10–7–97
Vol. 62 No. 194
Pages 52225–52470

federal register

Tuesday
October 7, 1997

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 194

Tuesday, October 7, 1997

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 52342–52343

Agriculture Department
See Animal and Plant Health Inspection Service
See Farm Service Agency
See Foreign Agricultural Service
See Rural Business-Cooperative Service
See Rural Housing Service
See Rural Utilities Service

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Logs, lumber, and other unmanufactured wood articles; importation, 52311

Assassination Records Review Board
NOTICES
Formal determinations on records release, 52312–52321
Meetings; Sunshine Act, 52321

Centers for Disease Control and Prevention
NOTICES
Inorganic lead; occupational exposure; comment and information request, 52343–52344
Meetings:
Oak Ridge workshop; energy-related health research needs, 52344

Children and Families Administration
PROPOSED RULES
Child support enforcement program:
Quarterly wage and unemployment compensations claims reporting to National Directory of New Hires, 52306–52310

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
See Technology Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52321–52322

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 52325–52326

Corporation for National and Community Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52326–52327

Drug Enforcement Administration
RULES
Comprehensive Methamphetamine Control Act of 1996; implementation:
Combination ephedrine products, 52253–52256
PROPOSED RULES
Comprehensive Methamphetamine Control Act of 1996; implementation:
Pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products; transaction reporting requirements, 52294–52304

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Direct grant and fellowship programs, 52430–52450

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Primary aluminum reduction plants, 52384–52428
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52333–52334
Clean Air Act:
Acid rain program—
Excess emission penalty; annual adjustment factors, 52334
Grant and cooperative agreement awards:
Project XL (excellence and leadership)—
HADCO Corp., 52334–52337

Farm Service Agency
PROPOSED RULES
Program regulations:
Community programs guaranteed loan program, 52277–52293

Federal Aviation Administration
RULES
Airworthiness directives:
MT-Propeller Entwicklung GMBH, 52225–52226
Restricted areas, 52226–52229
PROPOSED RULES
Airworthiness directives:
New Piper Aircraft, Inc.; correction, 52294

Federal Communications Commission
RULES
Reporting and recordkeeping requirements, 52257–52265
NOTICES
Meetings:
North American Numbering Council, 52338
Meetings; Sunshine Act, 52338

Federal Emergency Management Agency
PROPOSED RULES
Flood insurance program:
Insurance coverage and rates—
Standard flood insurance policy; deductible increase, 52304–52305

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 52327–52328
ANR Pipeline Co. et al., 52328
Boundary Gas, Inc., 52328
Iroquois Gas Transmission System, L.P., 52328–52329
Kentucky West Virginia Gas Co., L.L.C., 52329
KN Interstate Gas Transmission Co., 52329–52330
Natural Gas Pipeline Co. of America, 52330
NorAm Gas Transmission Co., 52330–52331
Nora Transmission Co., 52330
Northern Border Pipeline Co., 52331
Northern Natural Gas Co., 52331
Orange & Rockland Utilities, Inc., 52331
Paiute Pipeline Co., 52331–52332
Panhandle Eastern Pipe Line Co., 52332
Pennsylvania Power & Light Co., 52332
Sabine Pipe Line Co., 52332–52333
UtiliCorp United Inc., 52333

Federal Railroad Administration
NOTICES
Emergency exemptions, etc.:
American Short Line Railroad Association et al., 52370–52371
Traffic control systems; discontinuance and removal:
South Orient Railroad Co., Ltd., et al., 52371–52372

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 52339
Change in bank control; correction, 52338–52339
Formations, acquisitions, and mergers, 52339
Permissible nonbanking activities, 52339–52340
Meetings; Sunshine Act, 52340

Federal Trade Commission
NOTICES
Prohibited trade practices:
Weight Watchers International, Inc., 52340–52342

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
American Mercury Insurance Co., 52378–52379

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 52349–52351

Food and Drug Administration
RULES
Human drugs and biological products:
Expedited safety reporting requirements, 52237–52253
NOTICES
Medical devices; premarket approval:
S-ROM Poly-Dial Constrained Liner, 52344–52345
Reports and guidance documents; availability, etc.:
Bovine spongiform encephalopathy in products for human use; industry guidance, 52345–52346

Foreign Agricultural Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52311–52312

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 52360

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
NOTICES
Scientific misconduct findings; administrative actions:
Shang, Xiaomin, Ph.D., 52342

