multiple year-round boating safety and accident prevention messages. Highlights of the calendar year 1999 national campaign will be special select materials and activities to support National Safe Boating Week and other selected national boating safety events. The major focus of the campaign will be to affect the behavior of all boaters to increase wearing of Personal Flotation Devices (PFDs) (with special emphasis on use by children) and the dangers of boating while under the influence (BUI) of alcohol or drugs. An established portion of allocated grant funds must support a National Boating Accident Reporting Awareness Program that is designed to reach all boaters with a message on the importance of reporting all boating accidents. It must also include a component devoted to propeller injury prevention awareness with a special emphasis on rental operations involving propeller driven craft. Efforts will also be coordinated, year-round, with other national transportation safety activities and special media events, in particular those which focus on the prevention of operating a boat under the influence of alcohol or drugs. *Point of Contact:* Ms. Jo Calkin, 202–267–0994.

2. Evaluation of the National Safe Boating Campaign. The Coast Guard seeks a grantee to conduct an objective and systematic evaluation of the National Safe Boating Campaign. This evaluation is to determine the effectiveness of the campaign in modifying on the water behavior, and thus meeting the objectives of the Recreational Boating Safety Program to save lives, reduce the number of boating accidents and associated health care costs. (Grantees or partners of grantees of previous National Safe Boating Campaigns will not be considered.) *Point of Contact:* Ms. Jo Calkin, 202–267–0994.

3. Develop and Conduct a National Recreational Boating Safety Outreach and Awareness Conference. The Coast Guard seeks a grantee to plan, implement, and conduct a National Recreational Boating Safety Outreach and Awareness Conference. This conference must support the organizational objectives of the Recreational Boating Safety Program to save lives, reduce the number of boating accidents, and lower associated health care costs. The conference should be scheduled to be conducted during the spring of 1999 and be held concurrent or consecutively with additional major national recreational and/or boating safety and aquatic symposiums. The design of the conference should enhance the awareness and development of paid and volunteer professionals; national, state, and local boating safety program organization leaders; waterway managers and industry specialists. It should provide a unifying link between local/regional programs and those on the national level. The conference should be a collaborative effort of national organizations interested in the betterment of boating and aquatic safety and should include, but not be limited to, plenary sessions, hands-on workshops, and the distribution of a post conference report (publication) describing the activities of the conference. Products should include, but are not limited to, evaluation processes, measures of effectiveness, marketing strategy, and final report. *Point of Contact:* Ms. Jo Calkin, 202–267–0994.

4. National Boating Survey. The Coast Guard seeks a grantee to conduct a comprehensive national boating survey. This survey would update information collected in surveys conducted in 1973, 1976 and 1989. The purpose of these surveys was to obtain statistical estimates of recreational boats, boating households, boaters, boating exposures, practices, and activities. The best way to assess a boater's risk on the water, as well as the effectiveness of boating safety program activities in minimizing that risk, is to qualify exposure factors * * * who is boating, in what types of boats, where, how often, how long, doing what activities, etc., and relate those factors to accident data. The nationwide boating survey is to be of sufficient sample size to provide various exposure data by State. *Point of Contact:* Mr. Bruce Schmidt, 202–267–0955.

5. Information Resources Management: Recreational Boating Safety (RBS) Exposure Data Capture Project. The Coast Guard seeks a grantee to complete a comprehensive RBS Exposure Data Capture Project to identify organizations who routinely collect recreational boating exposure data measured in passenger hours. The grantee will use the results from a fiscal year 1995 grant project which identified exposure data elements and their sources. The objectives of the project are twofold. The first objective is to create a national database of all sources who routinely collect recreational boating exposure data on a continuous basis. The database will contain all exposure data elements and their attributes to include: participant demographics, the locality, type and duration of boating activity, the frequency and methodology of data collection, data storage formats, and information that provides access to the data. The second objective is to determine the feasibility of collating and using data from the identified sources to develop valid national estimates of recreational boating exposure. *Point of Contact:* Mr. Bruce Schmidt, 202–267–0955.

6. National Definition of Drowning. The Coast Guard seeks a grantee to conduct literature and reference research and develop a position paper (with resource references) on a National Definition of drowning. This research is to include canvassing leading Federal and medical authorities. The result will be a recommendation for a nationally recognized medical definition. *Point of Contact:* CW02 Tim Duff, 202–267–1263.

7. Safety Considerations for Individuals with Special Needs. The

Coast Guard seeks grantees to conduct a National study on boating safety concerns and specific interventions for Special Needs Groups. Applicants would provide recommendations to improve the aquatic safety/boating safety for those segments of the population that are mentally and/or physically impaired. *Point of Contact:* CWO2 Tim Duff, 202–267–1263.

8. State/Federal/Boating Organizations Cooperative Partnering Efforts. The Coast Guard seeks grantees to provide programs to encourage greater participation and uniformity in boating safety efforts. Applicants would provide a forum to encourage greater uniformity of boating laws and regulations, reciprocity among jurisdictions, and closer cooperation and assistance in developing, administering, and enforcing Federal and state laws and regulations pertaining to boating safety. *Point of Contact:* Ms. Sandy Brown, 202–267–6010.

9. Develop and Conduct Technical Seminars on Boating Safety Standards and Compliance. The Coast Guard seeks a grantee to develop, provide instructional materials for, and conduct training courses nationwide for compliance with recreational boating Federal safety standards. *Point of Contact:* Mr. Gary Larimer, 202–267–0986.

10. Investigate Deficiencies of Recreational Boat Flotation Foam. The Coast Guard seeks a grantee to study deficiencies in flotation foams used for recreational boats. In particular, grantee should explore new foam spraying agents and techniques in light of recent Environmental Protection Agency (EPA) regulations governing chlorofluorocarbons (CFCs). *Point of Contact:* Mr. Gary Larimer, 202–267–0986.

11. Develop and Conduct Boating Accident Seminars. The Coast Guard seeks a grantee to develop, provide instructional material, and conduct training courses nationwide for boating accident investigators, including three courses at the Coast Guard Reserve Training Center in Yorktown, Virginia. *Point of Contact:* Mr. Gary Larimer, 202–267–0986.

12. National Estimate of Personal Flotation Devices (PFDs) Wear Rate. The Coast Guard seeks a grantee to develop a statistically valid, empirically developed national estimate of wear rates of PFDs by recreational boaters. This will provide the Coast Guard with a baseline against which to measure the effectiveness of its public relations and boating education efforts, and will assist in PFD wearability improvement efforts. *Point of Contact:* LCDR Rick Sparacino, 202–267–0976.

13. Conduct a Research Study on Personal Flotation Device (PFD) Conspicuity. The Coast Guard seeks a grantee to identify and investigate past and current research into factors that contribute to the conspicuity of objects in the water with the goal of increasing the conspicuity of personal flotation devices when the wearer is in the water. *Point of Contact:* Mr. Rick Gipe, 202–267–0985.

14. Voluntary Standards Development Support. The Coast Guard seeks a grantee to carry out a program to encourage active public participation in the development of technically sound voluntary boating safety standards. *Point of Contact:* Mr. Peter Eikenberry, 202–267–6984.

15. Improvement of Navigation Light Visibility and Glare Minization. The Coast Guard seeks a grantee to investigate the safety aspects of navigation light lens size for lights constructed in accordance with the Navigation Rule specifications. Grantee shall determine the minimum lens size necessary to effect a safe level of navigation light discernment when viewed, especially at close range, against a background of lights and inclement weather. *Point of Contact;* Mr. Randolph J. Doubt, 202–267–6810.

16. Recreational Boating Electronic Accident Reporting System. The Coast Guard seeks a grantee to develop an electronic means of submitting recreational boating accident report data from the public. *Point of Contact:* Mr. Phil Cappel, 202–267–0988.

17. Human Factors and Risk Management in Recreational Boating Applications. The Coast Guard seeks a grantee to identify and characterize the human factors and risk involved with the recreational boating experience, including operator controlled factors, boat characteristics, safety equipment, operating environment, and operator safety awareness. Grantee shall identify resources/interventions to eliminate/mitigate risk factors. Grantee shall specifically identify the risk involved with recreational boat characteristics of speed, accelerations (both lateral and vertical), and stability, and develop/validate risk matrices identifying appropriate interventions to reduce/eliminate risk. *Point of Contact:* Mr. Phil Cappel, 202–267–0988.

18. Off-Throttle Steering of Jet-pump Propelled Craft. The Coast Guard seeks a grantee to identify available and emerging technology/methodology in the area of off-throttle steering of jet-pump propelled craft and conduct testing on those items/methods that are determined to be the most effective. *Point of Contact:* Mr. Gary Larimer, 202–267–0986.

19. Development and Validation of Personal Flotation Device (PFD) Computer Simulation Model. The Coast Guard seeks a grantee to work with the Coast Guard Research and Development Program in the further development of an articulated total body mannequin and the use of the mannequin to validate a computer simulation model for rough water testing of PFDs. *Point of Contact:* Mr. Rick Gipe, 202–267–0985.

The above list includes items of specific interest to the Coast Guard, however, potential applicants should not be constrained by the list. Any initiative which can help to reduce deaths, injuries or damage among recreational boaters is welcomed. One area you should focus on is PARTNERSHIP. Explore other sources, linkages, in-kind contributions, cost sharing, and partnering with other organizations or corporations. A more detailed discussion of specific projects of interest to the Coast Guard may be obtained by contacting the Coast Guard Infoline at 800–368–5647 and requesting a copy of a specific proposal. Proposals addressing other boating safety concerns are encouraged. The Boating Safety Financial Assistance Program is listed in section 20.005 of the Federal Domestic Assistance Catalog.

Dated: October 1, 1997.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 97–26420 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Aircraft Certification Procedures Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignments for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of two new harmonization tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Brian A. Yanez, Aircraft Certification Service (AIR–110), Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591, phone (202) 267–9588.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with its Aircraft Certification Procedures Issues. These issues involve the regulatory standards and procedures for aircraft certification found in 14 CFR parts 21, 39, and 183 and Special Federal Aviation Regulation No. 36.

The Tasks

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization tasks:

Task 1. Review the public comments received on Notice of Proposed Rulemaking (NPRM) 97–7, which proposes to amend the procedural Federal Aviation Regulations for the certification of changes to type certificated products, and develop recommendations regarding the disposition of those comments. The review and recommendations must take into account the public comments received by the Joint Aviation Authorities (JAA) regarding JAA Notice of Proposed Amendment (NPA) 21.7. Prepare a recommended final rule for NPRM 97–7 that the JAA could adopt as its rule and that is harmonized with the FAA's rule. Forward the final recommendations to the FAA.

Task 2. Develop a training syllabus for a common training course between the FAA and JAA and assist the FAA and JAA training personnel with the training program material.

The FAA expects ARAC to complete these tasks by March 2, 1998.

The FAA has asked that ARAC prepare the necessary documents, including economic analysis, to justify and carry out its recommendations.

ARAC Acceptance of Tasks

ARAC has accepted the tasks and has chosen to assign them to the existing International Certification Procedures Working Group. The working group serves as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The International Certification Procedures Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider Aircraft Certification Procedures Issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider Aircraft Certification Procedures Issues

Participation in the Working Group

The International Certification Procedures Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the International Certification Procedures Working Group will not be open to the public, except to the extent that individuals with an interest and expertise have been selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on September 29, 1997.

Brian A. Yanez,

Assistant Executive Director for Aircraft Certification Procedures Issues Aviation Rulemaking Advisory Committee.

[FR Doc. 97–26380 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Joint Special Committee 182; Minimum Operational Performance Standards (MOPS) for an Avionics Computer Resource

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–182 meeting to be held October 22–24, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Reports: a. Previous Joint Meeting; b. Working Group 48 Meeting; (3) SC–182 Work Program and Schedule: a. Is the need for an ACR MOPS real? b. Are equipment manufacturers committed to the concept? c. Development of a schedule to complete the MOPS not later than December 1998, if interest prevails. (4) Comments to MOPS Draft 1.0 (Web Site: http://forums.americas.digital.com/avf/RTCA.SC182/dispatch.cgi): Document Forums; Minimum Operational Performance Standards Draft Version of MOPS; MOPS 1.0 (Reformatted); (5) Discussion papers: a. Operation Goals and Applications (Web Site: Same as Above); Discussion forums; Certification/ Qualification Issues #3 Operational Goals and Applications; b. ARINC 653 APEX Partition Testing (Web Site: Same as Above); Discussion Forums; Architecture/System Services #7 Apex Partition Testing; (6) Status Report: a. Architecture/ System Services Working Group; b. Capacity and Performance Working Group; (7) Working Group Sessions; (8) working Group Reports; (9) Other Business; (10) Date and Place of Next Meeting.

Attendance is open to the interest public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC,

20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 26, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–26378 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 147; Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee (SC)–147 meeting to be held November 4–5, starting at 9:00 a.m. The meeting will be held at the MITRE Corporation, Wilson Building, Room 1B02, 7798 Old Springhouse Road, McLean, VA.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Minutes of the Previous Meeting; (3) FAA Program Office Report; (4) Requirements Working Group Report; (5) Verification and Validation Presentations; (6) Review and Consideration of Proposed Changes to TCAS II MOPS, v. 7.0 (DO–185A); (7) Special Committee (SC)–186 Report: SC–186 Revised Terms of Reference; (8) FAA Program Office Report on the Use of ADS–B in TCAS; (9) Discussion of Future Work Plan for SC–147; (10) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 26, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–26379 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–073; No. 2]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed collections of information.

SUMMARY: This document describes three collections of information for which NHTSA intends to seek OMB approval. Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval to collect information from the public, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. Each of the collections for which this document requests comment has been previously approved.

DATES: Comments must be received on or before December 5, 1997.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to NHTSA's new Docket Management Facility, located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation, Room PL–01, 400 Seventh Street, SW., Washington, DC 20590–0001. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. The DOT Docket is open to the public from 10 am to 5 pm, Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Ed Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, SW, Room 6123, Washington, DC 20590. Mr. Kosek's telephone number is (202) 366–2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collections of information:

Names and Addresses of First Purchasers of Motor Vehicles, 49 U.S.C. 30117(b)

Type of request—Reinstatement of clearance.

OMB Clearance Number—2127–0044.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years after date of expiration of existing clearance.

Summary of the Collection of Information—By statute (49 U.S.C. 30117 (b) Maintaining Purchaser Records and Procedures), motor vehicle manufacturers are required to collect and retain the names and addresses of first purchasers of new motor vehicles, so that the manufacturer can directly notify those persons in the event the vehicle is recalled.

Description of the Need for the Information and Proposed Use of the Information—If there is a safety-related recall of the motor vehicle, the vehicle manufacturer needs to identify the first purchaser of the motor vehicle. Thus, the vehicle manufacturers will use the names and addresses to inform the first purchaser of the recall, and to explain what actions the purchaser should take.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information)—The respondents are vehicle dealers which collect the information, and vehicle manufacturers which store the information. Since this practice of

recording and storing the names and addresses of first purchasers was followed by vehicle manufacturers for their commercial purposes before the requirement was enacted, NHTSA does not believe that any added costs result from this requirement.

There are approximately 14.25 million new vehicles sold each year. There are approximately 19,000 dealers. The agency estimates that each dealer takes approximately three minutes to record the name and address of the first purchaser of the motor vehicle. The dealer collects the information once. The dealer forwards the information to the vehicle manufacturer, which retains the information.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—NHTSA estimates that the total time spent recording names and addresses of purchasers of 14.25 million new vehicles per year would be no more than 712,500 hours. Assuming a value of $10 per hour, this time can be valued at $7,125,000. Dealers without computer access to the vehicle manufacturers generally return their sales cards once a month. With 19,000 dealers making twelve mailings each year, and paying $2.00 postage for each mailing, the annual postage costs would equal $456,000.

NHTSA estimates that each vehicle manufacturer spends 238 hours each year appropriately handling the information received from the dealers. Again, assuming a value of $10 per hour, this results in handling costs of $2,380. Total costs per annum could then be estimated as $7,958,380. NHTSA acknowledges that this estimate is imprecise, but knows of no way to develop a more precise cost estimate without conducting a separate information collection just to answer this question.

Summary:

REPORTING	$7,500,000
MAILING	456,000
RECORDKEEPING	2,380
TOTAL Annual Cost	7,958,380

49 CFR Part 556—Petitions for Inconsequentiality

Type of Request—Reinstatement of clearance.

OMB Control Number—2127–0045.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years after date of expiration of existing clearance.

Summary of the Collection of Information—This collection of information allows NHTSA to receive petitions from manufacturers to excuse inconsequential defects or noncompliances with the Federal Motor Vehicle Safety Standards. The procedures for petitioning are established at 49 CFR part 556, *Petitions for Inconsequentiality*. This regulation establishes the procedures for manufacturers to submit such petitions to the agency, the contents of such petitions, and the criteria the agency will use in evaluating those petitions.

Description of the Need for the Information and Proposed Use of the Information—In a petition, the vehicle manufacturer provides information in order to obtain relief from NHTSA. Without NHTSA's determination that a defect or noncompliance is inconsequential, a manufacturer of motor vehicles or motor vehicle equipment is required to notify all distributors, dealers, and purchasers of every defect or noncompliance that is determined to exist in its products, and to remedy that defect or noncompliance. Part 556 sets forth the form and content of petitions for relieving manufacturers from the statutory notice and remedy requirements for those defects or noncompliances the manufacturer believes are inconsequential as they relate to safety.

There are two possible consequences if this collection of information were not conducted. First, it is possible that the agency would not receive the information it needs to make a determination that a defect or noncompliance is inconsequential. In this case, manufacturers would be statutorily required to follow the notice and remedy provisions for every defect or noncompliance.

Second, it is possible that the agency would have to conduct a full public hearing whenever a manufacturer claimed a defect or noncompliance was inconsequential. Whether the claim of inconsequentiality were ultimately determined to be spurious or meritorious, a full hearing would impose a burden on both the agency and the petitioning manufacturer.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—NHTSA estimates that approximately 15 petitions are filed per year. Petitions are filed entirely at the discretion of the manufacturer.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—Annual costs to the petitioners can be estimated as follows: about 15 petitions for inconsequential noncompliance are filed each year. Based on the length of the petitions (usually 3–4 typewritten pages) and the amount of documentation included, NHTSA estimates that it would take a petitioner about 2 hours to prepare one of these petitions. Multiplying this two hour burden by the 15 petitions filed annually yields an estimated annual burden of 30 hours for the petitioners under Part 556.

If we assume a value of $20 per hour, the annual cost of preparing these petitions is about $60. Adding in the postage cost of $4.80 (15 petitions, at a cost of 32 cents to mail each one), we estimate that it costs petitioners about $605 annually to prepare and submit these inconsequentiality petitions.

There are no recordkeeping costs to the manufacturers.

49 CFR Part 566—Manufacturers' Identification

Type of Request—Reinstatement of clearance.

OMB Control Number—2127–0043.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years from date of approval.

Summary of the Collection of Information—This collection of information requires every manufacturer of motor vehicles and/or replacement equipment to file with NHTSA on a one-time basis, the company name, address, and description of the motor vehicle type or of covered equipment manufactured.

Description of the Need for the Information and Proposed Use of the Information—NHTSA needs this information because under 49 U.S.C. 30118, manufacturers must determine if any motor vehicle or item of replacement equipment contains a defect related to motor vehicle safety or fails to comply with an applicable Federal Motor Vehicle Safety Standard. Following such a determination, the manufacturer is required to notify the Secretary of Transportation, owners, purchasers and dealers of motor vehicles or replacement equipment, of the defect or noncompliance and to remedy the defect or noncompliance without charge to the owner.

If the information was not reported, the agency would not be able to locate the manufacturer promptly if a defect or noncompliance in a motor vehicle or equipment was found.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—NHTSA estimates that the number of respondents per year is 100.

Each respondent provides the information once. NHTSA estimates it takes 15 minutes to prepare the information. The estimated total burden on all respondents for this standard is 25 hours per year.

Based on an assumed clerical cost of $20.00 per hour, it costs each manufacturer $5.00 to prepare the information. Some of the vehicle and equipment manufacturers are outside of the United States, and postage (on the average from a foreign country) is approximately $1.00 per letter. Thus, each response costs the manufacturer a total of $6.00. (NHTSA knows the total is overstated; the majority of vehicle and equipment manufacturers are in the United States, and postage would be 32 cents.) Since NHTSA estimates the number of respondents per year is 100, the total cost on all respondents per year is approximately $600.00.

Since they are not required to keep copies of the information provided to NHTSA, there are no recordkeeping costs to the manufacturers.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued: September 30, 1997.

John Womack,

Acting Chief Counsel.

[FR Doc. 97–26375 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Part 291 Domestic Cargo Transportation

AGENCY: Bureau of Transportation Statistics, (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need and usefulness of DOT requiring air carriers holding section 418 certificates, that do not submit Form 41 reports, to file Form 291–A ''Statement of Operations and Statistics Summary for Section 418 Operations'' pursuant to 14 CFR 291.42. Form 291–A is used to monitor air-cargo activity carried on strictly all-cargo flights.

DATES: Written comments should be submitted by December 5, 1997.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

COMMENTS: Comments should identify the OMB #2138–0023 and submit a duplicate copy to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0023. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0023

Title: Domestic Cargo Transportation Part 291.

Form No.: 291–A.

Type of Review: Extension of a currently approved requirement.

Respondents: Certificated domestic all-cargo carriers.

Number of Respondents: 3 domestic all-cargo carriers.

Total Annual Burden: 12 hours.

Needs and Uses: Form 291–A financial data are reviewed in connection with an air carrier's operations when concerns arise as to a carrier's financial condition as evidenced by reported losses and delinquency in payments to creditors. Data comparisons are made between current and past periods in order to assess the current financial positions. Financial trend lines are extended into the future to evaluate the continued viability of the carrier.

When an all-cargo carrier wishes to extend its operation to passenger service, the carrier's prior Form 291–A filings are examined as a source document to help determine the carrier's financial condition.

FAA's Safety Indicators Division is developing an integrated approach to exposure data (Form 291–A is a part of this data) in the aviation industry to support the Safety Indicators Program. FAA's National Safety Data Center is currently using Form 291–A in compiling annual year end flight hours, miles flown, and departures. Also, these activity data are used by the National Transportation Safety Board in determining the airline industry's annual safety indexes.