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Lead-based paint hazard control in privately-owned housing, 52347–52348
Public and Indian housing—
Traditional Indian housing development program, 52348–52349

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau
RULES
Acquisition regulations:
Regulatory streamlining, 52265–52266

Internal Revenue Service
RULES
Excise taxes:
Foundation and similar excise taxes; return and time for filing requirements, 52256–52257
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52379
Meetings:
Information Reporting Program Advisory Committee, 52379–52380

International Trade Administration
NOTICES
Antidumping:
Uranium from—
Russian Federation, 52322

International Trade Commission
NOTICES
Import investigations:
Hardware logic emulation systems and components, 52359–52360

Justice Department
See Drug Enforcement Administration

See Foreign Claims Settlement Commission
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52360–52361

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
New Mexico, 52351
Environmental statements; notice of intent:
Salt Lake District, UT; fire management plan, 52351–52352
Resource management plans, etc.:
Farmington District, NM, 52352

Management and Budget Office
NOTICES
Line Item Veto Act; cancellation of items:
Military Construction Appropriations Act, 52452–52469

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations; list, 52266–52273
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
American Honda Motor Co., Inc., 52372–52373

National Institutes of Health
NOTICES
Meetings:
National Center for Research Resources, 52346
National Institute of Child Health and Human Development, 52346
Research Grants Division special emphasis panels, 52347

National Labor Relations Board
RULES
Summary judgment cases notice to show cause procedure, advisory opinions, etc.; Federal regulatory reform; correction, 52381

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock, 52275–52276
Northeastern United States fisheries—
Northeast multispecies; correction, 52273–52275
Summer flounder, 52275
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52323
Fisheries research; strategic plan; availability, 52323–52324
Meetings:
Pacific Fishery Management Council, 52324

National Park Service
NOTICES
Concession contract negotiations:
Grand Teton National Park, WY—
Dude ranch operation, 52352–52353
National Register of Historic Places:
Pending nominations, 52353

National Science Foundation
NOTICES
Meetings; Sunshine Act, 52361–52362

National Telecommunications and Information Administration
NOTICES
Meetings:
Public Interest Obligations of Digital Television Broadcasters Advisory Committee, 52324–52325

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 52364–52365
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 52362–52364
Private Fuel Storage, LLC, 52364

Personnel Management Office
NOTICES
Meetings:
National Partnership Council, 52365

Public Debt Bureau
See Fiscal Service

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Colorado River reservoirs; coordinated long-range operating criteria; review, 52354–52359

Rural Business-Cooperative Service
PROPOSED RULES
Program regulations:
Community programs guaranteed loan program, 52277–52293

Rural Housing Service
PROPOSED RULES
Program regulations:
Community programs guaranteed loan program, 52277–52293

Rural Utilities Service
PROPOSED RULES
Program regulations:
Community programs guaranteed loan program, 52277–52293

Securities and Exchange Commission
RULES
Securities:
Lost securityholders; transfer agent requirements, 52229–52237
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 52365–52367
Chicago Stock Exchange, Inc., 52367–52368
Delta Clearing Corp., 52368–52369
New York Stock Exchange, Inc.; correction, 52381

Small Business Administration
NOTICES
Disaster loan areas:
Michigan, 52369
New Jersey, 52369–52370
Meetings:
Washington (DC) National Advisory Council, 52370
Organization, functions, and authority delegations:
North and South Florida District Offices; name changes, 52370

Surface Transportation Board
NOTICES
Environmental statements; notice of availability, etc.:
CSX Corp. et al., 52373
Rail carriers:
Western U.S. rail service; proceeding and hearing, 52373–52374
Railroad operation, acquisition, construction, etc.:
National Railroad Passenger Corp. (Amtrak), 52374–52376

Technology Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 52325

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Fiscal Service
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 52376–52378
Meetings:
Debt Management Advisory Committee, 52378

Separate Parts In This Issue

Part II
Environmental Protection Agency, 52384–52428

Part III
Department of Education, 52430–52450

Part IV
Office of Management and Budget, 52452–52469

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.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

Public Laws Electronic Notification Service
Free electronic mail notification of newly enacted Public Laws is now available. To subscribe, send E-mail to **PENS@GPO.GOV** with the message: *SUBSCRIBE PENS-L FIRSTNAME LASTNAME.*

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.