Commercial all-cargo activity data are used by the FAA in estimating the excise tax paid by shippers and held by the all-cargo air carriers. Although a precise tax figure cannot be computed from the Form 291–A reports (because some cargo movements are exempted from the excise tax), an estimation is possible for revenue budgeting purposes.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 97–26394 Filed 10–3–97; 8:45 am]

BILLING CODE 4910–FE–P

Corrections

Federal Register
Vol. 62, No. 193
Monday, October 6, 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 THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA-106-FOR]

Virginia Regulatory Program

Correction

In rule document 97–24682 beginning on page 48758, in the issue of Wednesday, September 17, 1997, make the following correction:

On page 48761, in the first column, in the sixth line from the bottom, ''consistent'' should read ''inconsistent''.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206-AF32, 3206-AG79, 3206-AG68

Federal Employees' Group Life Insurance Program: Merger of Life Insurance Regulations; Living Benefits; Assignment of Life Insurance

Correction

In rule document 97–24585 beginning on page 48731, in the issue of Wednesday, September 17, 1997, make the following corrections:

1. On page 48731, in the second column, in the fourth complete paragraph, in the eighth line, an ''a'' should be inserted in front of ''terminally''.

§ 870.101 [Corrected]

2. On page 48732, in the third column, in § 870.101, in the sixth line, ''inherent'' should read ''inherit''.

§ 870.204 [Corrected]

3. On page 48734, in the first column, in § 870.204(a)(2)(iii), in the third line, a beginning parenthesis should be inserted before ''107 Stat.''.

§ 870.402 [Corrected]

4. On page 48736, in the second column:

a. In § 870.402(f)(1), in the fourth line, ''the'' should read ''The''.

b. In § 870.402(h), in the fifth line, ''this'' should read ''the''.

§ 870.403 [Corrected]

5. On page 48736, in the third column, in § 870.403(b), in the third line, an ''a'' should be inserted before ''partial''.

§ 870.504 [Corrected]

6. On page 48738, in the first column:

a. In § 870.504(a)(1), in the second line, ''waiver'' should read ''waive''.

b. In § 870.504(a)(3), in the nineth line, ''within'' should be before ''31''.

§ 870.506 [Corrected]

7. On page 48738, in the third column, in § 870.506(a), the first and second lines of the designated section (a) should be an italicized.

8. On page 48739, in the first column, in § 870.506(b), the first and second lines of the designated section (b) should be an italicized.

§ 870.704 [Corrected]

9. On page 48742, in the second column, in § 870.704(d), in the fifth line, ''individuals's'' should read ''individual's''.

§ 870.705 [Corrected]

10. On page 48742, in the second column, in § 870.705(a)(2), in the second line from the bottom, ''reemployed'' should read ''reemployment''.

§ 870.802 [Corrected]

11. On page 48743, in the third column, in § 870.802(c), in the last line, ''the'' should read ''this''.

§ 870.1005 [Corrected]

12. On page 48745, in the third column, in § 870.1005(c), in the fifth line, ''or'' should read ''of''.

§ 870.1103 [Corrected]

13. On page 48746, in the second column, in § 870.1103(d)(1)(ii), in the second line, ''chased'' should read ''cashed''.

BILLING CODE 1505-01-D

federal register

Monday
October 6, 1997

Part II

Nuclear Regulatory Commission

10 CFR Chapter 1

Information Collection Requirements: Statutory and Technical Amendments; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

RIN 3150–AF69

Information Collection Requirements: Statutory and Technical Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that implement the Paperwork Reduction Act to make changes required by statute and to make technical correcting amendments.

EFFECTIVE DATE: This final rule is October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Pamela Urban, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–1619.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act of 1980 was replaced in its entirety by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13, 109 Stat. 163 (codified at 44 U.S.C. 3501 et seq.). As a result of the enactment of the 1995 Act, all references to the Paperwork Reduction Act of 1980 in the NRC's regulations (which are contained in various parts throughout 10 CFR Chapter 1) are outdated. In addition, certain other conforming changes described below need to be made.

Specifically, any NRC regulation that requires a ''collection of information'' contains a statement that the information collection requirements in that part have been submitted to, and approved by, the Office of Management and Budget (OMB), ''as required by the Paperwork Reduction Act of 1980''. Further, any NRC regulation that does not require a collection of information contains a statement that the particular part is ''not subject to the Paperwork Reduction Act of 1980''. The NRC is substituting the term: ''Paperwork Reduction Act'' in its regulations for the term ''Paperwork Reduction Act of 1980''.

The Paperwork Reduction Act of 1995 contains a provision that requires the inclusion of a ''public protection notification'' statement in all collections of information. Because of the statutory change, the NRC is adding a statement to paragraph (a) in all sections of 10 CFR (Parts 0–199) entitled: ''Information collection requirements: OMB approval,'' as follows: ''The NRC 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.''

The NRC is making technical amendments to paragraphs (b) and (c) of various sections in 10 CFR (Parts 0–199) entitled: ''Information collection requirements: OMB approval.'' These amendments are being made in—

(1) Paragraph (b) to correct the citations that refer to the specific sections which contain information collection requirements; and

(2) Paragraph (c) to correct references to control numbers or form numbers for additional information collection approvals.

Publication in Final

The NRC has determined that this rulemaking need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553. The portion of this rulemaking that reflects agency organization, procedure, and practice is exempt under section 553(b)(A) of the APA. For the portion of this rulemaking that makes amendments required by statute and technical amendments and corrections, there is good cause for finding that notice and public procedure is unnecessary and contrary to the public interest, pursuant to section 553(b)(B) of the APA.

Effective Date

The NRC has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication since this rule is technical and nonsubstantive; merely reflects agency organization, practice, and procedure; and makes amendments required by statute and technical amendments. Therefore, these amendments shall be effective upon publication. *See* 5 U.S.C. 553(d)(3).

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

List of Subjects in 10 CFR Parts 4, 9, 11, 19, 20, 21, 25, 26, 30, 31, 32, 33, 34, 35, 36, 39, 40, 50, 51, 52, 54, 55, 60, 61, 62, 70, 71, 72, 73, 74, 75, 76, 81, 95, 100, 110, 140, 150, 170 and 171

Reporting and recordkeeping requirements.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2201), as amended; the Energy Reorganization Act of 1974 (42 U.S.C. 5841), as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendment to 10 CFR Chapter 1.

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. Section 4.8 is revised to read as follows:

§ 4.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0053.

(b) The approved information collection requirements contained in this part appear in §§ 4.32, 4.34, 4.125, 4.127, 4.231, 4.232, 4.322, and 4.324.

PART 9—PUBLIC RECORDS

2. Section 9.8 is revised to read as follows:

§ 9.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0043.

(b) The approved information collection requirements contained in this part appear in §§ 9.23, 9.29, 9.40, 9.41, 9.53, 9.54, 9.55, 9.65, 9.66, and 9.67.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

3. Section 11.8 is revised to read as follows:

§ 11.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0062.

(b) The approved information collection requirements contained in this part appear in §§ 11.9, 11.11, 11.13, 11.15, and 11.16.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

4. Section 19.8 is revised to read as follows:

§ 19.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in the part under control number 3150–0044.

(b) The approved information collection requirements contained in this part appear in §§ 19.13 and 19.16.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

5. In § 20.1009, the introductory text of paragraph (c) is republished, paragraphs (a) and (b) are revised, paragraph (c)(3) is added and reserved, and paragraphs (c) (4) and (5) are added to read as follows: § 20.1009 Reporting, recording, and application requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0014.

(b) The approved information collection requirements contained in this part appear in §§ 20.1003, 20.1101, 20.1202, 20.1203, 20.1204, 20.1206, 20.1208, 20.1301, 20.1302, 20.1403, 20.1404, 20.1406, 20.1501, 20.1601, 20.1703, 20.1901, 20.1902, 20.1904, 20.1905, 20.1906, 20.2002, 20.2004, 20.2006, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 22.2205, 20.2206, 20.2301, and appendices F and G to 10 CFR Part 20.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

* * * * *

(4) In § 20.2006 and appendix G to 10 CFR part 20, NRC Forms 541 and 541A are approved under control number 3150–0166.

(5) In § 20.2006 and appendix G to 10 CFR part 20, NRC Forms 542 and 542A are approved under control number 3150–0165.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

6. Section 21.8 is revised to read as follows:

§ 21.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0035.

(b) The approved information collection requirements contained in this part appear in §§ 21.7, 21.21, and 21.51.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

7. In § 25.8, the introductory text of paragraph (c) is republished and paragraphs (a) and (c)(2) are revised to read as follows:

§ 25.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0046.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and control numbers under which they are approved are as follows:

* * * * *

(2) In §§ 25.17(c), 25.21(c), 25.27(b), 25.29, and 25.31, SF–86 is approved under control number 3206–0007.

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PART 26—FITNESS FOR DUTY PROGRAMS

8. In § 26.8, paragraph (c) is removed and paragraph (a) is revised to read as follows:

§ 26.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0146.

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

9. In § 30.8, paragraphs (a) and (b) are revised to read as follows:

§ 30.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0017.

(b) The approved information collection requirements contained in this part appear in §§ 30.9, 30.11, 30.15, 30.18, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.41, 30.50, 30.51, 30.55, and appendices A and C to this part.

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PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

10. Section 31.4 is revised to read as follows:

§ 31.4 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0016.

(b) The approved information collection requirements contained in this part appear in §§ 31.5, 31.6, 31.8, and 31.11.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 31.11, NRC Form 483 is approved under control number 3150–0038.

(2) [Reserved]

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

(11) In § 32.8, paragraphs (a) and (b) are revised to read as follows:

§ 32.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0001.

(b) The approved information collection requirements contained in this part appear in §§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.17, 32.18, 32.19, 32.20, 32.22, 32.23, 32.25, 32.26, 32.27, 32.29, 32.51, 32.51a, 32.52, 32.53, 32.54, 32.55, 32.56, 32.57, 32.58, 32.61, 32.62, 32.71, 32.72, 32.74, and 32.210.

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PART 33—SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

12. In § 33.8, the introductory text of paragraph (c) is republished and paragraphs (a) and (c)(1) are revised to read as follows:

§ 33.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0015.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 33.12, NRC Form 313 is approved under control number 3150–0120.

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PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

13. Section 34.8 is revised to read as follows:

§ 34.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0007.

(b) The approved information collection requirements contained in this part appear in §§ 34.13, 34.20, 34.25, 34.27, 34.29, 34.31, 34.33, 34.35, 34.41, 34.42, 34.43, 34.45, 34.47, 34.49, 34.53, 34.61, 34.63, 34.65, 34.67, 34.69, 34.71, 34.73, 34.75, 34.79, 34.81, 34.83, 34.85, 34.87, 34.89, 34.101 and appendix A.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 34.11, NRC Form 313 is approved under control number 3150–0120.

(2) [Reserved]

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

14. In § 35.8, paragraphs (a), (b), and (c) are revised to read as follows:

§ 35.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for

approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0010.

(b) The approved information collection requirements contained in this part appear in §§ 35.6, 35.12, 35.13, 35.14, 35.20, 35.21, 35.22, 35.23, 35.29, 35.31, 35.50, 35.51, 35.52, 35.53, 35.59, 35.60, 35.61, 35.70, 35.75, 35.80, 35.92, 35.204, 35.205, 35.310, 35.315, 35.404, 35.406, 35.410, 35.415, 35.606, 35.610, 35.615, 35.630, 35.632, 35.634, 35.636, 35.641, 35.643, 35.645, 35.647, 35.980, 35.981.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved as follows:

(1) In § 35.12, NRC Form 313 is approved under control number 3150–0120.

(2) [Reserved]

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PART 36—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

15. In § 36.8, paragraphs (a) and (b) are revised to read as follows:

§ 36.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0158.

(b) The approved information collection requirements contained in this part appear in §§ 36.11, 36.13, 36.17, 36.19, 36.21, 36.53, 36.69, 36.81, and 36.83.

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PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

16. Section is revised to read as follows:

§ 36.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0130.

(b) The approved information collection requirements contained in this part appear in §§ 39.11, 39.13, 39.15, 39.17, 39.31, 39.33, 39.35, 39.37, 39.39, 39.43, 39.49, 39.51, 39.61, 39.63, 39.65, 39.67, 39.73, 39.75, 39.77, and 39.91.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 39.11, NRC Form 313 is approved under control 3150–0120.

(2) [Reserved]

PART 40—DOMESTICE LICENSING OF SOURCE MATERIAL

17. In § 40.8, the introductory text of paragraph (c) is republished and paragraphs (a), (b), and (c)(3) and (4) are revised to read as follows:

§ 40.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0020.

(b) The approved information collection requirements contained in this part appear in §§ 40.9, 40.23, 40.25, 40.26, 40.27, 40.31, 40.35, 40.36, 40.41, 40.42, 40.43, 40.44, 40.51, 40.60, 40.61, 40.64, 40.65, 40.66, 40.67, and appendix A to this part.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

* * * * *

(3) In § 40.42, NRC Form 314 is approved under control number 3150–0028.

(4) In § 40.64, DOE/NRC Form 741 is approved under control number 3150–0003.

18. In § 40.43, paragraph (a) is revised to read as follows:

§ 40.43 Renewal of licenses.

(a) Application for renewal of a specific license must be filed on NRC Form 313 and in accordance with § 40.31.

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PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

19. In § 50.8, paragraph (c) is republished and paragraphs (a) and (c)(1) are revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0011.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirement and the control numbers under which they are approved are as follows:

(1) In § 50.73, NRC Form 366 is approved under control number 3150–0104.

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PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

20. In § 51.17, paragraph (a) is revised to read as follows:

§ 51.17 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0021.

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PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

21. Section 52.8 is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0151.

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.35, 52.45, 52.47, 52.57, 52.63, 52.75, 52.77, 52.78, 52.79, 52.91, 52.99, 52.103, and appendices A and B.

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

22. In § 54.9, paragraph (a) is revised to read as follows:

§ 54.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0155.

PART 55—OPERATORS' LICENSES

23. Section 55.8 is revised to read as follows:

§ 55.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0018.

(b) The approved information collection requirements contained in this part appear in §§ 55.31, 55.45, 55.53, and 55.59.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 55.23, 55.25, 55.27, 55.31, NRC Form 396 is approved under control number 3150–0024.

(2) In §§ 55.31, 55.35, 55.47, and 55.57, NRC Form 398 is approved under control number 3150–0090.

(3) in § 55.45, NRC Form 474 is approved under control number 3150–0138.

(4) In §§ 55.41, 55.43, 55.45, and 55.59, clearance is approved under control number 3150–0101.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

24. Section 60.8 is revised to read as follows:

§ 60.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0127.

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PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

25. In § 61.8, paragraph (a) is revised to read as follows:

§ 61.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0135.

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PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

26. In § 62.8, paragraph (a) is revised to read as follows:

§ 62.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements

contained in this part under control number 3150–0143.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

27. In § 70.8, the introductory text of paragraph (c) is republished and paragraphs (a), (b), and (c) (2), (3), (4), and (5) are revised to read as follows:

§ 70.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0009.

(b) The approved information collection requirements contained in this part appear in §§ 70.9, 70.14, 70.19, 70.20a, 70.20b, 70.21, 70.22, 70.24, 70.25, 70.32, 70.33, 70.34, 70.38, 70.39, 70.42, 70.50, 70.51, 70.52, 70.53, 70.57, 70.58 and 70.59.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

* * * * *

(2) In § 70.38, NRC Form 314 is approved under control number 3150–0028.

(3) In § 70.53, DOE/NRC Form 742 is approved under control number 3150–0004.

(4) In § 70.53, DOE/NRC Form 742C is approved under control number 3150–0058.

(5) In § 70.54, DOE/NRC Form 741 is approved under control number 3150–0003.

* * * * *

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

28. In § 71.6, paragraph (a) is revised to read as follows:

§ 71.6 Information collection requirements: OMB approval

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0008.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH–LEVEL RADIOACTIVE WASTE

29. Section 72.9 is revised to read as follows:

§ 72.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0132.

(b) The approved information collection requirements contained in this part appear in §§ 72.7, 72.11, 72.16, 72.19, 72.22 through 72.34, 72.42, 72.44, 72.48 through 72.56, 72.62, 72.70 through 72.82, 72.90, 72.92, 72.94, 72.98, 72.100, 72.102, 72.104, 72.108, 72.120, 72.126, 72.140 through 72.176. 72.180 through 72.186, 72.192, 72.206, 72.212, 72.216, 72.218, 72.230, 72.232, 72.234, 72.236, and 72.240.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

30. Section 73.8 is revised to read as follows:

§ 73.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0002.

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.56, 73.57, 73.60, 73.67, 73.70, 73.71, 73.72, 73.73, 73.74, and appendices B, C, and G.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

31. In § 74.8, paragraphs (a) and (b) are revised to read as follows:

§ 74.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0123.

(b) The approved information collection requirements contained in this part appear in §§ 74.11, 74.13, 74.15, 74.17, 74.31, 74.33, 74.51, 74.57, and 74.59.

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL-IMPLEMENTATION OF US/IAEA AGREEMENT

32. In § 75.9, the introductory text of paragraph (c) is republished and paragraphs (a), (b), (c)(2), (3), (4), and (5) are revised to read as follows:

§ 75.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seg.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements

contained in this part under control number 3150–0055.

(b) The approved information collection requirements contained in this part appear in §§ 75.3, 75.7, 75.11, 75.12, 75.14, 75.21, 75.22, 75.23, 75.24, 75.31, 75.32, 75.33, 75.34, 75.35, 75.36, 75.43, 75.44, and 75.45.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

* * * * *

(2) In §§ 75.31, 75.32, 75.33, and 75.35, DOE/NRC Form 742 is approved under control number 3150–0004.

(3) In §§ 75.33 and 75.34, DOE/NRC Form 741 is approved under control number 3150–0003.

(4) In §§ 75.34 and 75.35, DOE/NRC Form 740M is approved under control number 3150–0057.

(5) In § 75.35, DOE/NRC Form 742C is approved under control number 3150–0058.

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

33. Section 76.8 is revised to read as follows:

§ 76.8 Information collection requirements: OMB approval not required.

The information collection requirements contained in this part of limited applicability apply to a wholly-owned instrumentality of the United States and affect fewer than ten respondents. Therefore, Office of Management and Budget clearance is not required pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.).

PART 81—STANDARD SPECIFICATIONS FOR THE GRANTING OF PATENT LICENSES

34. In § 81.8, paragraph (a) is revised to read as follows:

§ 81.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part of the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0121.

* * * * *

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

35. Section 95.8 is revised to read as follows:

§ 95.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0047.

(b) The approved information collection requirements contained in this part appear in §§ 95.11, 95.15, 95.18, 95.21, 95.25, 95.33, 95.36, 95.37, 95.41, 95.45, 95.47, 95.53, and 95.57.

PART 100—REACTOR SITE CRITERIA

35. In § 100.8, paragraph (a) is revised to read as follows:

§ 100.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part of the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0093.

* * * * *

PART 100—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

37. Section 110.7 is revised to read as follows:

§ 110.7 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control numbers 3150–0036.

(b) The approved information collection requirements contained in this part appear in §§ 110.7a, 110.26, 110.27, 110.31, 110.32, 110.50, 110.51, 110.52, and 110.53.

(c) In §§ 110.19, 110.20, 110.21, 110.22, 110.23, 110.31, and 110.32, NRC Form 7 is approved under control number 3150–0027.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

38. Section 140.9a is revised to read as follows:

§ 140.9a Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0039.

(b) The approved information collection requirements contained in this part appear in §§ 140.6, 140.7, 140.13, 140.13a, 140.13b, 140.15, 140.17, 140.20, and 140.21.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

39. In § 150.8, paragraphs (a) and (c) are revised to read as follows:

§ 150.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0032.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 150.16 and 150.17, DOE/NRC Form 741 is approved under control number 3150–0003.

(2) In § 150.20, NRC Form 241 is approved under control number 3150–0013.

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

40. Section 170.8 is revised to read as follows:

§ 170.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

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

41. Section 171.8 is revised to read as follows:

§ 171.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Dated at Rockville, Maryland this 12th day of September, 1997.

For the Nuclear Regulatory Commission.

Anthony J. Galante,

Chief Information Officer.

[FR Doc. 97–26274 Filed 10–3–97; 8:45 am]

BILLING CODE 7590–01–M

federal register

Monday
October 6, 1997

Part III

Environmental Protection Agency

Announcement of the Draft Drinking Water Contaminant Candidate List; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5904–7]

Announcement of the Draft Drinking Water Contaminant Candidate List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the Environmental Protection Agency (EPA) to publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation (NPDWR), that are known or anticipated to occur in public water systems and which may require regulations under the SDWA [section 1412(b)(1)]. The SDWA, as amended, specifies EPA must publish the first list of contaminants (Drinking Water Contaminant Candidate List, or CCL) not later than 18 months after the date of enactment, i.e., by February 1998, and every five years thereafter. The SDWA, as amended, also specifies that the CCL must be published after consultation with the scientific community, and after notice and opportunity for public comment. Today's notice announces the draft CCL, provides background on how it was developed, and seeks comment on various aspects of developing the final CCL. The CCL will be the source of priority contaminants for drinking water research, monitoring, guidance development, and for selection of candidates for drinking water regulation. The draft CCL includes 58 chemical and 13 microbiological contaminants.

DATES: Submit comments on or before December 5, 1997.

ADDRESSES: Send written comments to the Comment Clerk, docket number W–97–11, Water Docket (MC4101), USEPA, 401 M. St., SW, Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). Comments must be received or postmarked by midnight December 5, 1997.

Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W–97–11. Comments and data will also be accepted on disks in WordPerfect in 5.1 format or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The full record for this notice has been established under docket number W–97–11, and includes supporting documentation as well as printed, paper versions of electronic comments. The full record is available for inspection from 9 to 4 p.m. Monday through Friday, excluding legal holidays at the Water Docket, Room M2616, Headquarters, USEPA, 401 M. Street, SW, Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment. Additionally, a few critical pieces of the record have been made available at each Regional Office.