7 CFR
Proposed Rules:
1980 52277

14 CFR
39 52225
73 52226
Proposed Rules:
39 52294

17 CFR
240 52229
249 52229

21 CFR
20 52237
310 52237
312 52237
314 52237
600 52237
1309 52253
1310 52253
1313 52253
Proposed Rules:
1300 52294
1309 52294
1310 52294

26 CFR
53 52256

29 CFR
101 52381
102 52381

40 CFR
9 52384
60 52384
63 52384

44 CFR
Proposed Rules:
61 52304

45 CFR
Proposed Rules:
303 52306

47 CFR
0 52257

48 CFR
1401 52265
1425 52265
1452 52265

49 CFR
593 52266

50 CFR
648 (2 documents) 52273, 52275
679 52275

Rules and Regulations

Federal Register
Vol. 62, No. 194
Tuesday, October 7, 1997

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–36–AD; Amendment 39–10154, AD 97–21–01]

RIN 2120–AA64

Airworthiness Directives; MT-Propeller Entwicklung GMBH Model MTV–3–B–C Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to MT-Propeller Entwicklung GMBH Model MTV–3–B–C propellers. This action requires initial and repetitive dye penetrant or eddy current inspections for cracks in the propeller hub, and rework of the propeller hub or replacement with a new model propeller hub. This amendment is prompted by reports of cracks in the propeller flange area of the hub detected during overhaul. The actions specified in this AD are intended to prevent propeller hub cracks, which could result in propeller blade separation and possible loss of control of the aircraft.

DATES: Effective October 22, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–36–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from MT-Propeller Entwicklung GMBH, Airport Straubing-Wallmuhle, D–94348 Atting, Germany; telephone (0 94 29) 84 33, fax (0 94 29) 84 32, Internet: ''propeller@aol.com''. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7155, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on MT-Propeller Entwicklung GMBH Model MTV–3–B–C/L250–21 propellers. The LBA advises that they have received reports of cracks in the propeller flange area of the hub detected during overhaul. The investigation revealed that the cracks were created due to high loads, such as those associated with aerobatic maneuvers. This condition, if not corrected, could result in propeller hub cracks, which could result in propeller blade separation and possible loss of control of the aircraft.

MT-Propeller Entwicklung GMBH has issued (SB) No. 12A, dated July 17, 1997, that specifies procedures for dye penetrant or eddy current inspections for cracks in the propeller hub, and, if necessary, rework or replacement with serviceable parts. The LBA classified this SB as mandatory and issued AD 97–006/2 in order to assure the airworthiness of these propellers in Germany.

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

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of the same type design registered in the United States, the AD will require initial and repetitive dye penetrant or eddy current inspections for cracks in the propeller hub, and, if necessary, rework or replacement with serviceable parts. The actions would be required to be accomplished in accordance with the SB described previously.

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

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–ANE–36–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–21–01 MT-Propeller Entwicklung GMBH: Amendment 39–10154. Docket 97–ANE–36–AD.

Applicability: MT-Propeller Entwicklung GMBH Model MTV–3–B–C/L250–21. These propellers are installed on but not limited to Sukhoi 29 aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller hub cracks, which could result in propeller blade separation and possible loss of control of the aircraft, accomplish the following:

(a) Perform initial and repetitive dye penetrant or eddy current inspections for cracks in the propeller hub, and rework propeller hub, Part Number (P/N) B–050, or replace with a propeller hub, P/N A–909–A, all in accordance with MT-Propeller Entwicklung GMBH Service Bulletin (SB) No. 12A, dated July 17, 1997, as follows:

(1) Within 50 hours time in service (TIS) after the effective date of this AD, perform the initial inspection.

(2) Thereafter, inspect as follows:

(i) For propellers with hubs, P/N B–050, inspect at intervals not to exceed 50 hours TIS, or 6 months since last inspection, whichever occurs first.

(ii) For propellers with hubs, P/N A–909–A, inspect at intervals not to exceed 200 hours TIS, or 12 months since last inspection, whichever occurs first.

(3) Following inspection, if no cracks are found, and within 50 hours TIS after the effective date of this AD, rework the existing propeller hub, P/N B–050, or install propeller hub, P/N A–909–A.

(4) Following inspection, if cracks are found, prior to further flight remove the existing propeller hub, and replace with a serviceable propeller hub.