FOR FURTHER INFORMATION CONTACT: For general information, please contact the EPA Safe Drinking Water Hotline. The toll-free number is 800–426–4791. For specific information on the CCL and the contaminant identification process, please contact Ms. Evelyn Washington, at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, Mailcode 4607, Washington, DC 20460, phone: 202–260–3029, fax: 202–260–3762, email: washington.evelyn@epamail.epa.gov.

EPA Regional Offices

I. JFK Federal Bldg., Room 2203, Boston, MA 02203. Phone: 617–565–3602, Jerry Healey
II. 290 Broadway, Room 2432, New York, NY 10007–1866. Phone: 212–637–3880, Walter Andrews
III. 841 Chestnut Street, Philadelphia, PA 19107. Phone: 215–566–5775, Jeff Hass
IV. 345 Courtland Street, NE, Atlanta GA 30365. Phone: 404–562–9480, Janine Morris
V. 77 West Jackson Blvd., Chicago, IL 60604–3507. Phone: 312–886–4239, Kim Harris
VI. 1445 Ross Avenue, Dallas, TX 75202. Phone: 214–665–7150, Larry Wright
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VIII. One Denver Place, 999 18th Street, suite 500, Denver, CO 80202. Phone: 303–312–6627, Rod Glebe
IX. 75 Hawthorne Street, San Francisco, CA 94105. Phone: 415–744–1884, Bruce Macler
X. 1200 Sixth Avenue, Seattle, WA 98101. Phone: 206–553–1893, Larry Worley

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Draft Drinking Water Contaminant Candidate List
Table 1. Draft Drinking Water Contaminant Candidate List
III. Identification of Contaminants for the Draft Drinking Water Contaminant Candidate List
A. Role of NDWAC Working Group
B. Microbiological Contaminants Identified for the Draft CCL
Table 2. Initial List of Microorganisms Developed by EPA for Consideration by the Workshop on Microbiology and Public Health
1. Protozoa
2. Viruses
3. Bacteria
4. Microbiological Indicators
5. Future Activities Planned for Microbiological Contaminants and the CCL
6. Possible Impacts From Other Regulatory Activity
C. Chemical Contaminants Identified for the Draft CCL
1. The Initial List of Chemical Contaminants Considered
Table 3. Initial List of Chemical Contaminants Considered during Development of the Draft CCL
a. 1991 Drinking Water Priority List
b. Health Advisories
c. Integrated Risk Information System
d. Non-Target Analytes in Public Water Supply Samples
e. CERCLA Priority List
f. Stakeholder Responses
g. Toxic Release Inventory
h. Pesticides Identified by Office of Pesticide Programs
Table 4. Pesticides Deferred
i. Safe Drinking Water Hotline
Table 5. Contaminants Identified by the Safe Drinking Water Hotline
j. Endocrine Disruptors
Table 6. Contaminants Identified as Suspected of Endocrine Disruption
2. Development and Application of the Criteria
a. Criteria for Occurrence
b. Criteria for Health
3. Additional Specific Contaminants Included
a. Aldicarb, Aldicarb sulfoxide, and Aldicarb sulfone
b. Nickel
c. Sulfate
IV. Contaminants on the CCL Which Are of Specific Interest
A. Aluminum
B. MTBE
C. Organotins
D. Rhodamine WT
E. Sodium
F. Zinc
G. 2,6-di-tert-butyl-p-benzoquinone (DTBB)
H. Contaminants to be Considered as Groups
I. Contaminants for Which Unregulated Contaminant Data are or Will Be Available
Table 7. Contaminants with Unregulated Contaminant Monitoring Data
V. Request for Comment
A. Data and Research Needs
Table 8. Data Needs for Chemical Contaminants Included on the Draft CCL
B. Perchlorate

VI. Development of the final Drinking Water Contaminant Candidate List, the Contaminant Identification Method, and the Contaminant Selection Process
VII. Summary of Other Related Activity Required by the SDWA
A. Contaminant Selection and Regulatory Determination
B. The National Contaminant Occurrence Database
C. Unregulated Contaminant Monitoring Regulation
VIII. Summary of Concurrent Regulatory Activity Required by the SDWA
A. Radon
B. Other Radionuclides
C. Arsenic
D. Sulfate
E. Disinfectants and Disinfection Byproducts
IX. Other Requirements
X. References

Abbreviations Used in this Notice

ACWA-Association of California Water Agencies
ATSDR—Agency of Toxic Substances and Disease Registry
AWWARF—American Water Works Association Research Foundation
CASRN—Chemical Abstract Services Registry Number
CCL—Contaminant Candidate List
CDC-Center for Disease Control and Prevention
CERCLA—Comprehensive Environmental Response, Comprehensive and Liability Act
CIM—Contaminant Identification Method
D/DBP—Disinfectants and Disinfection Byproducts
DWEL-Drinking Water Equivalent Level
DWPL—Drinking Water Priority List
EDSTAC—Endocrine Disruptor Screening and Testing Advisory Committee
EPA—Environmental Protection Agency
ESWTR—Enhanced Surface Water Treatment Rule
FIFRA—Federal Insecticide, Fungicide, and Rodenticide Act
FQPA—Food Quality Protection Act
GW—Ground Water
HA—Health Advisory
HSDB—Hazardous Substances Data Base
IARC—International Agency for Research on Cancer
ICR—Information Collection Request
IESWTR—Interim Enhanced Surface Water Treatment Rule
IRIS—Integrated Risk Information System
LTESWTR—Long-term Enhanced Surface Water Treatment Rule
MCL—Maximum Contaminant Level
MCLG—Maximum Contaminant Level Goal
NAS—National Academy of Sciences
NCOD—National Contaminant Occurrence Database
NDWAC—National Drinking Water Advisory Council
NIPDWR—National Interim Primary Drinking Water Regulations
NPDWR—National Primary Drinking Water Regulations
NPL—National Priority List
NRC—National Research Council
OGWDW—EPA's Office of Ground Water and Drinking Water
OPP—EPA's Office of Pesticide Programs
OPPTS—EPA's Office of Pollution Prevention and Toxic Substances
PWS—Public Water Systems
RDA—Recommended Daily Allowance
RfD—Reference Dose
RQ—Reportable Quantity
SAB—EPA's Science Advisory Board
SDWA—Safe Drinking Water Act
STORET—Storage and Retrieval Database
SWTR—Surface Water Treatment Rule
TRI—Toxic Release Inventory
WHO—World Health Organization

I. Background

The Safe Drinking Water Act (SDWA), as amended in 1996, requires the Environmental Protection Agency (EPA) to publish a list of contaminants that are known or anticipated to occur in public water systems, and which may require regulations under the SDWA (section 1412(b)(1)). The SDWA, as amended, specifies that EPA must publish this first list of contaminants (Drinking Water Contaminant Candidate List, or CCL) not later than 18 months after the date of enactment (i.e., by February 1998), and publish a CCL every five years thereafter. The SDWA also requires that the list of contaminants include those which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation (NPDWR). The list must be published after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after consideration of the occurrence database established under section 1445(g). The *unregulated* contaminants considered for the list must include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and substances registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Prior to the 1996 Amendments, the SDWA required the EPA to publish a drinking water priority list (DWPL) of contaminants every three years which were known or anticipated to occur in drinking water and which may have required regulation under the SDWA. In response to these previous amendments, EPA published two DWPLs which served as candidates for regulation. The first DWPL was published on January 22, 1988 (53 FR 1892), and the second was published on January 14, 1991 (56 FR 1470).

The 1996 Amendments to the SDWA were developed and enacted during the time of the Presidential initiative intended to substantially improve the existing regulatory system to move the Nation toward a new and better environmental management system for the 21st century. During the two-year period prior to the 1996 Amendments, EPA developed a National Drinking Water Program Redirection Strategy (EPA, 1996a) to (1) establish priorities for setting safety standards based on health risks and sound science; (2) support strong, flexible partnerships among EPA, States, local governments and other stakeholders to protect public health; and (3) promote effective community-based source water protection. The Redirection Strategy provides an overall framework for the development of the CCL, as well as for other drinking water program activities.

The Agency believes the draft CCL presented in today's notice is the result of a commendable effort of screening a larger set of contaminants to the subset of those of most concern. The draft CCL is a first step toward improving risk assessment, strengthening science and data, and achieving better decision-making and future priority setting. Today's notice announces the draft CCL, provides background on how it was developed, summarizes detailed material available in the docket and used to develop the list, seeks comment on the methods used to develop the draft CCL, and seeks comment on developing the final CCL. The draft CCL is designed to be responsive to each of the requirements noted above of the SDWA, as amended, and is consistent with the goals of the redirection strategy.

Today's notice is being published pursuant to the requirement in section 1412(b)(1) that the CCL be subjected to prior notice and opportunity for public comment. The contaminants included are not subject to any proposed or promulgated national primary drinking water regulation,[1] are known or anticipated to occur in public water systems, and may require regulations under the SDWA. During the development of the draft CCL, the Agency consulted with stakeholders, including the National Drinking Water Advisory Council's Working Group on Occurrence & Contaminant Selection, which includes microbiologists, toxicologists, public health scientists, and engineers, and with other members of the scientific community including the Science Advisory Board (SAB). The Agency plans for a more in-depth consultation with the SAB during the

[1] With the exception of nickel, aldicarb and its degradates, and sulfate, which are considered special cases. Refer to later sections of this notice for rationale for inclusion.

fall of 1997. The occurrence database, which is to be established under section 1445(g) by August 1999, was not considered since it is currently under development; however, occurrence data from other sources was considered.

The final CCL, after publication in February 1998, will be the source of priority contaminants for the Agency's drinking water program. Priorities for drinking water research, occurrence monitoring, guidance development, including the development of health advisories, will be drawn from the CCL. The CCL will also serve as the list of contaminants from which the Agency will make determinations of whether or not to regulate specific contaminants. This first CCL is largely based on knowledge acquired over the last few years and other readily available information, but an enhanced, more robust approach to data collection and evaluation will be developed for future CCLs.

II. Draft Drinking Water Contaminant Candidate List

The following table includes the contaminants, microbiological and chemical, presented as the draft Drinking Water Contaminant Candidate List. The contaminants were identified as described by Section III of today's notice. The contaminants in the table are identified by name and Chemical Abstracts Service Registry Number (CASRN). The draft CCL includes 58 chemical contaminants/contaminant groups and 13 microbiological contaminants.

TABLE 1.—DRAFT DRINKING WATER CONTAMINANT CANDIDATE LIST

Chemical contaminants	CASRN
1,1,2,2-tetra-chloroethane	79–34–5
1,2,4-trimethylbenzene	95–63–6
1,1-dichloro-ethane	75–34–3
1,1-dichloro-propene	563–58–6
1,2-diphenylhydrazine	122–66–7
1,3-dichloropropane	142–28–9
1,3-Dichloropropene (telone or 1,3-D)	542–75–6
2,4,6-trichlorophenol	88–06–2
2,2-dichloro-propane	594–20–7
2,4-dichlorophenol	120–83–2
2,4-dinitrophenol	51–28–5
2,4-dinitrotoluene	121–14–2
2,6-dinitrotoluene	606–20–2
2,6-di-tert-butyl-p-benzoquinone (DTBB)	719–22–2
2-methyl-Phenol (o-cresol)	95–48–7
Acetochlor	34256–82–1
Acetone	67–64–1
Alachlor ESA (a degradation product of alachlor)	
Aldicarbs*	
Aldrin	309–00–2
Aluminum	7429–90–5
Atrazine-desethyl, a degradation product of triazines	6190–65–4
Boron	7440–42–8
Bromobenzene	108–86–1
Cyanazine	21725–46–2
p-Cymene (p-isopropyltoluene)	99–87–6
DCPA mono-acid degradate	887–54–7
DCPA di-acid degradate	2136–79–0
DDE	72–55–9
Diazinon	333–41–5
Dieldrin	60–57–1
Dimethoate	60–51–5
Disulfoton	298–04–4
Diuron	330–54–1
EPTC (s-ethyl-dipropylthiocarbamate)	759–94–4
Fonofos	944–22–9
Hexachloro-butadiene	87–68–3
Isopropylbenzene (cumene)	98–82–8
Linuron	330–55–2
Manganese	7439–96–5
Methyl bromide	74–83–9
Methyl-t-butyl ether (MTBE)	1634–04–4
Metolachlor	51218–45–2
Metribuzin	21087–64–9
Molinate	2212–67–1
Naphthalene	91–20–3
Nickel*	
Nitrobenzene	98–95–3
Organotins	
Prometon	1610–18–0
RDX	121–82–4
Rhodamine WT	
Sodium	7440–23–5
Sulfate*	
Terbacil	5902–51–2
Terbufos	13071–79–9
Vanadium	7440–62–2
Zinc	7440–66–6
Microbiological Contaminants:	
Acanthamoeba (guidance expected for contact lens wearers)	
Adenoviruses	
Aeromonas hydrophila	
Caliciviruses	
Coxsackieviruses	
Cyclospora cayetanensis	
Echoviruses	
Helicobacter pylori	
Hepatitis A virus	
Legionella (in ground water)	
Microsporidia (Enterocytozoon & Septata)	
Mycobacterium avium intracellulare (MAC)	
Toxoplasma gondii	

*Included on the CCL as special cases, not subject to the criteria used to identify other contaminants.

III. Identification of Contaminants for the Draft Drinking Water Contaminant Candidate List

Drinking water contamination generally occurs from: (1) Contaminants that find their way into drinking water sources from industrial waste releases, agricultural runoff, atmospheric deposition, and other pollution sources; (2) contaminants formed during the treatment of water supplies (e.g., disinfection by-products); and (3) materials used for treatment, storage, and distribution of water. EPA has considered all of these sources in identifying microbiological and chemical contaminants for this draft CCL. Figure 1 provides a graphical representation of how today's draft CCL was developed.

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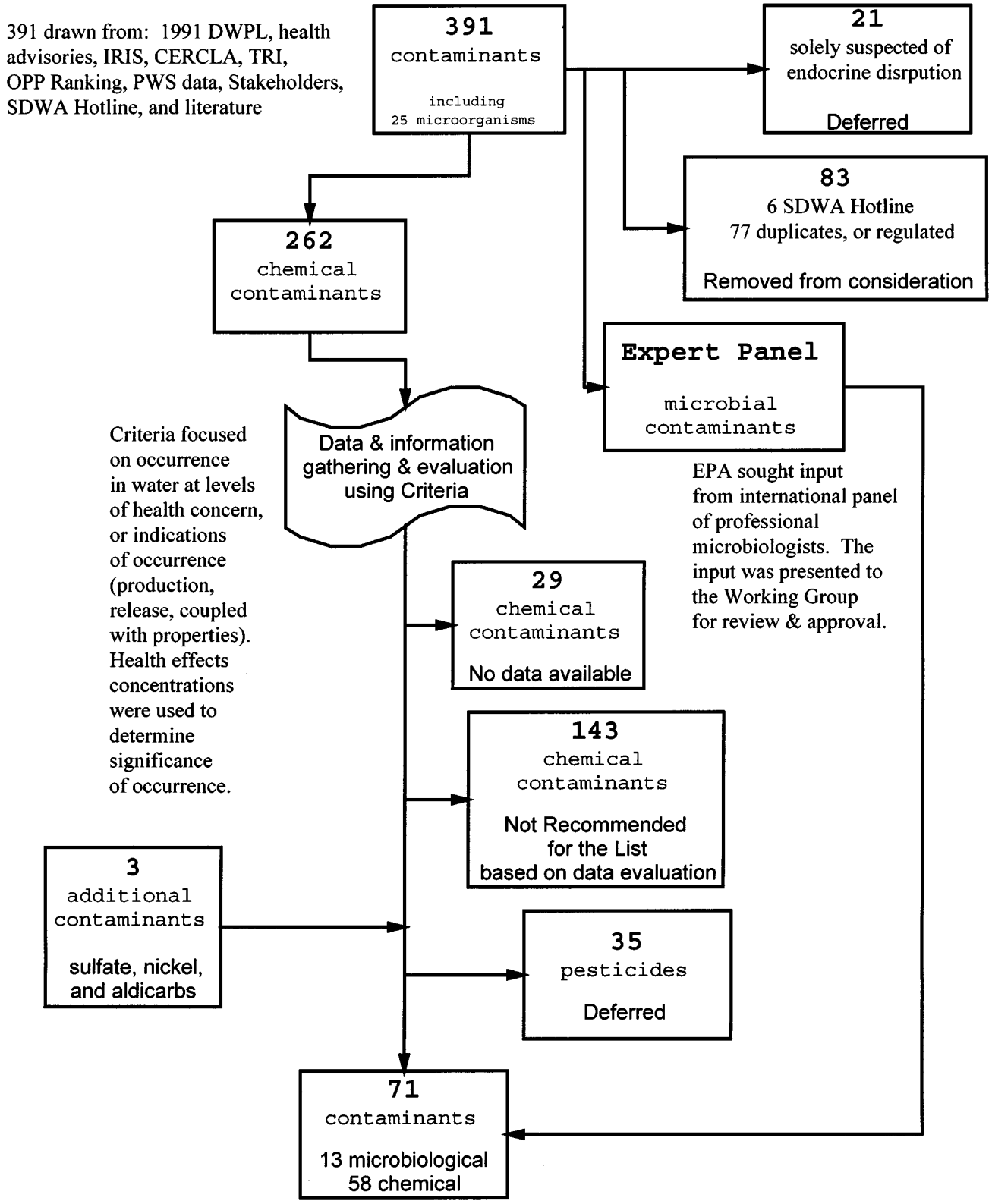
Figure 1. Illustration of Decision Tool Used to Develop the Draft Contaminant Candidate List



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The National Drinking Water Advisory Council's (NDWAC) Working Group on Occurrence & Contaminant Selection played an integral part in the development of the CCL by providing recommendations for the criteria, and the contaminants for initial consideration. Also, during the development of the CCL, the Agency sought the expertise of microbiologists for input on microorganisms to include on the CCL. The following sections describe the role of the NDWAC Working Group and describe the approach used to develop the CCL for microorganisms and chemical contaminants.

A. Role of NDWAC Working Group

After enactment of the recent SDWA amendments, and in keeping with the redirection strategy, EPA held its first stakeholder meeting on approaches to developing CCLs on December 2 and 3, 1996 in Washington, D.C. Participants, including public water system professionals, state regulatory officials, public health officials, environmental groups and other stakeholders, with a range of interests, explored issues concerning the identification of potential drinking water contaminants for consideration for the first CCL as well as the factors to consider for future CCL development. One result of the meeting was the recommendation that the February 1998 CCL be the first topic addressed by the NDWAC Working Group on Occurrence & Contaminant Selection.

In 1975, pursuant to the SDWA [Section 1446(a)], NDWAC was established under the Federal Advisory Committee Act to provide practical and independent advice, consultation, and recommendations to EPA on the activities, functions and policies related to the SDWA. At its meeting held on November 13 and 14, 1996, NDWAC decided that working groups should be formed on the following subjects: Small Systems Capacity Building; Operator Certification; Source Water Protection; Consumer Confidence Reports; Drinking Water State Revolving Fund; and Occurrence & Contaminant Selection. The NDWAC Occurrence & Contaminant Selection Working Group has been integral to developing the criteria and identifying contaminants for the draft CCL published today.

At the recommendation of the Working Group, the Agency sought expertise on microbiological contaminants and convened a workshop of microbiologists. The input from the workshop was adopted by the Working Group for use in developing the draft CCL. The approach used to identify microorganisms for the CCL is explained in more detail in section III.B.

In addition to microorganisms, the Working Group developed recommendations on chemical contaminants. The recommendations addressed which contaminants to include for initial consideration, and the criteria for use in determining which contaminants should be included on the draft CCL. The recommendations were developed over a series of meetings with the Working Group followed by the endorsement by the full NDWAC. The details concerning the contaminants included for initial consideration, and development and use the identification criteria are contained in section III.C.

B. Microbiological Contaminants Identified for the Draft CCL

On May 20–21, 1997, EPA utilized a workshop on microbiology and public health to develop a list of pathogens for possible inclusion on the first CCL. Taking part in this workshop were invited experts representing academia, EPA and other federal agencies, and the water industry. In preparation, EPA scientists prepared and distributed a list of microorganisms for initial consideration by workshop members (see Table 2.). Inclusion of organisms on this initial list was based on disease outbreak data, published literature documenting the occurrence of known or suspected pathogens in water, and other information. A summary of the workshop proceedings is in the docket.

Table 2. Initial List of Microorganisms Developed by EPA for Consideration by the Workshop on Microbiology and Public Health

Protozoa

Microsporidia
Toxoplasma
Cyclospora
Acanthamoeba
Naegleria
Isospora

Viruses

Hepatitis E
Astroviruses
Coxsackie/Echo viruses
Adenovirus 40/41
Norwalk virus and other caliciviruses
Rotavirus

Bacteria

Helicobacter pylori
Mycobacterium (MAC)
E. coli O157:H7
Aeromonas hydrophila
Pseudomonas aeruginosa
Acrobacter
Campylobacter

Algal Toxins

Anaebaena flos-aquae
Aphanizomenon flos-aque
Microcystis aeruginosa
Schizothrix calcicola

Workshop participants established a set of baseline criteria for deciding whether an organism should appear on the CCL. These criteria were (1) public health significance, (2) known waterborne transmission, (3) occurrence in source water, (4) effectiveness of current water treatment, and (5) adequacy of analytical methods. Organisms on the EPA list mentioned above, as well as other organisms that arose during the discussions, were evaluated against these criteria.

The CCL published today includes the list of pathogens identified by the workshop and subsequently adopted by the NDWAC as recommendations for the CCL. Algal toxins were considered to be of minimal public health significance, and therefore were not included on the draft CCL. The following sections identify the organisms selected, the rationale for why a pathogen was included on the CCL, and the rationale why certain pathogens were not included.

1. Protozoa

The following protozoa are included on the CCL: *Cyclospora cayetanensis, Toxoplasma gondii,* the two microsporida—*Enterocytozoon* and *Septata,* and *Acanthamoeba.* It is recommended that EPA develop guidance for controlling *Acanthamoeba,* for individuals who wear contact lenses. The rationale for their selection follows.

C. cayetanensis has caused waterborne outbreaks in other countries and one documented outbreak in the U.S. Thus, it may be a significant public health risk. Disease symptoms include watery diarrhea, abdominal cramping, decreased appetite, and low-grade fever (Huang et al., 1995). In HIV-infected persons, the disease may be chronic and constant (Soave and Johnson, 1995). The occurrence of this organism in natural waters and its animal host range are unknown. However, *C. cayetanensis* is transmitted by the fecal-oral route, and so its presence in water is likely. The morphology of *C. cayetanensis* suggests that the organism is relatively resistant to disinfectants, but due to its large size (7–10μm in diameter) it may be removed satisfactorily by filtration. *Cyclospora* is included on the CCL because it has caused waterborne disease outbreaks in the U.S. and other countries.

Toxoplasma gondii causes a common infection of mammals and birds, but the complete life cycle only occurs in wild

and domestic cats. The organism infects a high percentage of the human population (50 percent in some areas of the U.S.) but, while subclinical infections are prevalent, illness is rare (Fishback, 1992). However, illness may be severe in fetuses and AIDS patients. Symptoms include fever, swelling of lymph glands in the neck, blindness and mental retardation in fetuses, and encephalitis in AIDS patients (Fishback, 1992). There have been two documented outbreaks of toxoplasmosis—in Panama and British Columbia—both linked epidemiologically to drinking water. Chlorination of unfiltered surface waters is not effective against *Toxoplasma* (Benenson et al., 1982). However, due to their large size (11x12µm), filtration may be effective in controlling this organism. *Toxoplasma* is included on the CCL because it poses a significant public health risk, can be transmitted via the waterborne route, and because a reasonable potential exists for completing the needed research in the next few years for controlling this organism.

Microsporidia are a large group of protozoan parasites that are common in the environment and multiply only inside cells (Cali, 1991). Five species of microsporidia have been reported to cause disease in humans, but only two are significant in water: *Enterocytozoon bieneusi* and *Septata intestinalis*. Both are common in people with AIDS (Goodgame, 1996) and occur chiefly in AIDS patients (Bryan, 1995), although infections have been reported in otherwise healthy persons (Weber et al., 1994). Symptoms may include diarrhea (sometimes severe and chronic), and illness involving the respiratory tract, urogenital tract, eyes, kidney, liver or muscles (Bryan, 1995; Goodgame, 1996; Cali, 1991).

Microsporidia that infect humans produce small (1–5µm), very resistant spores (Waller, 1979; Cali, 1991). They are shed in bodily fluids, including urine and feces, and thus have a strong potential to enter water sources. However, no waterborne outbreak has yet been reported and there is no published evidence of waterborne transmission. Chlorine is probably not effective against microsporidia, given that other protozoan spores (cysts, oocysts) are resistant to chlorine. Thus, effective filtration and watershed control may be needed to control this organism in drinking water. *E. bieneusi* and *S. intestinalis* are included on the CCL because they pose a significant risk to immuno-compromised individuals and may not be removed effectively by filtration because of their small size (the spores are somewhat smaller than *Cryptosporidium oocysts*).

Acanthamoeba are a group of free-living amoeba that are common in soil and water, including drinking water (Sawyer, 1989; Gonzalez de la Cuesta et al., 1987). Some *Acanthamoeba* species are pathogenic and can cause inflammation of the eye's cornea (especially in individuals who wear soft or disposable contact lenses (Seal et al., 1992)), and chronic encephalitis in the immuno-compromised population (Kilvington, 1990). To date, no case of waterborne disease has been reported. However, *Acanthamoeba* cysts are relatively resistant to chlorine (De Jonkheere and Van der Voorde, 1976). Because drinking water is not a suspected route of transmission, workshop members did not include *Acanthamoeba* on their list. However, as stated above, the Workshop participants and the NDWAC recommend that EPA issue guidance to educate the public about the potential problem with contact lenses.

Two protozoa that were on the initial list for consideration developed by EPA (*Naegleria fowleri, Isospara belli*), and two that were not (*Entamoeba histolytica, Blastocystis hominis*) were also considered by the workshop, but were not included on the CCL. The reasons for excluding them follow.

N. fowleri is a free-living amoeba, about 8–15µm in size, found in soil, water, and decaying vegetation. Although it is common in many surface waters, it rarely causes disease. All disease incidents have been associated with swimming in natural or manmade, warm fresh waters; drinking water is not a suspected route of transmission. The route of infection is via inhalation rather than by ingestion. For this reason, it was not included on the CCL.

I. belli causes gastrointestinal illness, primarily in AIDS patients and children. There have been no documented cases of waterborne transmission. However, the organism is transmitted by the fecal-oral route, so its presence in water is possible. Filtration is probably effective in removing *I. belli* oocysts, given their large size (30x12µm). This organism was not included on the CCL because of the lack of documentation on waterborne transmission and the belief that not enough is known about the organism for developing potential regulations within a three-year time-frame.

E. histolytica is not considered to be a significant health problem in the U.S. In contrast to the situation for *Giardia* and *Cryptosporidium*, animals are not host reservoirs for *E. histolytica*. Thus, the potential for source water contamination is relatively low, especially if sewage treatment practices are adequate. Moreover, the organism has not caused a significant waterborne disease outbreak since the early 1950s. Thirdly, the cyst is large (10–15µm), slightly larger than a *Giardia* cyst; thus, filtration should be effective for removing this organism. For these reasons, this organism was not included on the CCL.

B. hominis was not included on the CCL because its clinical significance has not been determined and very little is known about its potential for waterborne transmission or its occurrence in water.

2. Viruses

The following viruses are included on the CCL: caliciviruses, adenoviruses, coxsackieviruses, echoviruses, and the hepatitis A virus. The rationale for their inclusion follows.

The caliciviruses are a common cause of acute, but mild, gastrointestinal illness in the U.S. Between 1980 and 1994, 14 waterborne disease outbreaks with more than 9,000 associated cases caused by the Norwalk virus and other caliciviruses were reported. Thus, their public health significance is high. However, because adequate recovery and assay methods for the caliciviruses are not yet available, information about the occurrence of these viruses in water or the effectiveness of water treatment is lacking. It is believed that current research programs might fill the research gap in the near-term to allow development of regulations, if necessary, to control this group of organisms.

Most of the adenoviruses are respiratory pathogens. However, serotypes 40 and 41 are important causes of gastrointestinal illness, especially in children. However, all types may be shed in the feces, and may be spread by the fecal-oral route. Although adenoviruses have been detected in water, data on their occurrence in water are meager. No drinking water outbreaks implicating these viruses have been reported. Both the respiratory and gastrointestinal adenoviruses are recommended for the CCL because of their high public health significance and data which suggest that adenoviruses are relatively resistant to disinfectants.

The coxsackieviruses are readily found in wastewater and surface water, and sometimes in drinking water (Hurst, 1991). Although they have not caused a documented outbreak of waterborne disease, coxsackieviruses produce a variety of illnesses in humans, including the common cold, heart

disease, fever, aseptic meningitis, gastrointestinal problems, and many more, some of which can be serious (Melnick, 1992). Coxsackieviruses are included on the CCL because they are found more frequently in water than other viruses and are associated with a number of illnesses.

The echoviruses, like the coxsackieviruses, are readily detected in water, including treated drinking water. They are associated with milder illnesses than the coxsackieviruses, and have not caused a documented outbreak. Echoviruses are included on the CCL because, like the coxsackieviruses, they are found more frequently in water than other viruses and are associated with a number of illnesses.

The hepatitis A virus has caused at least 11 waterborne disease outbreaks of infectious hepatitis since 1980. Therefore, it has a high public health significance. The virus has been found in contaminated drinking water, and is somewhat resistant to chlorination (Peterson et al., 1983). For these reasons, it is also included on the CCL.

Three viruses that were on the initial list for consideration developed by EPA (rotaviruses, hepatitis E virus, and astroviruses) and two that were not (picobivirna and picotrivirna) were also considered by the workshop participants, but were not included on the CCL. The reasons for not including them follow.

Rotaviruses cause acute gastroenteritis, primarily in children. Almost all children have been infected at least once by the age of five years (Parsonnet, 1992), and in developing countries, rotavirus infections are a major cause of infant mortality. Rotaviruses are spread by fecal-oral transmission and have been found in ambient water, ground water, and tap water (Gerba et al., 1985; Gerba, 1996). However, only a single waterborne disease outbreak has been reported in the U.S. and only several have been documented outside the U.S. (Gerba et al., 1985). Rotaviruses are readily inactivated by chlorine, chlorine dioxide, and ozone, but apparently not by monochloramine (Berman and Hoff, 1984; Chen and Vaughn, 1990, Vaughn et al., 1986; 1987). Rotaviruses were not included on the CCL because they are not regarded as an important public health problem in the U.S., and because of their vulnerability to disinfectants.

Hepatitis E virus is an important agent of hepatitis in underdeveloped countries, but apparently not in the U.S. The virus is transmitted by the fecal-oral route (Dreesman and Reyes, 1992) and probably a majority of cases are waterborne. Even though the disease is apparently not a health concern in the U.S., one investigation found that 21.3% of blood donors in Baltimore were sero-positive (Thomas et al., 1997), suggesting previous exposure to the organism. Infections are mild and self-limiting except for pregnant women, who have a fatality rate of up to 39%. No data from disinfection studies have been published. Hepatitis E virus was not included on the CCL because it is not regarded as a significant public health threat in the U.S., and because current sewage treatment practices are judged sufficient to eliminate risk of waterborne transmission.

Astroviruses are found throughout the world and cause illness in 1–3 year old children and in AIDS patients, but rarely in healthy adults (Kurtz and Lee, 1987; Grohmann et al., 1993). Symptoms are mild and typical of gastrointestinal illness, but the disease is more severe and persistent in the severely immuno-compromised. Astroviruses are transmitted by the fecal-oral route and have been detected in water and have been associated anecdotally with waterborne disease outbreaks (Cubitt, 1991; Pinto et al., 1996). The astroviruses were not included on the CCL because of the mildness of the illness and the lack of adequate documentation about the occurrence in water and potential as a waterborne disease agent.

The picobivirna and picotrivirna viruses are of public health significance outside the U.S., and are not regarded as being a waterborne problem in the U.S. and are adequately removed from effluent water by current sewage treatment practices. Picobivirna and picotrivirna viruses were not included on the CCL for these reasons.

3. Bacteria

The following bacteria are included on the CCL: *Helicobacter pylori, Legionella, Mycobacterium avium* complex, and *Aeromonas hydrophila.* The rationale for their identification follows.

H. pylori has been closely associated with peptic ulcers, gastric carcinoma, and gastritis (Peterson, 1991; Nomura et al., 1991; Parsonnet et al., 1991, Cover and Blaser, 1995). Data about its distribution in the environment are scarce, but the organism has been found in sewage (Sutton et al., 1995) and has been linked to ambient water and drinking water by epidemiological tests and other means (Klein et al., 1991; Shahamat et al., 1992; Shahamat et al., 1993; Hulten et al., 1996). The number of people in the U.S. that have antibodies against *H. pylori,* and thus have been exposed to the organism, is high. *Helicobacter* is thought to be vulnerable to disinfectants. *H. pylori* is included on the CCL because of its public health significance in the U.S. and the possibility of waterborne transmission.

Legionella pneumophila and other *Legionella* species cause Legionnaires Disease (a type of pneumonia) and Pontiac Fever (a mild, nonpneumonic illness). Legionnaires Disease, which has a 15% mortality rate, typically results from the inhalation of aerosols of water containing the organism. *Legionella* are abundant and naturally occurring in surface water; thus they are not necessarily associated with fecal contamination. They have also been detected in ground water. Small numbers can occur in the finished waters of systems employing full treatment (U.S. EPA, 1989b) and can colonize plumbing systems, especially warm ones. Aerosols from fixtures, such as showerheads, may cause the disease via inhalation. Aerosols from cooling towers, hot tubs, and pools have also caused a number of outbreaks. Direct person-to-person spread has not been documented (Yu et al., 1983). Ozone, chlorine dioxide, and ultraviolet light are effective in controlling *Legionella,* but data for chlorine are inconsistent (States et al., 1990). *Legionella* in surface water are already regulated under EPA's Surface Water Treatment Regulations (40 CFR part 141, subpart H). *Legionella* in ground water is included on the CCL because of their public health significance in the U.S. and the possibility of waterborne transmission via ground water.

Mycobacterium avium complex (MAC; also known as the *Mycobacterium avium intracellulare* complex) is common in the environment and can colonize water systems and plumbing systems (du Moulin and Stottmeier, 1986; du Moulin et al., 1988). It is known to cause pulmonary disease and other diseases, especially in individuals with a weakened immune system (e.g., AIDS patients). Drinking water has been epidemiologically linked to infections in hospital patients (du Moulin and Stottmeier, 1986). MAC is relatively resistant to chlorine disinfection (Pelletier et al., 1988). MAC is included on the CCL because of its high public health significance, its ability to colonize on pipes, and its relative resistance to chlorine.

Aeromonas hydrophila can cause wound infections and septicemia in people with a weakened immune system, and some evidence suggests that it causes gastrointestinal disease in

healthy people. The organism is common in water and is not necessarily associated with fecal contamination. It is vulnerable to disinfectants. *A. hydrophila* is included on the CCL primarily because it is common in source water.

Pseudomonas aeruginosa is a free-living bacterium that is common in water. People at risk include patients with profound neutropenia, cystic fibrosis, severe burns, and those with foreign devices installed (Hardalo and Edberg, 1997). The organism has also caused numerous outbreaks of dermatitis in recreational waters, e.g., pools, whirlpools, and hot tubs (Kramer et al., 1996). Because of differing opinions among the microbiologists who participated in the workshop about its public health significance and its potential health risk via the waterborne route, a decision could not reach on whether to include *P. aeruginosa* on their list. Rather, it was recommended that EPA conduct a complete literature search on the topic before the Agency decides whether to include this organism on the final list. The literature search will be conducted prior to publishing the final CCL.

Four bacteria that were on the initial list for consideration developed by EPA (*Escherichia coli* O157:H7, *Campylobacter, Arcobacter,* and the cyanobacteria) and four that were not (*Salmonella, Shigella, Vibrio cholerae* and other *Vibrio* species, and *Yersinia enterocolitica*) were also considered by the workshop, but were not included on the CCL. The reasons for excluding them follow.

E. coli O157:H7, *Campylobacter, Salmonella, Shigella, V. cholerae,* and *Y. enterocolitica* have all caused waterborne disease in the U.S. and are regarded as significant health risks. They were not included on the CCL because current treatment practices were deemed to be adequate in controlling these organisms. *Arcobacter* was not included on the CCL because its health significance and the possibility of waterborne transmission are unknown, and because current treatment practices were judged likely in controlling this organism.

Cyanobacteria (also known as blue-green algae) are generally not considered an important health risk. However, certain species may produce neurotoxins (which affects the nervous system), hepatotoxins (which affects the liver), and other types of toxins which, if ingested at high enough concentrations, may be harmful. High concentrations of toxins associated with a bloom of *Schizothrix calcicola* may have been responsible for an outbreak of gastroenteritis in 1975 (Lippy and Erb, 1976). However, little evidence exists that ambient levels found in most water supplies pose a health risk to the normal population. The cyanobacteria was not included on the CCL because the problem is thought to be best handled through good watershed management practices to prevent algal growth in source waters.

4. Microbiological Indicators

Indicators of fecal contamination or of pathogens were not addressed at the workshop. EPA is involved, however, in a project with the International Life Sciences Institute to begin an evaluation of which microbiological indicators are most appropriate for various types of environmental waters. Currently, the Agency uses total coliform bacteria as the sole indicator of microbiological drinking water quality.

5. Future Activities Planned for Microbiological Contaminants and the CCL

EPA is attempting to develop a more formal framework for identifying, selecting and prioritizing pathogens (and their indicators) for research and possible regulation, and for future CCLs. To date, the identification of pathogens for the CCL has been relatively informal. In contrast, a more objective approach for contaminant identification and selection in the future may be based on a numerical scoring procedure such that contaminants with higher scores would have greater priority for regulation, research and guidance development than those that have lower scores.

6. Possible Impacts From Other Regulatory Activity

Pathogens that are included on the final CCL, will be candidates for regulatory control, guidance development, and additional research over the next five years. These organisms may be controlled, however, by regulations currently under development such as the Enhanced Surface Water Treatment Rule, the Ground Water Disinfection Rule. If pathogens on the CCL are determined to be controlled by these regulations, they will be withdrawn from the CCL.

C. Chemical Contaminants Identified for the Draft CCL

As stated earlier, the NDWAC Working Group on Occurrence & Contaminant Selection played an integral part in developing the draft CCL presented in today's notice. At the initial Working Group meeting held on April 3–4, 1997, the Agency proposed a number of lists of contaminants as a logical starting point for developing the draft CCL. Some lists originate from other Agency programs, while others were developed in anticipation of future DWPLs. The Agency also proposed that the initial list would need to be reduced to a smaller list of priority contaminants that would become the CCL.

In April, the Working Group identified 32 contaminants thought to be those most important for inclusion on the first CCL, other contaminants for initial consideration, and criteria to be used to evaluate and screen all contaminants initially considered. During this April meeting, and two subsequent meetings, held on June 23 and July 17, 1997, the Working Group developed these recommendations which were approved by the full NDWAC, and subsequently adopted by the Agency, to use in screening the initial list to the contaminants to today's draft CCL. Summaries of the meetings are provided in the docket. The following sections provide the rationale for the initial list of contaminants considered and a summary of the development and application of the criteria used to evaluate the contaminants on the initial list to develop the draft CCL.

1. The Initial List of Chemical Contaminants Considered

Ten lists of chemical contaminants were considered to be logical starting points for developing the first CCL. Of the ten, eight lists were ultimately combined to serve as the initial list of contaminants to be considered for the CCL. Some contaminants appear on more than one of the eight lists. The initial list of contaminants considered, as well as those eliminated or deferred from consideration, are in Table 3. The following sections provide a description of each of the lists and the rationale behind including it with, or excluding it from, the initial list of contaminants considered.

TABLE 3.—INITIAL LIST OF CHEMICAL CONTAMINANTS CONSIDERED DURING DEVELOPMENT OF THE DRAFT CCL

Contaminant	CAS No.	Contaminant lists considered							
		1991 DWPL (1)	Health advisories (2)	IRIS (3)	PWS (4)	CERCLA (5)	Stake-holder summary list (6)	TRI list (7)	OPP rank-ing (8)
Contaminants Identified as Initial Candidates for the CCL during April 3–4, 1997 Working Group Meeting									
Inorganics:									
Aluminum	7429–90–5	✔	✔				✔	✔	
Zinc	7440–66–6	✔	✔					✔	
Pesticides:									
Acetochlor	34256–82–1		✔				✔		✔
Alachlor ESA							✔		✔
Butylate	2008–41–5		✔	✔					✔
Chlorpyrifos	2921–88–2		✔	✔			✔		
DCPA (Dacthal)	1861–32–1	✔	✔				✔		
DCPA di-acid degradate	2136–79–0	✔							✔
DCPA mono-acid degradate	887–54–7	✔							
DDE	72–55–9			✔		✔			
Diazinon	333–41–5		✔						✔
Diuron	330–54–1		✔				✔		✔
Endosulfan	115–29–7			✔			✔		✔
EPTC (s-ethyl-dipropylthio-carbamate)	759–94–4			✔					✔
Malathion	121–75–5		✔	✔D					
Methyl parathion	298–00–0		✔	✔					
Metolachlor	51218–45–2	✔	✔	✔			✔		✔
Metribuzin	21087–64–9	✔	✔	✔			✔		✔
Prometon	1610–18–0	✔	✔						✔
Propanil	709–98–8			✔					
Tebuthiuron	34014–18–1		✔						
Terbacil	5902–51–2		✔						✔
Triazines (total) (9)							✔		
Triazine degradation products (9), atrazine-desethyl	6190–65–4						✔		✔
Triazines (unregulated) (9)							✔		
Trifluralin	1582–09–8	✔	✔	✔					✔
Organics:									
2-methyl-Phenol (o-cresol)	95–48–7			✔					
Acetone	67–64–1			✔					
Ethylene glycol	107–21–1		✔	✔				✔	
Methyl ethyl ketone (MEK)	78–93–3	✔	✔				✔	✔	
Methyl-t-butyl ether (MTBE)	1634–04–4	✔	✔				✔	✔	
Nitrobenzene	98–95–3	✔		✔					
Phenol	108–95–2		✔	✔				✔	
Additional Contaminants Considered for the CCL									
Inorganics:									
Ammonia	7664–41–7		✔				✔	✔	
Ammonium nitrate	6484–52–2							✔	
Ammonium sulfamate	7773–06–0		✔						
Ammonium sulfate	7783–20–2		✔					✔	
Boron	7440–42–8	✔	✔						
Carbon disulfide	75–15–0							✔	
Carbonyl sulfide	463–58–1							✔	
Cobalt	7440–48–4							✔	
Hydrochloric acid	7647–01–0							✔	
Hydrogen fluoride	7664–39–3							✔	
Manganese	7439–96–5	✔				✔	✔	✔	
Metam-sodium	137–42–8			✔					
Molybdenum	7439–98–7	✔	✔						
Phosphoric acid	7664–38–2							✔	
Phosphorous	7723–14–0		✔			✔		✔	
Sodium	7440–23–5		✔						
Strontium	7440–24–6	✔	✔						
Vanadium	7440–62–2	✔	✔						
Pesticides:									
1,3-Dichloropropene (telone or 1,3-D)	542–75–6	✔	✔	✔			✔		✔
2,4,5-T	93–76–5	✔	✔						
2,4-DB	94–82–6								✔
2,4-DP	120–36–5						✔		