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

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

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

(d) The actions required by this AD shall be performed in accordance with the following MT-Propeller Entwicklung GMBH SB:

Document No.	Pages	Date
12A	1–3	July 17, 1997.

Total pages: 3.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MT-Propeller Entwicklung GMBH, Airport Straubing-Wallmuhle, D–94348 Atting, Germany; telephone (0 94 29) 84 33, fax (0 94 29) 84 32, Internet: ''propeller@aol.com''. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 22, 1997.

Issued in Burlington, Massachusetts, on September 26, 1997.

James C. Jones,

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

[FR Doc. 97–26373 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 94–ASO–18]

RIN 2120–AA66

Establishment of Restricted Areas; Camp Lejeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes restricted areas at Camp Lejeune, NC, to augment an expansion of the existing Camp Lejeune training range facilities. The U.S. Marine Corps (USMC) requested this action in order to accommodate the increased training activities required by operational units.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division,

ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The USMC requested that the FAA establish restricted areas at Camp Lejeune, NC, because the existing facilities do not contain sufficient firing ranges, maneuver areas, or impact areas to accommodate the expanded, more complex Marine Corps training requirements which have evolved in recent years. Two USMC studies documented shortfalls in the existing range capabilities. These limitations have precluded Camp Lejeune from fulfilling a number of basic Fleet Marine Force training requirements. As a result, the USMC has been required to conduct periodic, multi-million dollar deployments of personnel and equipment to other locations in the United States in order to complete essential training events.

On June 15, 1995, the FAA published a notice of proposed rulemaking (NPRM) which proposed to amend 14 CFR part 73 to establish Restricted Areas R–5303A, B, and C, and R–5304A, B, and C, at Camp Lejeune, NC (60 FR 31426).

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received by the FAA in response to the proposal. The Aircraft Owners and Pilots Association objected to the proposal, stating that the restricted areas would interfere with general aviation aircraft transiting the area and would prevent pilots from using Federal Airway V–139 between Wilmington, NC, and New Bern, NC.

The restricted areas will be managed on a real-time basis to minimize impact on nonparticipating aircraft. Cherry Point Approach Control will be the designated controlling agency for the restricted areas. The approach control has dedicated direct landlines to the Camp Lejeune Range Control and has the authority to call an immediate cease fire in the event of an aircraft emergency, unauthorized aircraft intrusion, or operational necessity. The lowest subareas, R–5303A and R–5304A, will be the most frequently used areas. Normally, V–139, above 7,000 feet mean sea level (MSL), will remain available for transit by nonparticipating aircraft. When nonparticipating aircraft on V–139 are unable to transit above the restricted area altitudes in use, the range activity will either be capped, or a cease fire imposed, to accommodate the aircraft on the airway. On occasion, air traffic control (ATC) may vector nonparticipating aircraft off the airway to the east of the range through Restricted Areas R–5306D and R–5306E, which will be deactivated for that purpose.

The FAA believes that the real-time procedures for the activation and deactivation of the airspace should minimize the impact on nonparticipating aircraft.

The North Carolina Department of Transportation (NCDOT) commented that the mitigation procedures satisfy its concerns about the impact on general aviation and, provided that the range and airspace operations are conducted as proposed, the proposal may be the best compromise for all airspace users. However, NCDOT expressed concerns about the proposal considering the amount of existing special use airspace (SUA) in the State, and the impact on V–139. NCDOT suggested that this action should be reviewed after the airspace has been operational for some time and that, if the real-time procedures do not prove satisfactory, a new airway segment should be considered between Wilmington and New Bern with an intersection over the Albert J. Ellis Airport, Jacksonville, NC. NCDOT further commented that the 6-hour Notices to Airmen (NOTAM) time proposed in the time of designation of the restricted areas is too short.

In response to NCDOT's comment, the time requirement for NOTAM activation of the restricted areas will be increased from the proposed 6 hours in advance, to 24 hours in advance. Regarding the impact on V–139, the FAA believes that the real-time use procedures should minimize the impact to aircraft transiting the area or utilizing V–139. As part of its annual review of SUA, the FAA will monitor the implementation of this rule and the effectiveness of the real-time procedures described above. Airspace and/or procedural modifications may be considered in the future, if warranted.