TABLE 3.—INITIAL LIST OF CHEMICAL CONTAMINANTS CONSIDERED DURING DEVELOPMENT OF THE DRAFT CCL—Continued

Contaminant	CAS No.	Contaminant lists considered							
		1991 DWPL (1)	Health advisories (2)	IRIS (3)	PWS (4)	CERCLA (5)	Stake-holder summary list (6)	TRI list (7)	OPP rank-ing (8)
4-Nitrophenol (p-Nitrophenol)	100–02–7	✔	✔						
Acephate	30560–19–1		✔				✔		
Acifluofen	50594–66–6	✔	✔				✔		✔
Aldrin	309–00–2		✔			✔			
Ametryn	834–12–8		✔				✔		✔
Amitraz	33089–61–1						✔		
Asulam	3337–71–1	✔							✔
Bensulfuron methyl									✔
Bentazon	25057–89–0	✔	✔						✔
Benzidine	92–87–5					✔			
Bromacil	314–40–9	✔	✔				✔		✔
Bromoxynil	1689–84–5			✔					✔
Cadre									✔
Caprolactum	105–60–2			✔					
Captan	133–06–2			✔					
Carbaryl	63–25–2		✔	✔					
Carboxin	5234–68–4		✔						
Chloramben	133–90–4		✔				✔		
Chlorimuron ethyl	90982–32–4								✔
Chlorothalonil	1897–45–6		✔	✔					
Chlorsulfuron	64902–72–3								✔
Clopyralid	1702–17–6						✔		
Cyanazine	21725–46–2	✔	✔	✔			✔		✔
Cyromazine	66215–27–8	✔					✔		
DDD	72–54–8					✔			
DDT	50–29–3			✔		✔			
Diazinon—oxypyrimidine									✔
Dicamba	1918–00–9	✔	✔				✔		✔
Dichlobenil	1194–65–6						✔		
Dieldrin	60–57–1		✔			✔	✔		
Dimethoate	60–51–5			✔			✔		
Dimethrin	70–38–2		✔						
Diphenamid	957–51–7		✔						
Disulfoton	298–04–4		✔			✔			
Endosulfan sulfate	1031–07–8					✔			
Ethalfluralin	55283–68–6								✔
Ethofumesate	26225–79–6						✔		
Ethoprop	13194–48–4						✔		
Ethylenethiourea (ETU)	96–45–7	✔	✔						✔
Fenamiphos	22224–92–6		✔				✔		✔
Fluazifop-p-butyl									✔
Fluometuron	2164–17–2		✔						✔
Fomesafen	72178–02–0	✔							
Fonofos	944–22–9		✔	✔			✔		
Halofenozide									✔
Halosulfuron									✔
Hexazinone	51235–04–2						✔		✔
Imazamethabenz	81405–85–8								✔
Imazapyr									✔
Imazaquin	81335–37–7								✔
Imazethapyr	81335–77–5						✔		✔
Imidacloprid							✔		
Lactofen	77501–63–4	✔							
Linuron	330–55–2			✔					
Maneb (ETU precursor)	12427–38–2			✔					
MCPA	94–74–6		✔				✔		
MCPP	93–65–2						✔		
Metalaxyl	57837–19–1	✔							
Methazole	20354–26–1								✔
Methomyl	16752–77–5	✔		✔			✔		
Metsulfuron methyl	74223–64–6						✔		✔
Molinate	2212–67–1			✔					
MSMA	2163–80–6								✔
Napropamide	15299–99–7						✔		
Nicosulfuron									✔
Norflurazon	27314–13–2						✔		✔

TABLE 3.—INITIAL LIST OF CHEMICAL CONTAMINANTS CONSIDERED DURING DEVELOPMENT OF THE DRAFT CCL—Continued

Contaminant	CAS No.	Contaminant lists considered							
		1991 DWPL (1)	Health advisories (2)	IRIS (3)	PWS (4)	CERCLA (5)	Stake-holder summary list (6)	TRI list (7)	OPP rank-ing (8)
Paraquat	4685–14–7		✔	✔					✔
Pendimethalin	40487–42–1			✔					✔
Primisulfuron methyl									✔
Prometryn	7287–19–6								✔
Pronamide	23950–58–5		✔						
Propachlor	1918–16–7		✔				✔		✔
Propargite	2312–35–8			✔					
Propazine	139–40–2		✔	✔					✔
Propham	122–42–9		✔						
Propiconazole	60207–90–1						✔		
Propoxur (Baygon)	114–26–1		✔						
Prosulfuron									✔
Pyrazon	1698–60–8						✔		
Pyrithiobac-Na									✔
Rimsulfuron									✔
Sethoxydim	74051–80–2								✔
Sulfentrazone									✔
Sulfometuron methyl	74222–97–2								✔
Tebufenozide									✔
Terbufos	13071–79–9		✔	✔			✔		
Terbufos sulfone									✔
Thiazopyr									✔
Thifensulfuron methyl	79277–27–3								✔
Thiodicarb	59669–26–0	✔							
Triallate	2303–17–5			✔					
Triasulfuron	82097–50–5						✔		✔
Triberuron methyl									✔
Vernolate	1929–77–7								✔
Organics:									
1,1,1,2-tetra-chloroethane	630–20–6	✔	✔						
1,1,1-trichloropropane			✔						
1,1,2,2-tetra-chloroethane	79–34–5	✔	✔						
1,1-dichloro-ethane	75–34–3	✔							
1,1-dichloro-propene	563–58–6	✔	✔						
1,2,3-trichloro-propane	96–18–4	✔	✔						
1,2,4-trimethylbenzene	95–63–6							✔	
1,2-diphenyl-hydrazine	122–66–7	✔							
1,3,5-trichlorobenzene	108–70–3		✔						
1,3-butadiene	106–99–0							✔	
1,3-dichloro-benzene	541–73–1	✔							
1,3-dichloropropane	142–28–9	✔	✔						
1,3-dichloropetan-3–OL,					✔				
1,3-dinitrobenzene	99–65–0		✔						
1,4-dioxane	123–91–1		✔	✔			✔	✔	
1,4-dithiane	505–29–3		✔						
1-methyl -2-Pyrrolidinone	872–50–4				✔				
2,2-dichloro-propane	594–20–7	✔	✔						
2,4,6-trichlorophenol	88–06–2		✔						
2,4-dichlorophenol	120–83–2		✔						
2,4-dinitrophenol	51–28–5	✔							
2,4-dinitrotoluene	121–14–2	✔	✔						
2,6-dinitrotoluene	606–20–2	✔	✔						
2,6-di-tert-butyl-p-benzoquinone (DTBB), (2,6-bis(1,1-dimethylethyl)2,5-cyclohexadiene-1,4-dione)	719–22–2				✔				
2-methanoxy ethanol	109–86–4							✔	
3-chloro-1-propene	107–05–1				✔				
4,4′-isopropylidenediphenol (bisphenol A)	80–05–7							✔	
4-methyl-Phenol (p-cresol)	106–44–5				✔				
Acetaldehyde	75–07–0							✔	
Acetamide	60–35–5				✔				
Acetonitrile	75–05–8							✔	
Acrylic acid	79–10–7							✔	
Acrylonitrile	107–13–1	✔	✔					✔	

TABLE 3.—INITIAL LIST OF CHEMICAL CONTAMINANTS CONSIDERED DURING DEVELOPMENT OF THE DRAFT CCL—Continued

Contaminant	CAS No.	Contaminant lists considered							
		1991 DWPL (1)	Health advisories (2)	IRIS (3)	PWS (4)	CERCLA (5)	Stake-holder summary list (6)	TRI list (7)	OPP rank-ing (8)
Aniline	62–53–3			✔					
Azulene	275–51–4				✔				
Benzaldehyde	100–52–7				✔				
Benzaldehyde, 3-hydroxy-	100–83–4				✔				
Benzamide, N-acetyl-	1575–95–7				✔				
Benzamide,N-ethyl-	614–17–5				✔				
Benzeneacetamide, N,N-di-methyl-a-phenyl-					✔				
Benzeneacetonitrile	140–29–4				✔				
Benzofluoranthene	56832–73–6					✔			
Bis-2-chloroisopropyl ether	39638–32–9		✔						
Bornyl acetate	76–49–3				✔				
Bromobenzene	108–86–1	✔	✔						
Catechol	120–80–9							✔	
Chlorodifluoromethane HCFC–22	75–45–6							✔	
Chlorophenol 2-	95–57–8		✔						
Creosote	8001–58–9					✔			
Cresol mixed isomers	1319–77–3							✔	
Cymene p-(p-isopropyltolunene)	99–87–6		✔						
Decabromodiphenyl oxide	1163–19–5							✔	
Dibenzo(a,h)anthracene	53–70–3					✔			
Dichloro CFC-114	76–14–2							✔	
Dichloro-difluoromethane	75–71–8	✔	✔				✔	✔	
DichloroHCFC141-b	171–00–6							✔	
Diethanolamine	111–42–2							✔	
Diisoamylene					✔				
Diisopropyl methylphosphonate	1445–75–6		✔						
Dimethyl methylphosphonate	756–79–6		✔						
Diphenylamine	122–39–4		✔						
Ethanone, 1-[4-(hydroxy-1-methylethyl) phenyl]-									
Ethyl ether	60–29–7			✔					
Ethylene	74–85–1							✔	
Fog oil			✔						
Formaldehyde	50–00–0		✔	✔				✔	
Formic acid	64–18–6							✔	
Freon 113	76–13–1							✔	
Glufosinate ammonium	77182–82–2						✔		
Glycol ethers	111–46–6							✔	
HCFC-11142-b								✔	
Hexachloro-butadiene	87–68–3	✔	✔			✔			
Hexachloroethane	67–72–1	✔	✔						
Hexanoic acid	142–62–1				✔				
Hexazinone	51235–04–2		✔						
HMX (cyclotetramethylene tetranitramine)	2691–41–0		✔						
Hydroperoxide, 1,1-dimethylethy	l75–91–2				✔				
Iron,tricarbonyl-[n-(phenyl-2-pyridinylmethylene)-benze namide-N,N					✔				
Isophorone	78–59–1	✔	✔						
Isopropylbenzene (cumene)	98–82–8		✔	✔				✔	
Isopropyl methyl-phosphonic acid	1832–54–8		✔						
Maleic hydrazide	123–33–1		✔						
Merphos oxide	78–48–8		✔						
Methane, tert-butoxyisopropoxy-					✔				
Methanol	67–56–1			✔				✔	
Methyl bromide	74–83–9								
Methyl isobutyl ketone (MIBK)	108–10–1	✔					✔	✔	
Methyl methacrylate	80–62–6							✔	
Methylene bis phenylisocyanate	101–68–8							✔	

TABLE 3.—INITIAL LIST OF CHEMICAL CONTAMINANTS CONSIDERED DURING DEVELOPMENT OF THE DRAFT CCL—Continued

Contaminant	CAS No.	Contaminant lists considered							
		1991 DWPL (1)	Health advisories (2)	IRIS (3)	PWS (4)	CERCLA (5)	Stake-holder summary list (6)	TRI list (7)	OPP rank-ing (8)
Other fuel oxygenates (TAME, DIPE, ETBE)	na						✔		
n-Butanol	71–36–3			✔				✔	
n-Hexane	110–54–3		✔						
Naphthalene	91–20–3	✔	✔				✔	✔	
nitro-Cyclopentane					✔				
Nitrocellulose	9004–70–0		✔						
Nitroglycerine	55–63–0							✔	
Nitroquanidine			✔						
o-Chlorotoluene	95–49–8	✔	✔						
Octatriene, 3,7-dimethyl-1,3,6-	13877–91–3				✔				
Organotins (tributyl, methyl tin, etc.)							✔		
P-Chlorotoluene	106–43–4	✔	✔						
Pentachloroethane	76–01–7		✔						
Propylbenzene n-	103–65–1		✔						
Propylene glycol	57–55–6						✔		
Propylene oxide	75–56–9							✔	
Rhodamine WT							✔		
RDX (cyclo trimethylene trinitramine)	121–82–4		✔						
Terbuthylazine	5915–41–3				✔				
Tetrahydrofuran	109–99–9	✔					✔		
Tetranitromethane (TNM)	509–14–8		✔						
Trichlorofluoromethane	75–69–4		✔						
Triethylbenzene	25340–18–5		✔						
Trinitrotoluene (TNT)	118–96–7		✔						
Vinyl acetate	108–05–4							✔	

1. 1991 Drinking water Priority List, but does not include disinfection by-products or crytosporidium for which regulations are being under the M/DBP rules.
2. Health Advisories developed under EPA's Health Advisory Program. Does not include contaminants regulated under the SDWA.
3. Contaminants from IRIS based on a risked-based screen developed by EPA.
4. Contaminants identified in public water systems samples as non-targets.
5. First 50 contaminants of the 1995 ATSDR Ranked CERCLA priority chemicals list.
6. Stakeholder Summary List consists of specific contaminants proposed as candidates by participants of EPA's December 2–3, 1997 Stakeholder Meeting on the Contaminant Identification Method.
7. The TRI List was derived from chemicals with significant health effects as found in IRIS.
8. The OPP Ranking is a ranking of pesticides from highest to lowest potential to leach to ground water.
9. Stakeholders requested that the Agency address tirazines as a class of contaminants including their degradates, as opposed to addressing them as individual contaminants.

a. 1991 Drinking Water Priority List. The SDWA, as amended in 1986, required EPA to publish a triennial list of priority contaminants, the DWPL, which may require regulation. The first list containing 53 contaminants/contaminant group was published on January 2, 1988 (53 FR 1892). Since none of the contaminants had been selected for regulation, EPA revised and updated the 1988 list three years later. The revised and updated list, published on January 14, 1991 (56 FR 1470), contained 50 substances carried over from the 1988 list and 27 new substances, bringing the total number of contaminants/contaminant groups to 77, including one microorganism.

In consideration of the statutory requirements and the time frame for rulemaking in the SDWA at the time, EPA used the following criteria to select contaminants for the DWPL: (1) occurrence or the potential occurrence of the substance in public water systems; (2) documented or suspected adverse health effects; and (3) the availability of sufficient information on the substance so that a regulation could be developed within the statutory time frame. The contaminants were selected from the following groups: disinfectants and their byproducts, the first group of 100 contaminants on the 1987 CERCLA priority list of hazardous substances (52 FR 12866), design analytes of the EPA National Pesticide Survey conducted between 1987–1990, pesticides with high potential for leaching in groundwater, substances recommended by the States and EPA regions, unregulated contaminants monitored under Section 1445 of the SDWA, and certain substances reported frequently and at high concentrations in drinking water. The selection of contaminants was made with the assistance of the DWPL workgroup which consisted of representatives from various programs within the Agency, the National Toxicology Program, the U.S. Geological Survey, and the Agency for Toxic Substances and Disease Registry.

For development of the draft CCL, the Agency selected contaminants from the 1991 DWPL that were not specifically addressed by other regulations under development. Thus, all contaminants specifically addressed by the disinfectants and disinfection byproducts regulation were eliminated from consideration.

b. Health advisories. The Health Advisories (HAs) are prepared for contaminants that have the potential to cause adverse human health effects and

which are known or anticipated to occur in drinking water, but for which no national regulations currently exist. Each HA contains information on the nature of the adverse health effects of the contaminant and the concentrations that would not be anticipated to cause an adverse effect following various periods of exposure. HAs also summarize available data on occurrence, pharmacokinetics, environmental fate, health effects, available analytical methods, and treatment techniques for the contaminant. HA concentration levels include a margin of safety to protect sensitive members of the population (e.g., children, the elderly, pregnant women).

The Office of Water Health Advisory Program was initiated to provide information and guidance to individuals and agencies concerned with potential risk from drinking water contaminants. HAs are used only for guidance and are not legally enforceable, and are subject to change as new information becomes available. For purposes of developing the draft CCL, all contaminants with HAs, or HAs under development, were considered.

c. Integrated Risk Information System. The Integrated Risk Information System (IRIS) is an EPA on-line database containing health risk and EPA regulatory information. IRIS lists chemicals of interest or concern for which the Agency has reached consensus regarding adverse health effects. When available, a reference dose (RfD) for non-cancer health effect resulting from oral exposure is reported with information about how the RfD was derived and any uncertainty regarding the source studies. An RfD is an estimate of a daily exposure to the human population that is likely to be without appreciable risk of adverse effect over a lifetime of exposure. For carcinogens, a carcinogenic assessment, or cancer potency factor, is reported for both oral and inhalation exposure. The cancer potency factor is the estimated risk to the human population of cancer effects over a lifetime of exposure.

In 1992, in anticipation of the next DWPL, the Agency developed a list of chemicals based on a risk-based screen of chemicals in IRIS. There were approximately 600 chemicals in the IRIS database in 1992, and 312 were selected for further screening. The 312 were chosen because they had defined toxicity via the oral route of exposure and did not have NPDWRs. The 312 chemicals were screened using the following categories: (1) using Storage and Retrieval (STORET) data, chemicals were identified with concentration in water that exceeded the drinking water equivalent level (DWEL) which was derived from the reference dose or cancer potency; (2) chemicals were identified that were produced in quantities exceeding one billion pounds per year; (3) pesticides were identified with use exceeding 1000 tons per year; and (4) chemicals were identified that were reported in the Toxic Release Inventory (TRI) database as discharged to surface water in excess of 100 tons per year. Sixteen chemicals met the STORET criteria; nine, the production criteria; 31, the pesticides criteria; and 6, the TRI criteria. A total of 48 individual chemicals were identified, and some were identified by more than one screen. All 48 contaminants were included on the initial list for consideration.

d. Non-Target Analytes in Public Water Supply Samples. In anticipation of the 1994 DWPL, the Agency consulted with analytical laboratories that routinely analyze samples for public water systems to determine what contaminants were occurring that were not currently regulated. A list of contaminants tentatively identified in 1991 from drinking water samples collected for compliance monitoring was developed. These contaminants, also referred to as non-targets analytes, are compounds identified by the spikes found on the chromatograph. The concentrations for these compounds were not measured. These non-target analytes represent the monitoring experience of several water systems with operations in various states. The contaminants included on the initial list for consideration are a subset of 23 contaminants chosen from the larger list of non-targets analytes. The 23 contaminants were chosen because they were considered to be related to possible anthropogenic sources.

e. CERCLA Priority List. In developing the CCL, the SDWA requires EPA to consider substances referred to in section 101(14) of the CERCLA. CERCLA requires the Agency for Toxic Substances and Disease Registry (ATSDR) to prepare a list in the order of priority of hazardous substances which are most commonly found at facilities on the CERCLA National Priority List (NPL).

In 1995, ATSDR developed a list of 275 hazardous substances ranked by the order of priority. (ATSDR, 1996) To develop this list, ATSDR considered 750 of 2800 substances present at NPL sites and ranked them based on the following three criteria, which were combined to result in a total score. These criteria were: (1) Frequency of occurrence at NPL sites, (2) toxicity, and (3) potential for human exposure. The number of NPL sites at which a substance was identified in any medium was used to indicate the frequency of occurrence. EPA's Reportable Quantity (RQ) was used to assess the toxicity of candidate substance. If a RQ was not available, the RQ methodology was applied to candidate substances to establish a Toxicity/Environmental Score. The human exposure component was based on two parts: the concentration of the substance in the environmental media and the exposure status of population. EPA included the top 50 substances from the 1995 CERCLA prioritized list of 275 substances for consideration for the draft CCL.

f. Stakeholder responses. In December 1996, the EPA convened its first stakeholder meeting on the contaminant identification process. At that meeting, EPA requested input on what contaminants to include on its first CCL. At the December meeting, and following, participants have provided input to the Agency on contaminants for inclusion on, or exclusion from, the CCL. Some stakeholders provided information on health effects or occurrence, or both, while others listed contaminants. All contaminants suggested by stakeholders were included for initial consideration except those which already had NPDWRs, or which were included under other regulatory activity mentioned in section VIII of this notice.

g. Toxic Release Inventory. Another source of available information which could serve as a predictor of anticipated occurrence in drinking water, is the TRI. This data base, established under the Emergency Planning and Community Right-to-Know Act of 1986, contains information from manufacturing facilities in the United States regarding transfers and releases of toxic and hazardous materials to air, ground and water. The most recent report analyzed data gathered for calendar year 1994 from 22 chemical categories and included 343 separate chemicals from 23,000 facilities which met certain thresholds requiring submission of data. (U.S. EPA, 1997c).

In order to assess the potential for a chemical to be a contaminant in public water systems, EPA conducted an analysis of the release and emissions data. Each of the four categories of emissions or discharges were assigned a threshold value above which the contaminant was deemed to fit within the criteria of the SDWA, as a contaminant anticipated to occur in public water systems. The threshold did not attempt to attribute differences in reactivity, solubility, mobility or

toxicity of the pollutants at this stage of the contaminant evaluation process, but involved simply determining a gross anticipation factor. If a contaminant was released via an on-site discharge to the environment, EPA judged that it was reasonable to anticipate it as a contaminant in public water systems to varying degrees, depending upon the media receiving the discharge.

The overall analysis of the above TRI criteria resulted in 58 chemicals from the various discharges meeting the criteria. Where a release was close to the threshold, it was included in the tally. Several chemicals met the criteria but were excluded because there is an existing standard (e.g., hydrofluoric acid—fluoride is regulated) or a standard under consideration (sulfuric acid—there is regulatory activity currently underway regarding sulfate). Other contaminants such as ammonia, hydrochloric acid, or methanol were not believed to represent a significant threat to drinking water due to limited persistence, leaving 51 contaminants. Of the 51 contaminants, 49 met the criteria for air release, 21 from stack emissions, 38 for fugitive emissions, 11 via underground injection, 13 from land release, and 30 for surface water releases. All 51 were included for initial consideration in Table 3.

h. Pesticides identified by Office of Pesticide Programs. In developing the CCL, the SDWA requires EPA the consider substances referred to in the FIFRA. During the development of the draft CCL, the Agency's Office of Ground Water and Drinking Water sought assistance from the Office of Pesticide Programs (OPP) in determining what pesticides should be priorities for the drinking water program. In response to the request, OPP provided recommendations for a number of pesticides. (U.S. EPA, 1997b) The list of pesticides, based on physical-chemical properties, occurrence and extent of use, was ranked using the Ground Water (GW) Risk score, a calculated potential to leach to ground water. Pesticides with a GW Risk of 2.0 or greater were included for initial consideration in developing the CCL (see Table 3).

However, later during the data evaluation and screening phase of the draft CCL development, the decision was made to defer some of the pesticides identified by the OPP GW Risk of 2.0 or greater. The pesticides in Table 4 include those where the GW Risk value of 2.0 or greater was the only factor for inclusion on the CCL. The decision was made, that for these cases, inclusion on the CCL would be deferred pending further evaluation of the potential of these pesticides to occur at levels of health concern. Many new pesticides for which no other data exists are included in Table 4.

Table 4. Pesticides Deferred

Asulam
bensulfuron methyl
bentazon
bromacil
Cadre
chlorimuron ethyl
chlorsulfuron
Diazinon—oxypyrimidine
Dicamba
Ethylenethiourea (ETU)
Fenamiphos
Fluometuron
Halofenozide
Halosulfuron
Hexazinone
Imazamethabenz
Imazapyr
Imazaquin
Imazethapyr
MCPA (Methoxone)
Methsulfuron methyl
Nicosulfuron
Norflurazon
Primisulfuron methyl
Prometryn
Propazine
Prosulfuron
Pyrithiobac-Na
Rimsulfuron
Sulfentrazone
Sulfometuron methyl
Tebufenozide
Terbufos sulfone
Thiazopyr
Triasulfuron

The Agency is working to develop a tool to estimate concentrations in ground and surface waters based on physical-chemical properties and pesticide use volumes, and then compare the estimated concentrations with health advisory levels or calculated health levels based on reference doses or cancer potency. The model is expected to be completed and available for use at the end of 1997, and at that time the Agency will reevaluate the inclusion for the additional pesticides on Table 4 on the CCL.

On August 4, 1997, EPA announced its schedule for reassessing tolerances for pesticide residues on raw and processed foods (62 FR 42020). Publication of this schedule was pursuant to the requirements, as established by the Food Quality Protection Act of 1996 (FQPA). Under this new law, EPA is required to reassess all existing tolerances and exemptions from tolerances for both active and inert ingredients. EPA is directed to give priority review to pesticides that appear to present risk concerns based on current data. Many of the pesticides included in today's notice are included among the first group of reassessments.

In reassessing tolerances, EPA must consider the aggregate exposure to the pesticide, including drinking water; cumulative effects from other pesticides with a common mode of toxicity; whether there is an increased susceptibility from exposure to the pesticide to infants and children; and whether the pesticide produces an effect in humans similar to an effect produced by a naturally occurring estrogen or other endocrine effects.

i. Safe Drinking Water Hotline. The Hotline provides information about EPA's drinking water regulations and other related drinking water and ground water topics to the public, the regulated community, and State and local officials. The Hotline assists callers with questions on the regulations and programs developed in response to the Safe Drinking Water Act, and inquiries about the levels and health effects of specific contaminants found in or suspected to be in drinking water from public water systems and private wells, and handles requests for drinking water publications (fact sheets, pamphlets, health advisories, etc.). The Safe Drinking Water Hotline receives hundreds of calls each week, and a large percentage of the calls come from private citizens, consultants, educators, researchers, and health care professionals from across the country. The Hotline provided a list of contaminants that were not currently regulated or proposed for regulation for which callers had expressed concern or interest (see Table 5).

Table 5. Contaminants Identified by the Safe Drinking Water Hotline

Calcium
Phosphates
1,1,1-dichloroethane
Gasoline
Perchlorate
Total Petroleum Hydrocarbons

The Hotline did not ascertain if the calls were due to a general question or inquiry, or if they were related to a contamination incident. At the April 3–4, 1997 Working Group meeting, the decision was made not to include the Hotline list for initial consideration, and that a list from the Hotline would only be useful if it captured concerns or reports of contamination.

The Agency will attempt to capture Hotline inquiries concerning contamination incidents for future CCL development. Perchlorate, a contaminant discussed later in this notice, probably should have been

included for initial consideration. The fact that perchlorate was on the Hotline list, and no other, may indicate that such a list from the Hotline could be useful if the nature of the inquiry can be recorded.

j. Endocrine disruptors. A list of contaminants was developed which included those suspected of having adverse effects on endocrine function (see Table 6). For several years, the Agency has been concerned that chemicals may be disrupting the endocrine (i.e., hormonal) systems of humans and wildlife. It has also been hypothesized that endocrine disruption might result in cancer, harm to male and female reproductive systems, thyroid damage, or other adverse consequences. In February 1997, EPA issued an assessment and analysis of this concern (U.S. EPA, 1997a). The report represents an interim assessment pending a more extensive review expected to be issued by the National Academy of Sciences (NAS) later this year.

Table 6. Contaminants Identified as Suspected of Endocrine Disruption

Amitrole
Benomyl
Dicofol (Kelthane)
Esfenvalerate
Ethylparathion
Fenvalerate
Kepone
Mancozeb
Metiram
Mirex
Nitrofen
Oxychlordane
Parathion
Permethrin
Synthetic pyrethroids
Transnonachlor
Tributyltin oxide
Vinclozolin
Zineb
Ziram
Octachlorostyrene
PBBs
Penta- to nonyl-phenols

In brief, the report found that while effects have been found in laboratory animal studies, a causal relationship between exposure to a specific environmental agent and an adverse health effect in humans operating via endocrine disruption has not been established, with a few exceptions. The exceptions include incidents of chemical exposure in the workplace and exposure to the drug DES. Further research is needed before such effects can be demonstrated.

Under the SDWA, as amended, the Agency is also required to establish a program to screen endocrine disrupting contaminants. Additional authority to assess endocrine disruptors is also provided through the recently enacted FQPA. EPA's Office of Prevention, Pesticides, and Toxic Substances (OPPTS) has the Agency lead on endocrine disruptor screening and testing issues. OPPTS is actively engaged in research and regulatory initiatives to respond to the growing scientific and public concern over endocrine disruptors.

The Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC) has been established to provide advice and counsel to the agency in implementing a screening and testing strategy required under the FQPA and SDWA. EDSTAC is composed of a balanced representation from industry, government, environmental and public health groups, labor, academia, and other interested stakeholders. During its deliberations, the Committee will consider human health, ecological, estrogenic, androgenic, anti-estrogenic, anti-androgenic, and thyroid effects of pesticides, industrial chemicals, and important mixtures. EDSTAC will complete its recommendations for a screening and testing strategy by March, 1998. The recommendations will be peer reviewed jointly by the SAB and the FIFRA Scientific Advisory Panel.

EPA is also involved in concurrent effort to coordinate activities with the European Union, the Organization of Economic and Community Development, and the United Nations Environmental Program concerning global research programs, and international harmonization of endocrine disruptor screening and testing methods for chemicals and pesticides.

As a result, pending completion of the EDSTAC's recommendations and the additional review of endocrine disruptors by the NAS, EPA has not included contaminants for initial consideration for the draft CCL based solely on the possibility of endocrine disruption (although several contaminants implicated as endocrine disruptors were considered for other reasons). The Agency will continue to follow this issue closely and reconsider this category of potential contaminants in the development of future CCLs.

2. Development and Application of the Criteria

Criteria were developed by the NDWAC Working Group for use in screening and evaluating chemical contaminants for the draft CCL, with the exception of aldicarbs, nickel, and sulfate which are discussed in section III.C.3. The general premises of the criteria were: (1) The contaminants included for initial consideration be those on EPA's initial list, without NPDWRs, and (2) that occurrence, or anticipated occurrence, of the contaminant be evaluated first, before evaluating its health effects information. The criteria, presented below, were used to screen and evaluate chemical contaminants for the purpose of developing today's draft CCL. Data used to evaluate and screen contaminants were obtained from STORET, the Hazardous Substances Database (HSDB), IRIS, published literature, and various EPA reports and documents. The data used in the evaluation and screening are included in the docket for today's notice.

These criteria, as well as the conceptual approach to the Contaminant Identification Method (CIM) presented in the December 2–3, 1996 Stakeholders meeting, will serve as the basis for developing a more robust contaminant identification method for future CCL development. The search results on each element of the criteria for contaminants considered during the development of the CCL can be found by using the Occurrence Table, the Health Table, and the Comments Table included in the docket for today's notice.

a. Criteria for occurrence. For the occurrence portion of the criteria, an affirmative response to any of the following elements would result in moving to the health portion of the criteria for further consideration. If all of the occurrence elements had a negative response, the contaminant was eliminated from further consideration. The two main elements to the occurrence portion of the criteria were as follows: (1) Was the contaminant looked for and found in drinking water, or in a major drinking water source, or in ambient water at levels that would trigger concern about human health? (2) if the contaminant was not looked for, is it likely to be found in water based on surrogates for occurrence?

To judge whether a contaminant was looked for and found in drinking water, according to the criteria, it would need to be included in a major survey which was defined as one which included a population of 100,000 or more, 2 or more states, or 10 or more small public water systems, or a data set such as EPA's Unregulated Contaminants Database. To judge whether a contaminant was looked for and found in a major drinking water source, or in ambient water, any source of occurrence data could be used. A source of drinking water was considered to be major if it supplied a population of 100,000 or

more, or 2 or more states. Levels that would trigger concern about human health were defined as concentrations in samples within an order of magnitude of the level that is likely to cause health effects, or at least ½ of samples at 50% of level that is likely to cause health effects. Contaminants were considered to have met the criteria if the data available indicated occurrence at a population of 100,000 or more; or in 2 or more states; or in 10 or more small public water systems at levels that would trigger concern about human health.

If the contaminant was not looked for using the data available, it was evaluated to determine if it was likely to be found in water based on surrogates for occurrence. The elements considered as surrogates for occurrence included: TRI releases, or production volumes, coupled with physical-chemical properties, or the OPP GW Risk value. In order for a contaminant to meet this criterion as likely to be found in water using TRI, the release to surface water was in excess of 400,000 pounds per year, and the physical-chemical properties indicated persistence & mobility of the contaminant. The quantity of 400,000 pound per year was based on the top 15 TRI chemicals with the largest discharges to surface water as reported in 1995. In order for a contaminant to meet this criterion as likely to be found in water using production, the volume was in excess of 10 billion pounds per year, and physical-chemical properties indicated persistence and mobility.

For a contaminant to meet this criteria as likely to be found in water using OPP GW Risk, the value was 2.0 or greater. However, late during the data evaluation and screening phase of the CCL development, the decision was made to defer contaminants identified under this element until a more in-depth analysis could be performed that would include risk to both surface and ground water, and a component to address health.

b. Criteria for health. For the health portion of the criteria, an affirmative response to any of the following elements resulted in including the contaminant on the first CCL, if it also met the occurrence criteria. A negative response to every question resulted in the contaminant being eliminated from consideration for the CCL. The health portion of the criteria had one major component; was there evidence, or suspicion, that the contaminant causes adverse human health effects? This portion of the criteria was met if a contaminant had one or more of the following elements: (1) Listed by California Proposition 65, (2) an EPA Health Advisory, (3) a likely (based on animal data) or known (based on human data) carcinogen by EPA or International Agency for Research on Cancer (IARC), (4) more than one human epidemiological study (indicating adverse effects), (5) an oral value in IRIS, (6) regulated in drinking water by another industrial country, (7) a member of a chemical family of known toxicity, or (8) structural activity relationship indicating toxicity.

As the contaminants were being screened and evaluated, the factors for health which proved to be the most useful were those that provided a health level of concern as a concentration that could be compared to the levels of occurrence found in water, such as an EPA Health Advisory, an oral value in IRIS, or a regulatory level from another industrial country. Being listed by California Proposition 65, or a member of a chemical family of known toxicity had limited utility in determining which contaminants to include on the CCL.

3. Additional Specific Contaminants Included

Aldicarbs, nickel, and sulfate are also on the draft CCL. The SDWA, as amended, did not specifically mention aldicarbs and nickel, but since the Agency has existing obligations for completing regulatory action on these contaminants pursuant to the SDWA, as amended 1986, it was thought to be prudent to include them on the CCL to make clear the intention to address these responsibilities. Sulfate is included on the CCL, since the Agency must make a determination to regulate or not by August 2001, along with at least four more contaminants. The following sections provide the rationale for the inclusion of aldicarbs, nickel, and sulfate on the draft CCL.

a. Aldicarb, aldicarb sulfoxide, and aldicarb sulfone. EPA promulgated a final NPDWR for aldicarb, aldicarb sulfoxide and aldicarb sulfone on July 1, 1991 (56 FR 30266). EPA set the maximum contaminant level goal (MCLG) at 0.001 mg/l and maximum contaminant levels (MCLs) of 0.003 mg/l for aldicarb, 0.004 mg/l for aldicarb sulfoxide, and 0.002 mg/l for aldicarb sulfone. In response to an administrative petition from the manufacturer Rhone-Poulenc, the Agency issued an administrative stay of the effective date of the MCLs, i.e., the MCLs never became effective, but monitoring is required. Rhone-Poulenc also filed a petition for judicial review, and the court stayed its proceedings while EPA proceeded administratively, but required quarterly reports. On agreement of the parties, the judicial proceedings have been dismissed. An updated health advisory was issued in 1995 incorporating data from a human study conducted in 1992 by Rhone Poulenc. The aldicarbs were not subject to the criteria used to identify other chemical contaminants and are being included on the CCL to signify the Agency's intention to complete the regulatory activity for these contaminants. At this point, however, the time frame of completing action relative to aldicarbs has not been determined.

b. Nickel. NPDWRs for nickel including an MCLG and an MCL of 0.1 mg/l were proposed on July 25, 1990 (55 FR 30370) and finalized on July 17, 1992 (57 FR 31776). In September, 1992, the Nickel Development Institute and other industry parties filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit challenging the MCLG and MCL for nickel. The petitioners raised objections over EPA's methodology for determining the MCLG for nickel. Specifically, they raised questions concerning the derivation of the relative source contribution factor and the need for a 3-fold uncertainty factor that EPA applied due to the lack of adequate data on the effects of nickel ingestion on reproductive systems. Because the MCL for nickel was based directly on the MCLG, the petitioners also challenged the nickel MCL.

EPA and the petitioners entered into discussions in an attempt to settle this litigation but could not agree on the merits of the petitioners' challenges. Nevertheless, EPA agreed that it did not fully address in the public record the petitioner's comments on the proposed methodology for deriving the MCLG for nickel, and agreed to take a remand of the MCLG and MCL for nickel. Accordingly, on February 9, 1995, EPA and the nickel industry petitioners filed a joint motion for a voluntary remand of the nickel MCL and MCLG. By orders of February 23, 1995 and March 6, 1995, the court granted this motion and vacated and remanded the nickel MCLG and MCL (and dismissed the lawsuit). No other aspects of the NPDWRs for nickel were vacated, including monitoring requirements and identification of best available technologies for nickel. A notice of this action was published in June 1995 (60 FR 33929).

To provide guidance for the period prior to new regulations for nickel, the EPA updated and issued a health advisory for nickel. Nickel was not subject to the criteria used to identify other chemical contaminants and is

being included on the CCL to signify the Agency's intention to complete regulatory action for this contaminant. The time frame of completing action on nickel has not yet been determined.

c. Sulfate. As noted above, by August, 2001 the Agency must decide whether or not to regulate sulfate. The date for making a determination about sulfate coincides with the date by when determinations must be made for 5 or more contaminants from the first CCL. Sulfate was not subject to the criteria used to identify other contaminants; however, it has been included, given these special circumstances.

IV. Contaminants on the CCL Which Are of Specific Interest

A number of contaminants included on the draft CCL may be of particular interest. The following sections attempt to provide additional information for a few of the contaminants that seem to be of most interest. Data obtained and evaluated for developing the draft CCL and referred to in the following discussion can be found in the docket for this notice.

A. Aluminum

There is intense interest from some for development of drinking water regulations for aluminum. Aluminum currently has a secondary MCL of 50 to 200 ''µg/l based on organoleptic properties. There have been a few epidemiological studies in Canada that emphasize the need to determine if regulations for this contaminant should be developed based on health effects. At present, based on the work in Canada, it appears that the most sensitive population is the elderly. To determine if aluminum is of health concern to the elderly and to other possible sensitive groups like children, the EPA collaborated with Health Canada on a workshop on aluminum held September 3 and 4, 1997. This workshop was planned to help define the need for chronic animal studies and the use of appropriate animal models to better characterize the risk of this contaminant in drinking water. The Agency will continue to work to determine if aluminum is of health concern, and the appropriate action to address this concern.

B. MTBE

MTBE (methyl-t-butyl ether) is a fuel additive used in many locations throughout the United States to reduce carbon monoxide and ozone forming precursors associated with the combustion of fossil fuels. There is evidence of contamination of drinking water; however the extent of contamination of drinking water supplies on a national scale is unclear at this time (IAOF, 1997). The Agency is in the process of revising the HA for MTBE that will incorporate updated health effects information, and has completed a research strategy to guide efforts at improving the understanding of the occurrence and health effects of MTBE (U.S. EPA, 1997e). As more PWSs across the country voluntarily monitor for MTBE, and if it is found at levels of concern nationally, the Agency does have the capacity to make a determination to develop regulations to monitor and/or control MTBE prior to the 2001, SDWA deadline for selecting at least 5 contaminants for determination.

C. Organotins

Organotins represent a class of contaminants which include, methyl tin, tributyltin, and others. The organotins of concern are those that result from use in heat stabilizing PVC piping for the in-home distribution of water. There are a few cases of tributyltin contamination of drinking water in the U.S. (Sadiki, 1996). It has been reported that the Canadian government is concerned about organotin contamination and has planned a national survey of drinking water in Canada to assess the danger to human health.

The concentrations of concern for human health are not known at this time, however tributly tin and other organotins are known to be toxic to aquatic life. On August 7, 1997, the Agency published a notice of ambient water quality criteria document for tributyltin (TBT) and a request for comments (62 FR 42554). Ambient water quality criteria are for the protection of aquatic organisms and guidance to States and others, and may form the basis for enforceable State water quality standards developed pursuant to Section 304(a)(1) of the Clean Water Act.

D. Rhodamine WT

Rhodamine WT is a fluorescent dye widely used as a tracer to measure ground water flow. Rhodamine WT has been certified by the National Sanitation Foundation for use in tracing water under the conditions that it not exceed concentrations in drinking water of 0.1 µg/l and that exposure be infrequent. Rhodamine WT was detected in ground water above the 0.1 µg/l value; however the conditions under which the detections occurred are unclear. Rhodamine WT appears to be a contaminant that the Agency may need to observe more closely in terms of its health effects, and possible occurrence in drinking water.

E. Sodium

At present, the Agency has no NPDWR or HA value for sodium. All that is currently available is a guidance DWEL of 20 mg/l. DWELs are unenforceable guidance levels describing a lifetime exposure concentration of a contaminant that is considered protective of adverse non-cancer health effects, and it also assumes that all of the exposure to a contaminant is from a drinking water source. In addition, EPA has a non-enforceable criterion for dissolved solids and salinity for ambient waters of 250 mg/l.

The DWEL is based on a 1965 American Heart Association recommendation of a 20 mg/l sodium level to protect genetically susceptible people on low sodium diets, assuming a total dietary intake of 500 mg/day. Naturally occurring sodium in food with no salt added averages about 440 mg/day. The additional 60 mg that would increase the intake to the typical level for a restricted diet of 500 mg/day must take into account all other non-food sources, such as drugs, water, etc. A concentration in drinking water of up to 20 mg/l of sodium is compatible with this diet.

Since a significant percentage of the U.S. population is attempting to reduce their sodium intake, the Agency believes that sodium levels in drinking water could be an important issue. This is particularly true for locations where many of the residents using the water may be susceptible to adverse health effects from exposure to this contaminant. The Agency believes that all consumers are able to use water for drinking if the sodium concentration is maintained at or below 20 mg/l, but nearly half of the nation's water supplies have natural or added sodium above these levels.

The inclusion of sodium on the CCL is controversial, but it is expected that guidance will be developed for those who need it, and that including it on the CCL will be a mechanism to develop an Agency position on the issue of sodium in drinking water.

F. Zinc

Zinc is used as a dietary supplement, main ingredient in lozenges, and corrosion inhibitor. There is intense interest over including zinc on the CCL, but there are also indications of health effects associated with increased levels of zinc consumption.

The Agency is aware that zinc is an essential element for which the Food

and Nutrition Board of the National Research Council has established a Recommended Dietary Allowance (RDA). Zinc can also cause adverse health effects at high doses and the zinc RfD (0.3 mg/kg/day) is higher than the RDA for adult men and women. While deriving RfDs, EPA must also keep in mind the fact that excess exposure to an essential trace element, such as zinc, can also cause adverse health effects. The present RfD for zinc represents a balance between the essential requirement for zinc and the toxic effects of too much zinc; however, the Agency is currently working on revising the risk assessment procedures for essential elements. The World Health Organization (WHO) is also in the process of developing a document on the risk assessment of essential trace elements, and EPA will consider the WHO document when it is available.

G. 2,6-di-tert-butyl-p-benzoquinone (DTBB)

DTBB is a contaminant that appears to be associated with sewage contamination of ground water. A ground water study concluded that DTBB was a good indicator of such contamination because, among other reasons, it does not biodegrade readily (Barber, 1988). DTBB was determined not to meet the criteria for the draft CCL per se, but was included nevertheless, because of the recalcitrant nature of the contaminant, its association with sewage contamination, its potential health impacts, and its potential to serve as an indicator of other contamination.

H. Contaminants to be Considered as Groups

Stakeholders, through the regulatory reassessment process and the development of this draft CCL, have requested that the Agency, address triazine pesticides as a group which includes all parent and degradates compounds as opposed to each triazine as an individual contaminant. The triazine pesticides include; cyanazine, propazine, etc., and atrazine and simazine (which are both currently regulated), and are often substituted for one another for similar agricultural use.

The USEPA regulated atrazine in 1991 and simazine in 1992. Cyanazine and atrazine-desethyl, a degradation product of triazines, were identified for the draft CCL using the criteria discussed earlier, and because of the common effect of triazine pesticides and degradates, Office of Ground Water and Drinking Water (OGWDW) and OPP are coordinating to have atrazine and simazine, and possibly other triazines, if warranted, addressed as a group. A triazine special review was initiated by OPP which will culminate in a proposed decision on the labeling and agricultural use triazine. The proposal is expected during the summer of 1998. The triazines are also included in the Priority Group 1 of pesticide tolerances that will be examined first under the FQPA tolerance reassessment (62 FR 42020).