The Rule

This rule amends 14 CFR part 73 by establishing Restricted Areas R–5303A, B, and C, and R–5304A, B, and C, at Camp Lejeune, NC. The restricted areas will overlie a Government-purchased tract of land contiguous to Camp Lejeune, known as the Greater Sandy Run Area, and will extend from the surface up to but not including Flight Level (FL) 180. The airspace will be subdivided vertically. The subdivisions will be configured as follows: R–5303A and R–5304A extending from the surface to but not including 7,000 feet Mean Sea Level (MSL); R–5303B and R–5304B extending from 7,000 feet MSL to but not including 10,000 feet MSL; and R–5303C and R–5304C extending from 10,000 feet MSL to but not including FL 180.

The activities to be conducted in the restricted areas include the firing of various surface weapons and air-delivered ordnance (helicopters only). No fixed-wing participating aircraft operations will be conducted in the restricted areas. Most training activities will be conducted in the lowest portion of the restricted areas (i.e., R–5303A and R–5304A, below 7,000 feet MSL).

The time of designation for R–5303A and R–5304A will be 0600 to 1800 local time, Monday through Friday, with a provision for activation at other times by NOTAM at least 24 hours in advance. Restricted Areas R–5303B/C and R–5304B/C will be activated by NOTAM at least 24 hours in advance when required for training.

It is estimated that the highest altitude strata of the restricted areas will be required approximately 10% of the time. An estimated 75% of the total training activities will take place during daylight hours. On a yearly basis, it is projected that the restricted areas will be used on 30 to 40 weeknights. Training will also be conducted on 30 to 40 weekend days, which may include additional night-time operations. Peak firing periods are expected to occur between the hours of 0800–1600, Tuesday, Wednesday, and Thursday, with March through October projected as the peak firing months.

The new restricted areas will be configured to maximize training flexibility and to facilitate the activation of only those portions of the restricted areas actually needed for training operations. When activated, the restricted areas may impact the segment of V–139 between Wilmington, NC, and New Bern, NC. In order to minimize the impact on air traffic utilizing V–139, the restricted areas will be subject to real-time activation procedures. The lowest subareas, R–5303A and R–5304A, will be the most frequently used areas. Normally, V–139, above 7,000 feet MSL, will remain available for transit by nonparticipating aircraft. When nonparticipating aircraft on V–139 are unable to transit above the restricted area altitudes in use, the range activity will either be capped, or a cease fire imposed, to accommodate the aircraft on the airway. On occasion, ATC may vector nonparticipating aircraft off the airway to the east of the range through Restricted Areas R–5306D and R–5306E,

which will be deactivated for that purpose. These procedures will be specified in a joint-use letter of procedure between the using agency and the controlling agency. The letter of procedure will include provisions to give ATC priority for use of the airspace when necessary during periods of severe weather, or emergency situations.

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

Section 73.53 of 14 CFR part 73 was republished in FAA Order 7400.8D dated July 11, 1996.

Environmental Review

The USMC issued a final environmental impact statement (EIS) in May 1991 for the Proposed Expansion and Realignment of the Marine Corps Base Camp Lejeune Onslow County, NC. Based upon proximity to the ground site for military training and other geographic factors, the USMC considered 13 alternatives as potential solutions to accommodate training needs at Camp Lejeune. These alternatives included a variety of options ranging from maintaining the status quo (no action) to relocating of Marine Corps Base Camp Lejeune, as well as increasing off-base training. Two airspace alternatives were brought forward for further consideration; Alternative One, which is the designation of new restricted areas at Camp Lejueune, as described in this rule and the No Action Alternative. Alternative One was identified as the environmentally preferable alternative in the EIS.

The No Action Alternative would consist of the continued utilization of existing training facilities, with no additional special use airspace to contain the increased training activities needed by operational units. The No Action Alternative failed to address the training deficiencies as identified at Camp Lejeune. Without the additional special use airspace, implementation of Marine Battle Skills Training would increase training pressures on existing firing ranges outside the area of Camp Lejeune. Modern long-range weapons would not be accommodated at Camp Lejeune and would continue to be deployed elsewhere. The USMC issued a Record of Decision in October 1991 that adopted all practicable means to avoid or minimize harm.

In June 1997, the USMC submitted to the FAA an Addendum to the EIS. In August 1997, the FAA completed a written reevaluation of the EIS and adopted and recirculated the Addendum and the EIS as final, pursuant to 40 CFR 1506–3(a) and (b) 62 FR 43730 and 62 FR 44685. After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisidiction by law and special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national policies and objectives as set forth in section 101 (a) of the National Environmental Policy Act of 1969, as amended.