The Agency is concerned about triazines in water and the exposure of sensitive populations, including children, and OGWDW will work closely with OPP to characterize the risk of triazines in food and water. EPA has been studying the mechanism of carcinogenicity of this group of analogues along with their degradation products, and will continue to study these chemicals as a group to characterize their risk in drinking water. The Agency may ultimately develop regulations for the mixtures of triazines either through the revision of existing regulations or the development of new ones. The same may occur for other families of pesticides, such as the acetanilide pesticides, which include acetochlor, metolachor, alachlor (which is currently regulated), given their common effects and agricultural uses.

I. Contaminants for Which Unregulated Contaminant Data Are or Will Be Available

Unregulated contaminant monitoring data which have been collected a number of contaminants during 1988–1991, and additional monitoring data collected during 1993–1995 (see Table 7). These monitoring data can serve in evaluating whether these contaminants should be included on the CCL. The data collected during 1988–1991 have been preliminarily evaluated by the Agency; however, further analysis is necessary to determine if a contaminant in fact meets the criteria used to develop the draft CCL. The data collected during 1993–1995, are not yet available; however, during the comment period, and prior to publishing the CCL by February 1998, the Agency will attempt to obtain and evaluate this data to determine if the contaminant should remain on the CCL. Contaminants that do not meet the criteria as presented in today's notice, or as modified subsequent to the comment period of the notice, will not be included on the final CCL to be published by February 1998.

Table 7. Contaminants with Unregulated Contaminant Monitoring Data

1,3-dichloro-benzene
1,2,4-trimethyl-benzene
1,3-dichloropropene
1,3-dichloro-propane
1,1,2,2-tetrachloro-ethane
1,1-di-chloro-ethane
1,1-dichloro-propene
1,2,3-trichloro-propane
2,2-dichloro-propane
bromobenzene
bromomethane
carbaryl
o-chorotoluene
p-chlorotoluene
cumene
cymene
dichloro-difluoromethane
hexachlorobutadiene
metolachlor
metribuzan
naphthalene
n-propylbenzene
trichlorofluoro-methane

V. Request for Comment

The purpose of today's notice is to present the draft CCL and seek comment on various aspects of its development. The Agency requests comment on the approach used to develop the CCL, and on the contaminants included. The Agency also requests comment on the data and research needs categories the contaminants have been divided into, in Table 8. Any data supporting comments or that can be used by the Agency in developing the final CCL are also requested. In addition to comments on contaminants considered for the draft CCL, the Agency seeks comment on the inclusion of perchlorate on the final CCL. The following sections provide more detail on the data and research needs and the issue of perchlorate.

A. Data and Research Needs

The microbiological contaminants included on the CCL all have research needs of one sort or another in the area of analytical methods. The meeting summary of the Workshop on Microbiology and Public Health, held May 20–21, 1997, provided more detail of the research needed for microorganisms.

For the chemical contaminants on the draft CCL, Table 8 divides them into categories to represent the data needs for each contaminant. Sufficient data are needed to conduct analyses on extent of exposure and risk to populations via drinking water in order to determine appropriate Agency action (development of health advisories, or regulations, or no action) for a given contaminant. If sufficient data are not available, they must be obtained before such an assessment can be made. The data and information required will be gathered by research or monitoring programs, and are not likely to be available for analyses to be completed

prior to 2001. Thus, the contaminants for which sufficient data exists at the time of publishing the CCL, are likely to the those from which the determinations will be made by 2001.

TABLE 8.—DATA NEEDS FOR CHEMICAL CONTAMINANTS INCLUDED ON THE DRAFT CCL

Sufficient health effects and occurrence data exist	Need additional health effects data, but not occurrence data	Need additional occurrence data, but not health effects data	Need both health effects and occurrence data
1,1,2,2-tetrachloroethane; 79–34–5	Aluminum; 7429–90–5	1,2-diphenylhydrazine; 122–66–7	2,6-di-tert-butyl-p-benzoquinone (DTBB); 719–22–2
1,2,4-trimethylbenzene; 95–63–6	Vanadium; 7440–62–2	2,4,6-trichlorophenol; 88–06–2	DCPA mono-acid degradate; 887–54–7
1,1-dichloro-ethane; 75–34–3		2,2-dichloro-propane; 594–20–7	DCPA di-acid degradate; 2136–79–0
1,1-dichloro-propene; 563–58–6		2,4-dichlorophenol; 120–83–2	Organotins
1,3-dichloropropane; 142–28–9		2,4-dinitrophenol; 51–28–5	
1,3-Dichloropropene; 542–75–6		2,4-dinitrotoluene; 121–14–2	
Boron; 7440–42–8		2,6-dinitrotoluene; 606–20–2	
Bromobenzene; 108–86–1		2-methyl-phenol; 95–48–7	
Cyanazine; 21725–46–2		Acetochlor; 34256–82–1	
atrazine-desethyl (a triazine degradation product); 6190–65–4.		Acetone 67–64–1	
p-Cymene; 99–87–6		Alachlor ESA (an alachlor degradation product).	
Hexachloro-butadiene; 87–68–3		Aldrin; 309–00–2	
cumene; 98–82–8		DDE; 72–55–9	
Manganese; 7439–96–5		Diazinon; 333–41–5	
Methyl bromide; 74–83–9		Dieldrin; 60–57–1	
Metolachlor; 51218–45–2		Dimethoate; 60–51–5	
Metribuzin; 21087–64–9		Disulfoton, 298–04–4	
Naphthalene; 91–20–3		Diuron; 330–54–1	
Sodium; 7440–23–5		Fonofos; 944–22–9	
Zinc; 7440–66–6		Linuron; 330–55–2	
		MTBE; 1634–04–4.	
		Molinate; 2212–67–1.	
		Nitrobenzene; 98–95–3.	
		Prometon; 1610–18–0.	
		RDX; 121–82–4.	
		Rhodamine WT.	
		Terbacil; 5902–51–2.	
		Terbufos; 13071–79–9.	
		EPTC; 759–94–4.	

B. Perchlorate

Additional information and comment is sought on the inclusion of perchlorate on the final CCL. Perchlorate is being mentioned in this notice because EPA received information that it had been detected in water in the Colorado River and in wells in California, but the information came too late in the process of developing the draft CCL to evaluate it as had been done for the other contaminants. The information the Agency has received regarding perchlorate's occurrence, health effects, source of contamination and treatment that has been included in the docket. This information, and any other submitted in response to comments, as well as additional data that the Agency may obtain, will be considered to determine whether perchlorate should be included on the final CCL.

VI. Development of the Final Drinking Water Contaminant Candidate List, the Contaminant Identification Method, and the Contaminant Selection Process

Between now and the publication of the final CCL, the Agency will evaluate comments received during the comment period for this notice and re-evaluate the criteria used to develop the draft CCL and revise the CCL, as appropriate. The final CCL will be published by February 1998.

In addition to publishing the final CCL, the Agency will also resume work on the CIM and the contaminant selection process. The development of the CIM and the selection process will be completed in consultation with the NDWAC Working Group on Occurrence & Contaminant Selection. The next meeting of the Working Group will likely be later this fall. The CCL, CIM and the selection process will serve as the cornerstones of the Agency's regulatory development process. In addition to developing the CCL, CIM and the selection process with the Adminstration policy in mind, the Agency intends to obtain resources to improve the screening process in order to acquire better information, improve analytical capability, and seek additional stakeholder involvement. The CCL is a critical input to shaping the future direction of the drinking water program, and improvements will be made with each successive cycle of publishing the list.

VII. Summary of Other Related Activity Required by the SDWA

After the CCL is developed and in accordance with the SDWA, as amended, the Agency will determine whether or not regulation is needed for at least five contaminants. This step of *contaminant selection* is then followed by proposal and ultimate promulgation of regulations for those contaminants for which a determination has been made to regulate. Two tools provided for in the SDWA, as amended, that relate to development of the CCL, are the

occurrence database and unregulated contaminant monitoring. In *identifying* contaminants for inclusion on the CCL, and *selecting* contaminants for determination, the National Drinking Water Contaminant Occurrence Database must be considered. The primary mechanism for obtaining the occurrence data for the database is the Unregulated Contaminant Monitoring Requirements provision. Figure 2 provides a representation of the relationship among these various elements. The SDWA requirements for contaminant selection, the occurrence database and unregulated contaminant monitoring are presented below to give the reader a sense of what these requirements entail and how they relate to the CCL and to each other.

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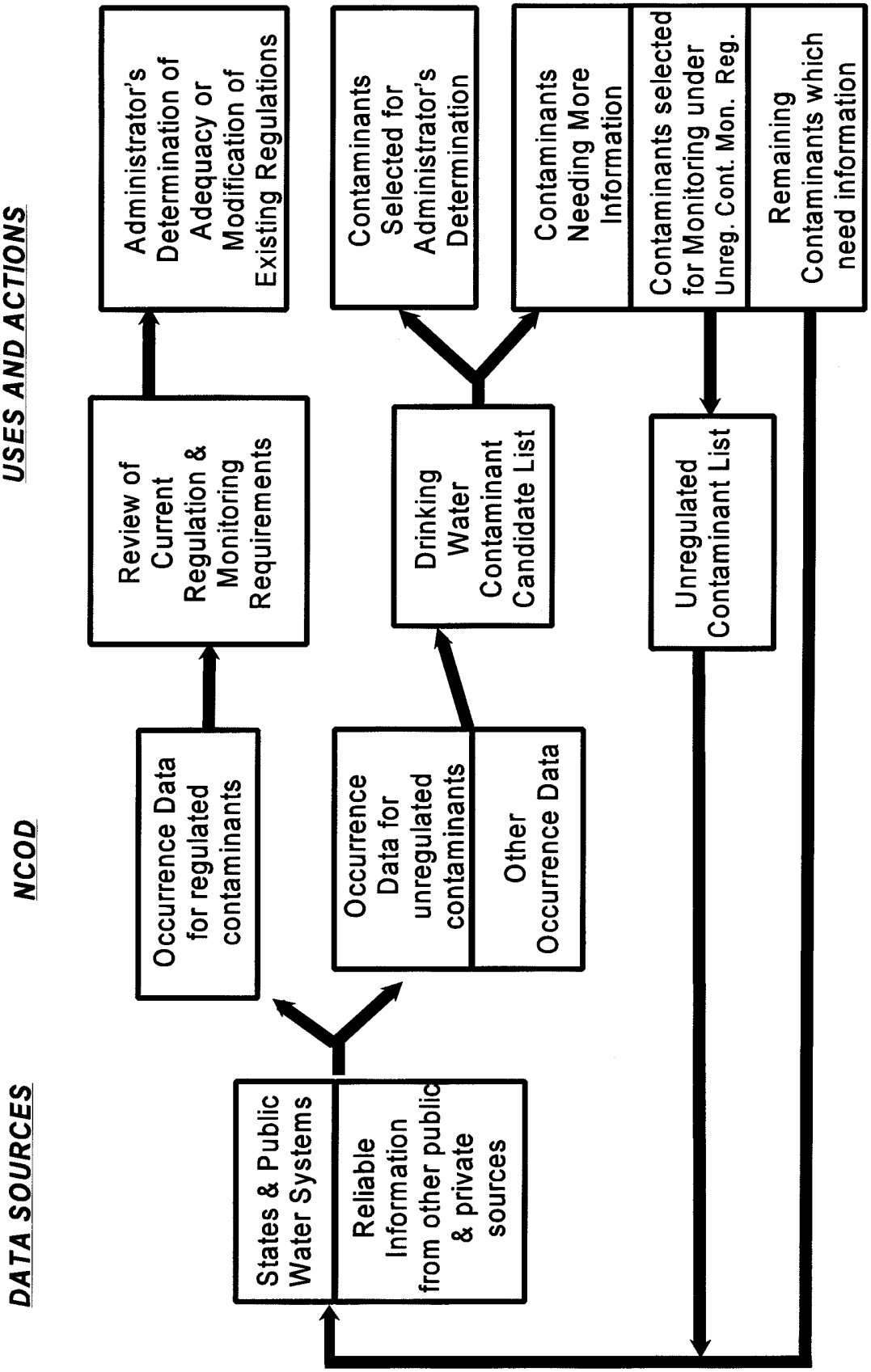
Figure 2. THE RELATIONSHIP OF THE CCL, THE ADMINISTRATOR'S DETERMINATIONS, THE UNREGULATED MONITORING REQUIREMENTS, AND THE NCOD



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A. Contaminant Selection and Regulatory Determination

The SDWA, as amended in 1996, requires EPA to make determinations of whether or not to regulate no fewer than five contaminants from the CCL five years after enactment (i.e., by August 2001), and every five years thereafter (section 1412(b)(1)); which is also three and a half years following each CCL. Any of the contaminants from the CCL that the Agency decides to regulate are subject to proposed NPDWRs within 24 months of this decision to regulate, and final NPDWRs within 18 months of the proposal. The SDWA also requires that EPA give priority to selecting contaminants for regulation that present the greatest public health concern, including vulnerable populations such as infants, the elderly, and those with serious illness. Three criteria must be considered when deciding whether or not to regulate a contaminant: (1) Could the contaminant adversely affect public health, (2) is it known or substantially likely to occur in public water systems with a frequency and at levels posing a threat to public health, and (3) will regulation of the contaminant present a meaningful opportunity for health risk reduction.

The Agency will be developing a contaminant selection process that will address the criteria mentioned above in concert with the contaminant identification method. The contaminant selection process will be used to select contaminants from the CCL for which determinations will be made, while the CIM will be used to develop the CCL. A conceptual approach for the CIM was presented on December 2–3, 1996, at an EPA sponsored stakeholders meeting (U.S. EPA, 1996b) However, in order to meet the February 1998 deadline for finalizing the CCL, further work on the CIM was delayed in favor of developing the draft CCL presented in today's notice. The Agency, in collaboration with the NDWAC Working Group on Occurrence & Contaminant Selection, will resume work on the CIM and the contaminant selection process during the fall of 1997. Knowledge gained during the development of this draft CCL, as well as the feedback received since the December 1996 stakeholders meeting, will be factored into the development.

B. The National Contaminant Occurrence Database

The SDWA, as amended in 1996, requires EPA to establish a national drinking water contaminant occurrence database (NCOD) to be assembled by August 1999 [section 1445(g)]. The database is to include the occurrence of both regulated and unregulated contaminants, and, once established, is to be used to support the Administrator's determinations for future regulations. The requirements for developing the CCL also include consulting the occurrence database. Since the database is currently under development, and will not be available for the development of this first CCL, the Agency consulted other sources of occurrence data. Once available, however, the NCOD will be used not only to develop future CCLs and support future determinations of the need for regulations, but to develop future regulations.

A Stakeholder meeting was held on May 21–22, 1997, in Washington, D.C., on the NCOD to discuss and obtain input from the public, states, and the scientific community on database design and structure, input parameters and requirements, and the uses and interpretation of the data. This meeting was the first of several expected to take place in the near future regarding the NCOD development.

C. Unregulated Contaminant Monitoring Regulation

The SDWA, as amended, requires EPA to list and develop regulations for monitoring of certain unregulated contaminants by August 1999, and every 5 years thereafter (section 1445(a)(2)). This provision was first introduced with the 1986 amendments to the SDWA and has been substantially modified by the 1996 amendments. The SDWA requires that the list of unregulated contaminants not exceed 30, and that the monitoring data be collected and maintained in the NCOD. Criteria for determining which contaminants on the CCL will be chosen for the unregulated contaminant monitoring list will be developed as part of this regulation.

Contaminants on the CCL that need additional occurrence data will be used as the principal source of contaminants for the list of unregulated contaminants. The unregulated contaminant monitoring provision of the SDWA will be used as a tool to gather the contaminant occurrence data necessary for determining the need for drinking water regulations.

VIII. Summary of Concurrent Regulatory Activity Required by the SDWA

In addition to the requirements for the CCL and contaminant selection, the SDWA, as amended 1996, also contain specific provisions with regard to radon, arsenic, sulfate, and disinfectants and disinfection byproducts. The SDWA, as amended, did not specify a new time frame for finalizing rulemaking for other radionuclides, however, EPA and the Bull Run Coalition have entered into a consent decree with the court establishing timetables to finalize this rulemaking. Regulatory activity for radon, other radionuclides, arsenic, sulfate, and disinfectants and disinfection byproducts are not affected by today's notice, but are summarized below to provide the reader with an update on the status these specific activities.

A. Radon

The SDWA, as amended in 1996, contains specific provisions for regulating radon in drinking water (section 1412(b) (13)). First, EPA is required to withdraw the proposed rule for radon which was published in 1991 and to re-propose a drinking water regulation for radon by August 6, 1999, and issue final regulations by August 6, 2000. The SDWA, as amended, also requires EPA to: (1) Arrange for the NAS to prepare a peer reviewed risk assessment for radon that evaluates the health effects of radon in drinking water under conditions likely to be experienced through residential exposure and to assess the risk reduction benefits from various mitigation measures to reduce radon levels in indoor air; (2) make available for public comment a health risk reduction and cost analysis comparing costs and benefits of various possible MCL in advance of proposing a radon regulation; and (3) establish an alternative-MCL, if the MCL is set at a level that is more stringent than necessary to reduce the contribution of radon in indoor air originating from drinking water to a level equal to the national average concentration of radon in outdoor air. States will have the option to comply with the less stringent alternative-MCL if they implement a multi-media radon risk reduction program that accomplishes greater health protection than would be achieved by complying with the more stringent MCL alone.

A notice was published in the **Federal Register** on August 6, 1997, to withdraw the radon proposed rule. (62 FR 42221) The NAS risk assessment is scheduled to be complete by July 1998, and the HRRCA is due by February 1998. In addition, EPA held stakeholder meetings on June 26, 1997, in Washington, D.C., and on September 2, 1997, in San Francisco, and has scheduled an additional stakeholder meeting in Boston later this fall to obtain input from the public.

B. Other Radionuclides

On July 18, 1991, EPA proposed NPDWRs for radionuclides in public water supplies (56 FR 33050). EPA proposed MCLs for Radium-228 at 20 pCi/l, Radium-226 at 20 pCi/l, Uranium at 30 pCi/l (20 µg/l), adjusted gross alpha at 15 pCi/l (excluding Ra-226, U, and Rn-222), and beta and photon emitters (excluding Ra-228) at 4 mrem ede/yr; MCLGs were proposed at zero.

Comments on the proposed rule were received from approximately 600 individuals and organizations. Due to concerns by commenters and Congress over the most effective way to regulate radon and other radionuclides together, the proposed rule was put on hold, pending passage of amendments to the SDWA, so that EPA could gain further clarification of Congress' intent.

The SDWA, as amended in 1996, did not specify a new time frame for finalizing rulemaking for radionuclides, as it did for radon. However, an existing consent decree providing deadlines for regulating radionuclides was amended in 1996 to provide that EPA would, by November 2000, finalize a rule for Uranium; and finalize a rule for Ra-226, Ra-228, alpha and beta/photon emitters, or publish its reasons for not taking final action as to these contaminants. An Agency Workgroup has been formed and is process of evaluating all current data and information, which will lead to finalizing elements of the proposed rule or to re-proposing NPDWRs for radionuclides.

C. Arsenic

In 1975, EPA established National Interim Primary Drinking Water Regulations (NIPDWR), setting an MCL for Arsenic at 50 µg/l. In 1985, EPA proposed an MCLG of 50 µg/l, requesting comment on alternate MCLGs of 100 µg/l and 0 µg/l. However, the SDWA, as amended in 1986, converted the interim standard into a NPDWR, subject to revision by 1989. When the Agency failed to meet the statutory deadline for promulgating an arsenic regulation, a citizen's group filed suit to compel EPA to do so. EPA entered into a consent decree to, in part, issue the arsenic regulation. The consent decree was amended several times to extend the deadlines and with passage of the 1996 Amendments was dismissed as to arsenic.

The SDWA, as amended, requires EPA to conduct additional research on arsenic in order to reduce the uncertainty in assessing the health effects of low exposure levels; to propose a NPDWR for arsenic by January 1, 2000; and to issue a final regulation by January 1, 2001. (Sec. 1412(b)(12)) EPA developed a research plan, made it available for public comment, and had it peer reviewed in January 1997. The revised research plan will be available this fall. In addition, EPA issued a joint request for research proposals with the American Water Works Association Research Foundation (AWWARF) and the Association of California Water Agencies (ACWA). EPA, AWWARF and ACWA awarded almost $3 million in grants and contracts this summer, for up to three years. This spring, EPA also funded an Interagency Agreement, with the National Research Council (NRC) of the NAS to review EPA's risk assessment, determine the adequacy of EPA's current MCL for protecting human health and surface water quality criteria, and identify priorities for research to fill data gaps. The NRC report will be submitted to EPA in mid-to-late 1998. In May, 1997, EPA convened an expert panel to evaluate the scientific literature on the genetic and carcinogenic effects of arsenic in order to comment on arsenic's mode of action and the data supporting models extrapolating to low dose arsenic exposures. The final report is now being considered by EPA's IRIS Update Group.

D. Sulfate

A December 20, 1994 proposed sulfate regulation contained both MCLG and MCL levels for sulfate of 500 mg/l and included 4 alternative compliance options designed to allow flexible implementation. Thereafter, the Agency's drinking water redirection effort concluded that sulfate was a relatively low risk contaminant, and further regulatory activity was suspended. The SDWA, as amended, requires completion of a study to resolve risk questions and requires the Agency to make a determination within 5 years of enactment of the Amendments, by August 6, 2001, of whether or not to regulate sulfate. Any of the contaminants from the CCL that the Agency decides to regulate are subject to proposed NPDWRs within 24 months of this decision to regulate, and final NPDWRs within 18 months of the proposal. In 1997 the Agency entered into an Interagency Agreement with the Center for Disease Control and Prevention (CDC). EPA and CDC are currently waiting for completion of the peer review of the jointly planned health risk study for sulfate. The study results, due in February 1999, will serve as input for EPA's contaminant identification and selection protocol to decide whether or not to regulate sulfate, and will be publicly available. In addition, prior to deciding on the need to regulate sulfate, the Agency would need to make a determination on the adequacy of existing occurrence data for sulfate and, if inadequate, consider approaches for filling data gaps.

E. Disinfectants and Disinfection Byproducts

Microorganisms identified for the CCL are not specifically targeted by the following regulations, however they may be indirectly controlled. Any microorganism identified for the CCL which is determined later to be adequately, although indirectly, controlled by the following regulations, will be subsequently withdrawn from the CCL.

Under the Surface Water Treatment Rule (SWTR) promulgated on June 29, 1989, (54 FR 27486), EPA set MCLGs of zero for *Giardia lamblia*, viruses and *Legionella;* and promulgated NPDWRs for all public water systems (PWSs) using surface water sources or groundwater sources under the direct influence of surface water. The SWTR includes treatment technique requirements for filtered and unfiltered systems that are intended to protect against the adverse health effects of exposure to *Giardia lamblia*, viruses, and *Legionella*, as well as many other pathogenic organisms.

In 1992, EPA initiated a negotiated rulemaking to develop disinfectant and disinfection byproducts regulations. The Regulatory Negotiating Committee met from November 1992 through June 1993 and included representatives of State and local health and regulatory agencies, public water systems, elected officials, consumer groups and environmental groups. One of the major goals addressed by the Committee was to develop an approach that would reduce the level of exposure from disinfectants and disinfection byproducts without undermining the control of microbiological pathogens. To accomplish this, the Committee agreed to the development of three sets of regulations: a two-staged Disinfectant/Disinfection Byproducts Rule (D/DBP), an Enhanced Surface Water Treatment Rule (ESWTR), and an Information Collection Rule (ICR). The purpose of the ICR is to collect occurrence and treatment information to evaluate the need for possible changes to the current SWTR, existing microbial treatment practices, and also evaluate the need for future regulation for disinfectants and disinfection byproducts.

EPA would first develop an *Interim*-ESWTR (IESWTR) that would only apply to systems serving 10,000 people or more, the committee agreed that a

Long-Term-ESWTR (LTESWTR) may be needed for systems serving fewer than 10,000 people when the results of more research and water quality monitoring became available. The LTESWTR could include additional refinements for larger systems.

The ICR was proposed on February 10, 1994 (59 FR 6332) and promulgated on May 14, 1996 (61 FR 24354). The D/DBP regulations and the IESWTR were proposed on July 29, 1994 (59 FR 38668, 59 FR 38832). The SDWA, as amended, requires EPA to promulgate an IESWTR and a Stage I D/DBP Rule by November 1998. In addition, the SDWA requires EPA to promulgate a final ESWTR and a Stage II D/DBP rule by November 2000 and May 2002, respectively [section 1412(b)(2)(C)].

In light of new information that has become available in several key areas related to issues put forth in the D/DBP Stage 1 proposal, the Agency initiated a series of public meetings in May 1996. These meetings were designed to exchange information on issues related to the development of the IESWTR and the Stage 1 D/DBP rule and the impact of the ICR data not being available. In order to facilitate moving in an expedited fashion to meet the deadlines in the 1996 Amendments, and to maximize stakeholder participation, the Agency subsequently established an advisory committee to collect, share, and analyze new information and data as well as to build consensus on the regulatory implications of this new information. After evaluation of the new data and information, the committee made recommendations on a number of major issues. These recommendations and a discussion of the pertinent issues will be published in a **Federal Register** Notice planned for later this fall.

IX. Other Requirements

The CCL is a notice and not a regulatory action; therefore, the following statutes and executive orders are not applicable at this time: the Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, Paperwork Reduction Act, Unfunded Mandates Reform Act; and Executive Order 12866. As contaminants are selected for rulemaking, all necessary analysis will be conducted in accordance with the rulemaking process.

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires that Federal Agencies identify and assess health risks and safety risks that disproportionately affect children, and ensure that its policies, programs, activities, and standards address disproportionate health and safety risks to children. The SDWA also requires the Agency to select priorities for regulation while considering risk to sensitive subpopulations, such as infants and children.

The impact on sensitive populations will be addressed in the contaminant selection process, and will be a component of the Agency's determination of whether or not to regulate a given contaminant. In preparation for addressing the issues of sensitive subpopulations, the Agency is sponsoring several activities to determine water intake by age group, by demographic distribution, and by innate or developed sensitivity to potential drinking water contaminants. The Agency is also collaborating with CDC on a study of six major cities to determine the most sensitive populations for drinking water manifested during major outbreaks of illness from incidents of water contamination. Other research also is underway to determine the extent of vulnerable populations including children and the immunologically impaired.

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Robert Perciasepe,

Assistant Administrator, Office Water, Environmental Protection Agency.

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Monday
October 6 , 1997

Part IV

The President

Proclamation 7031—National Disability Employment Awareness Month, 1997

Federal Register
Vol. 62, No. 193
Monday, October 6, 1997

Presidential Documents

Title 3—

The President

Proclamation 7031 of October 2, 1997

National Disability Employment Awareness Month, 1997

By the President of the United States of America

A Proclamation

America has always been blessed with abundant natural resources; but we sometimes fail to recognize that we have been blessed with rich human resources as well. Millions of people in thousands of professions have built this great country with their labor and made a reality of the American Dream for themselves and their families. But for 20 percent of our population, that dream has too often been deferred or denied. Americans with disabilities have had to overcome barriers in communication, transportation, architecture, and attitude to take their rightful place in our Nation's work force.

If America is to continue to grow and prosper, if we are to lead the challenging global economy of the 21st century, we cannot afford to ignore the talents, energy, and creativity of the 54 million Americans with disabilities. Thanks to the Americans with Disabilities Act, we are making significant progress in eliminating workplace discrimination and ensuring equal job opportunities for people with disabilities. This landmark civil rights legislation, enacted 7 years ago with bipartisan support, has opened doors and brought down barriers across our country for people with disabilities. It has empowered them with the opportunity to become employees, taxpayers, and active participants in the life of their communities.

To build on this progress, government at every level must work in partnership with business, labor, and community organizations to ensure that all Americans, regardless of disability, can live and learn and work alongside their fellow citizens. Only when we guarantee the inclusion, empowerment, and independence of all our people will America fulfill its great promise of freedom and opportunity.

To recognize the full potential of individuals with disabilities and to encourage all Americans to work toward their full integration into the work force, the Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 1997 as National Disability Employment Awareness Month. I call upon government officials, educators, labor leaders, employers, and the people of the United States to observe this month with appropriate programs and activities that reaffirm our determination to achieve the full integration into the work force of people with disabilities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

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Vol. 62, No. 193

Monday, October 6, 1997

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The United States Government Manual **523–5227**

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TDD for the hearing impaired **523–5229**

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

51367–51592 1
51593–51758 2
51759–52004 3
52005–52224 6

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7029 52005
7030 52007

Executive Orders:
11145 (Continued by EO 13062) 51755
11183 (Continued by EO 13062) 51755
11287 (Continued by EO 13062) 51755
12131 (Continued by EO 13062) 51755
12196 (Continued by EO 13062) 51755
11216 (Continued by EO 13062) 51755
12345 (Continued by EO 13062) 51755
12367 (Continued by EO 13062) 51755
12382 (Continued by EO 13062) 51755
12864 (Revoked by EO 13062) 51755
12871 (Continued by EO 13062) 51755
12876 (Continued by EO 13062) 51755
12882 (Continued by EO 13062) 51755
12891 (Revoked by EO 13062) 51755
12900 (Continued by EO 13062) 51755
12905 ((Continued by EO 13062) 51755
12946 (Revoked by EO 13062) 51755
12964 (Revoked by EO 13062) 51755
12974 (Superseded by EO 13062) 51755
12994 (Continued by EO 13062) 51755
13015 (Revoked by EO 13062) 51755
13038 (Amended in part by EO 13062) 51755
13054 (Amended in part by EO 13062) 51755
13062 51755
13063 51755

Administrative Orders:
Notices of September 30, 1997 51591

Memorandums:
August 5, 1997 51367

Presidential Determinations:
No. 97–34 of September 22, 1997 52009

5 CFR

532 51759
870 52181

7 CFR

0 51759
905 52011
1422 51760

Proposed Rules:
966 52047
980 52047

8 CFR

240 51760

10 CFR

Ch. 1 52184
430 51976

Proposed Rules:
32 51817

12 CFR

602 51593
650 51369
935 52011

Proposed Rules:
545 51817

14 CFR

39 ..... 51593, 51594
97 ..... 51597, 51598, 51600
187 51736

Proposed Rules:
39 ..... 51383, 51385, 51386, 51388, 52051, 52053, 52055
93 51564

15 CFR

744 51369

Proposed Rules:
700 51389

17 CFR

270 51762

18 CFR

Proposed Rules:
388 51610

19 CFR

4 51766
10 51766
11 51766
12 ..... 51766, 51771
18 51766
24 ..... 51766, 51774
103 51766
112 51766
122 51766

127 51766
133 51766
141 51766
143 51766
148 51766
151 51766
152 51766
159 51766
171 51766
177 51766
191 51766

21 CFR

Ch. I 51512
1308 ....51370, 51774, 51776
Proposed Rules:
101 52057
161 52057
501 52057

28 CFR

2 51601
58 51740

30 CFR

210 52016
218 52016
946 52181
Proposed Rules:
250 51614

31 CFR

Proposed Rules:
208 51618

32 CFR

Proposed Rules:
318 51821

33 CFR

165 ....51778, 51779, 51780, 51781
Proposed Rules:
155 52057
334 51618

37 CFR

202 51603
Proposed Rules:
253 51618

38 CFR

1 51782
21 51783

39 CFR

111 51372

40 CFR

52 ....51603, 52016, 52029
81 51604
170 52003
258 51606
300 52032
410 52034
412 52034
721 51606
Proposed Rules:
52 52071
81 52071
136 51621
170 51994
180 51397
300 ....52072, 52074
745 51622

42 CFR

57 51373
418 52034

43 CFR

2090 ....51375, 52034
2110 52034
2230 52034
5510 51376
Proposed Rules:
4 51822
1820 51402

44 CFR

65 ....51785, 51788
67 51791
Proposed Rules:
67 51822

45 CFR

74 51377

46 CFR

Proposed Rules:
25 52057
27 52057
32 52057

47 CFR

0 51795
1 51377
25 51378
43 51378
61 51377
63 51377
73 ....51798, 51799
90 52036
Proposed Rules:
54 51622
73 51824
76 51824
90 52078

48 CFR

16 51379
36 51379
37 51379
52 51379
952 51800
970 51800
Proposed Rules:
203 51623
252 51623
426 52081
452 52081

49 CFR

1 51804
10 51804
107 51554
171 51554
172 51554
173 51554
175 51554
176 51554
177 51554
178 51554
179 51554
180 51554
541 52044
571 51379
1241 51379
Proposed Rules:
192 51624

50 CFR

229 51805
285 51608
622 52045
648 51380
660 ....51381, 51814
679 ....51609, 52046

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 6, 1997

AGRICULTURE DEPARTMENT

Rural Telephone Bank

Telephone loans:

Telecommunications loan programs; policies, types, and requirements; published 9-5-97

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

Well-baby visits, immunizations of children under age six, etc.; published 9-5-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

New nonroad compression-ignition engines at or below 19 kilowatts—

Replacement engines and two stroke engines on nonhandheld equipment; published 8-7-97

Air quality implementation plans; approval and promulgation; various States:

Tennessee; published 8-5-97

Washington; published 8-6-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; published 10-6-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Louisiana; published 8-29-97

Missouri; published 8-29-97

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Advances to non-qualified thrift lenders; restrictions; published 10-6-97

Community support requirement; published 9-5-97

NUCLEAR REGULATORY COMMISSION

Reporting and recordkeeping requirements; statutory and technical amendments; published 10-6-97

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Acquisition of securities during existence of underwriting syndicate; published 8-7-97

TRANSPORTATION DEPARTMENT

Coast Guard

Uninspected vessels:

Commercial fishing industry regulations; published 9-4-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Sikorsky; published 9-19-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Nonconforming vehicles—

Importation eligibility; determinations; published 10-7-97

Motor vehicle theft prevention standard:

High theft lines for 1998 model year; listing

Correction; published 10-6-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Agricultural commodities; U.S. grade standards and other selected regulations removed; Federal regulatory reform; comments due by 10-14-97; published 8-13-97

Peanuts, domestically produced; comments due by 10-17-97; published 9-17-97

Tomatoes grown in Florida and imported; comments due by 10-16-97; published 10-6-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Hog cholera and swine vesicular disease; disease status change—

Dominican Republic; comments due by 10-17-97; published 8-18-97

Mexican border regulations; CFR part removed; comments due by 10-14-97; published 8-14-97

Plant-related quarantine, foreign:

Bamboo; comments due by 10-14-97; published 9-11-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Administrative regulations:

Federal crop insurance program—

Nonstandard underwriting classification system; comments due by 10-17-97; published 9-17-97

COMMERCE DEPARTMENT

National Institute of Standards and Technology

Advanced technology program; policy and procedures; comments due by 10-17-97; published 9-17-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; comments due by 10-14-97; published 8-15-97

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico reef fish; comments due by 10-14-97; published 9-11-97

Northeastern United States fisheries—

Atlantic mackerel, squid, and butterfish; comments due by 10-14-97; published 9-12-97

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; comments due by 10-15-97; published 10-1-97

Marine mammals:

Commercial fishing authorizations—

Atlantic large whale take reduction plan; implementation; comments due by 10-15-97; published 7-22-97

Incidental taking—

Gulf of Maine harbor porpoise; take reduction plan; comments due by 10-14-97; published 8-13-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 10-16-97; published 9-16-97

Georgia; comments due by 10-14-97; published 9-12-97

New Mexico; comments due by 10-16-97; published 9-16-97

Ohio; comments due by 10-14-97; published 9-12-97

South Carolina; comments due by 10-14-97; published 9-11-97

Texas; comments due by 10-14-97; published 9-12-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 10-14-97; published 9-11-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Illinois; comments due by 10-16-97; published 8-29-97

Kansas; comments due by 10-16-97; published 8-29-97

Mississippi; comments due by 10-16-97; published 8-29-97

Vermont et al.; comments due by 10-16-97; published 8-29-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Dental devices—

Temporomandibular joint prostheses; premarket approval requirements; effective date; comments due by 10-

15-97; published 7-17-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Bull trout (Klamath and Columbia Rivers); comments due by 10-17-97; published 8-5-97

INTERIOR DEPARTMENT

National Park Service

National Park System:

Glacier Bay National Park, AK; commercial fishing activities; comments due by 10-15-97; published 4-16-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

North Dakota; comments due by 10-17-97; published 9-17-97

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Aliens—

Crewmembers inspection; 90-day modified inspection procedure; comments due by 10-14-97; published 8-15-97

Detention and release of criminal aliens and custody redeterminations; comments due by 10-15-97; published 9-15-97

NUCLEAR REGULATORY COMMISSION

Medical use of byproduct material:

License terms; comments due by 10-14-97; published 7-31-97

Production and utiliztation facilities, domestic licensing:

Nuclear power reactors—

Emergency preparedness programs, safeguards contingency plans, and security programs; frequency of licensees' independent reviews and audits; comments due by 10-14-97; published 7-31-97

POSTAL SERVICE

Domestic Mail Manual:

Periodicals mail; presort requirements; comments due by 10-15-97; published 9-15-97

RAILROAD RETIREMENT BOARD

General administration; information disclosure to consular official; comments due by 10-14-97; published 8-13-97

SMALL BUSINESS ADMINISTRATION

Small business size standards:

8(a) business development/ small disadvantaged business status determinations; eligibility requirements and contractual assistance; Federal regulatory review; comments due by 10-14-97; published 8-14-97

TRANSPORTATION DEPARTMENT

Coast Guard

Deepwater ports:

Regulations revision; comment request; comments due by 10-14-97; published 8-29-97

Drawbridge operations:

Florida; comments due by 10-14-97; published 8-12-97

Ports and waterways safety:

Mississippi River, LA; regulated navigation area; comments due by 10-14-97; published 8-29-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AeroSpace Technologies of Australia Pty Ltd.; comments due by 10-14-97; published 9-16-97

Aerospace Technologies of Australia Pty Ltd.; comments due by 10-17-97; published 8-18-97

Aerostar Aircraft Corp.; comments due by 10-14-97; published 9-16-97

Ayres Corp.; comments due by 10-17-97; published 8-18-97

Boeing; comments due by 10-14-97; published 9-2-97

British Aerospace; comments due by 10-17-97; published 9-22-97

Cessna; comments due by 10-14-97; published 9-16-97

Cessna Aircraft Co.; comments due by 10-14-97; published 9-16-97

Fairchild; comments due by 10-14-97; published 9-16-97

Gulfstream; comments due by 10-14-97; published 9-16-97

Gulfstream American; comments due by 10-14-97; published 9-16-97

Harbin Aircraft Manufacturing Corp.; comments due by 10-14-97; published 9-16-97

Industrie Aeronautiche e Meccaniche Rinaldo Piaggio, S.p.A.; comments due by 10-14-97; published 9-16-97

Lockheed; comments due by 10-14-97; published 9-16-97

McDonnell Douglas; comments due by 10-14-97; published 9-16-97

Mitsubishi; comments due by 10-14-97; published 9-16-97

New Piper Aircraft, Inc.; comments due by 10-14-97; published 9-16-97

Partenavia Costruzioni Aeronauticas, S.p.A.; comments due by 10-14-97; published 9-16-97

Pilatus Aircraft, Ltd.; comments due by 10-14-97; published 9-16-97

Pilatus Britten-Norman Limited; comments due by 10-14-97; published 9-16-97

Pratt & Whitney; comments due by 10-17-97; published 9-17-97

RAPCO, Inc.; comments due by 10-17-97; published 8-21-97

Raytheon; comments due by 10-14-97; published 9-16-97

Sabreliner; comments due by 10-14-97; published 9-16-97

SIAI Marchetti; comments due by 10-14-97; published 9-16-97

SOCATA-Groupe AEROSPATIALE; comments due by 10-14-97; published 9-16-97

Twin Commander Aircraft Corp.; comments due by 10-14-97; published 9-16-97

Class E airspace; comments due by 10-14-97; published 9-11-97

Jet routes; comments due by 10-15-97; published 8-28-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Odometer disclosure requirements:

Exemptions; comments due by 10-14-97; published 9-11-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials transportation:

Hazardous liquid transportation—

Liquified compressed gasses in cargo tank motor vehicles; safety standards for unloading; comments due by 10-17-97; published 8-18-97

TREASURY DEPARTMENT

Customs Service

Country of origin marking:

Frozen imported produce; comments due by 10-17-97; published 8-18-97

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●1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
7 Parts:			
●0–26	(869–032–00007–7)	26.00	Jan. 1, 1997
●27–52	(869–032–00008–5)	30.00	Jan. 1, 1997
●53–209	(869–032–00009–3)	22.00	Jan. 1, 1997
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●300–399	(869–032–00011–5)	22.00	Jan. 1, 1997
●400–699	(869–032–00012–3)	28.00	Jan. 1, 1997
●700–899	(869–032–00013–1)	31.00	Jan. 1, 1997
●900–999	(869–032–00014–0)	40.00	Jan. 1, 1997
●1000–1199	(869–032–00015–8)	45.00	Jan. 1, 1997
●1200–1499	(869–032–00016–6)	33.00	Jan. 1, 1997
●1500–1899	(869–032–00017–4)	53.00	Jan. 1, 1997
●1900–1939	(869–032–00018–2)	19.00	Jan. 1, 1997
●1940–1949	(869–032–00019–1)	40.00	Jan. 1, 1997
●1950–1999	(869–032–00020–4)	42.00	Jan. 1, 1997
●2000–End	(869–032–00021–2)	20.00	Jan. 1, 1997
●**8**	(869–032–00022–1)	30.00	Jan. 1, 1997
9 Parts:			
●1–199	(869–032–00023–9)	39.00	Jan. 1, 1997
●200–End	(869–032–00024–7)	33.00	Jan. 1, 1997
10 Parts:			
●0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
●51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
●200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
●500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
●**11**	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
●1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
●200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
●220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
●300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
●500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
●600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
●**13**	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
●1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
●60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
●200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
●1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
●300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
●800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
●0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
●1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
●1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
●200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
●240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
●1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
●400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
●1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
●141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
●200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
●1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
●400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
●500–End	(869–032–00058–1)	42.00	Apr. 1, 1997
21 Parts:			
●1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
●100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
●170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
●200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
●300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
●500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
●600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
●800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
●1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
●300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
●**23**	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
●0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
●700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
●1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
●**25**	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
●§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
●§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
●§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
●§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
●§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
●§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
●§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
●§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
●§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
●§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
●§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
●§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
●2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
●40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
●50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
●600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
200–End	(869–032–00097–2)	17.00	Apr. 1, 1997
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
●43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
●0–99	(869–032–00100–5)	27.00	July 1, 1997
100–499	(869–032–00101–4)	12.00	July 1, 1997
500–899	(869–032–00102–2)	41.00	July 1, 1997
900–1899	(869–028–00111–4)	20.00	July 1, 1996
*1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–032–00110–3)	28.00	July 1, 1997
700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–032–00116–2)	33.00	July 1, 1997
630–699	(869–032–00117–1)	22.00	July 1, 1997
700–799	(869–032–00118–9)	28.00	July 1, 1997
*800–End	(869–032–00119–7)	27.00	July 1, 1997
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
*125–199	(869–032–00121–9)	36.00	July 1, 1997
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
*1–299	(869–032–00123–5)	28.00	July 1, 1997
300–399	(869–032–00124–3)	27.00	July 1, 1997
*400–End	(869–032–00125–1)	44.00	July 1, 1997
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
*1–199	(869–032–00127–8)	20.00	July 1, 1997
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–032–00130–8)	27.00	July 1, 1997
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–032–00132–4)	38.00	July 1, 1997
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869–028–00144–1)	47.00	July 1, 1996
61–62	(869–032–00140–5)	19.00	July 1, 1997
*63–71	(869–032–00141–3)	57.00	July 1, 1997
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–032–00146–4)	35.00	July 1, 1997
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
260–265	(869–032–00149–9)	29.00	July 1, 1997
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–032–00152–9)	33.00	[6] July 1, 1996
●425–699	(869–032–00153–7)	40.00	July 1, 1997
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–032–00158–8)	17.00	July 1, 1997
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[5] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
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●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
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●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.