This final rule constitutes final agency action under 49 USC 46110. Any person disclosing a substantial interest in this order may appeal the order to the courts of appeal of the United States or the United States or the United States Court of Appeals of the District of Columbia upon petition, filed within 60 days after the order is issued.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

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

§ 73.53 [Amended]

2. Section 73.53 is amended as follows:

* * * * *

R–5303A Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″N., long. 77°33′09″W.; to lat. 34°39′16″N., long. 77°28′31″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°38′49″N., long. 77°37′31″W.; to the point of beginning.

Designated altitudes. Surface to but not including 7,000 feet MSL, excluding the airspace 1,500 feet AGL and below within a 3NM radius of Sky Manor airport.

Time of designation. 0600–1800 Monday-Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5303B Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″N., long. 77°33′09″W.; to lat. 34°39′16″N., long. 77°28′31″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°38′49″N., long. 77°37′31″W.; to the point of beginning.

Designated altitudes. 7,000 feet MSL to but not including 10,000 feet MSL.

Time of designation. By NOTAM at least 24 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5303C Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°41′40″N., long. 77°33′09″W.; to lat. 34°39′16″N., long. 77°28′31″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°38′49″N., long. 77°37′31″W.; to the point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. By NOTAM at least 24 hours in advance.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304A Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°32′16″N., long. 77°30′13″W.; to lat. 34°29′43″N., long. 77°35′15″W.; to lat. 34°32′42″N., long. 77°34′54″W.; to the point of beginning.

Designated altitudes. Surface to but not including 7,000 feet MSL, excluding the airspace 1,500 feet AGL and below within a 3NM radius of Holly Ridge airport.

Time of designation. 0600–1800, Monday-Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304B Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°32′16″N., long. 77°30′13″W.; to lat. 34°29′43″N., long.

77°35′15″W.; to lat. 34°32′42″N., long. 77°34′54″W.; to the point of beginning.

Designated altitudes. 7,000 feet MSL to but not including 10,000 feet MSL.

Time of designation. By NOTAM at least 24 hours in advance.

Controlling agency. USMC, Cherry Point Approach Control.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

R–5304C Camp Lejeune, NC [New]

Boundaries. Beginning at lat. 34°37′03″N., long. 77°35′25″W.; to lat. 34°36′13″N., long. 77°31′51″W.; to lat. 34°36′51″N., long. 77°29′01″W.; to lat. 34°32′16″N., long. 77°30′13″W.; to lat. 34°29′43″N., long. 77°35′15″W.; to lat. 34°32′42″N., long. 77°34′54″W.; to the point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. By NOTAM at least 24 hours in advance.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding General, U.S. Marine Corps Air Station, Cherry Point, NC.

* * * * *

Issued in Washington, DC, on October 1, 1997.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–26671 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–39176; File No. S7–21–96]

RIN 3235–AG99

Lost Securityholders

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting Rule 17Ad–17 and Rule 17a–24 under the Securities Exchange Act of 1934. Rule 17Ad–17, which is designed to address the problem of ''lost securityholders,'' requires transfer agents to conduct searches in an effort to locate lost securityholders. Rule 17a–24, which is designed to assist the Commission in monitoring the effects of Rule 17Ad–17, requires transfer agents to file information on lost securityholders with the Commission. The rules are designed to reduce the number of lost securityholders.

EFFECTIVE DATE: §§ 240.17Ad–17 and 240.17Ad–7(i) will be effective December 8, 1997, and §§ 240.17a–24 and 249b.102, the amendments to Form TA–2 will be effective February 4, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director; Christine Sibille, Senior Counsel; Jeffrey Mooney, Attorney; or Theodore Lazo, Attorney at 202/942–4187, Office of Risk Management and Control, Mail Stop 5–1, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Transfer agents serve as the custodians of securityholder records, including records of securityholders' addresses, for issuers. In this capacity, transfer agents frequently are responsible for disseminating shareholder communications and dividend and interest payments. For various reasons, transfer agents occasionally have outdated or incorrect addresses for some securityholders (''lost securityholders'').[1] As a result, these shareholders do not receive dividend and interest payments to which they are entitled. Generally, issuers retain custody of such dividend and interest payments, and if contact is not reestablished with a securityholder prior to the expiration of the appropriate state's escheat period, the issuer must turn the securityholder's assets over to the state unclaimed property administrator While various transfer agents attempt to locate lost securityholders, the extent and type of efforts used very considerably from one transfer agent to another.[2] The Securities and Exchange Commission (''Commission'') believes that establishing minimum search requirements in this area will facilitate locating lost securityholders.

On August 22, 1996, the Commission issued for comment a release (''Proposing Release'')[3] proposing Rule 17Ad–17[4] and Rule 17a–24[5] under the Securities Exchange Act of 1934 (''Exchange Act'') and proposing amendments to Rule 17Ad–7,[6] which were designed to address the problem of lost securityholders. Proposed Rule 17Ad–17 would require that transfer agents exercise reasonable care, including conducting data base searches, in an effort to locate lost securityholders.[7] The proposed amendment to Rule 17Ad–7 set forth the retention time periods for the records relating to compliance with proposed Rule 17Ad–17. Proposed Rule 17Ad–24 would have required certain entities that hold assets for others (*e.g.*, transfer agents and broker-dealers) to file annually with the Commission a list of the social security numbers of all lost securityholders contained in their records. The Proposing Release also requested comment on whether either the Commission or a private entity should create and operate a lost securityholder data base.

The Commission received 57 comment letters from 52 commenters in response to the Proposing Release.[8] The commenters in general expressed support for proposed Rule 17Ad–17 although several commenters expressed concerns about specific provisions of the proposed rule. The commenters in general expressed concern about proposed Rule 17a–24. The Commission is adopting Rule 17Ad–17 substantially as proposed but with some modifications to reflect commenters' views and is amending Rule 17Ad–7 as proposed. The Commission is adopting proposed Rule 17a–24 with substantial revisions and is making related changes to Form TA–2[9] In addition, the Commission has directed its staff to review the operations of the adopted rules after three years and to report back to the Commission on its findings.

[1] For example, some securityholders do not provide a new address when they move.

[2] *See* Securities Exchange Act Release No. 37595 (August 22, 1996), 61 FR 44249 (release proposing Rule 17Ad–17 and Rule 17a–24), note 13 (discussing the methods transfer agents currently use to locate lost securityholders).

[3] *Id.* The Commission later extended the comment period contained in the Proposing Release. Securities Exchange Act Release No. 37949 (November 15, 1996), 61 FR 59046 (extending comment period).

[4] 17 CFR 240.17Ad–17.

[5] 17 CFR 240.17Ad–24.

[6] 17 CFR 240.17Ad–7.

[7] The Proposing Release also discussed transfer agents' obligations under Rule 17Ad–10 to maintain and keep current accurate master securityholder files (defined below in note 10), which include information such as securityholders' names and addresses. The Proposing Release concluded that maintaining accurate securityholder files is one of the most basic steps in addressing the lost securityholder problem. The Commission believes that conducting data base search for lost securityholders pursuant to Rule 17Ad–17 will enhance a transfer agent's fulfillment of its responsibilities under Rule 17Ad–10.

[8] The Commission received comment letters from eighteen transfer agents, five trade associations representing transfer agents, five individuals, three corporations, one broker-dealer, two professional search firms, and eighteen government entities. A summary of comments has beem prepared by the staff of the Division of Market Regulation. The summary is included along with the comment letters in Public File No. S7–21–96, which is available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

[9] Form TA–2 is referenced in 17 CFR 249b.102.

II. Discussion

A. Rule 17Ad–17: Obligation to Search

As adopted, Rule 17Ad–17 requires that transfer agents exercise reasonable care to ascertain the correct addresses of all lost securityholders in their records. At a minimum, transfer agents must conduct two searches using an information data base. In addition, transfer agents may not use any service designed to locate their lost securityholders that results in a charge to a securityholder until after the two data base searches have been conducted.

1. Definition of Lost Securityholders

Rule 17Ad–17 generally defines a ''lost securityholder'' as a securityholder to whom an item of correspondence that was sent to the securityholder at the address in the transfer agent's master securityholder file has been returned as undeliverable.[10] However, if a transfer agent re-sends the returned item to the securityholder within one month, the transfer agent has the option to delay classifying the securityholder as lost for purposes of Rule 17Ad–17 until the item is again returned to the transfer agent as undeliverable. If and when a transfer agent receives a new address for a lost securityholder, either directly from the securityholder or through the transfer agent's own efforts, the securityholder will no longer be classified as lost.

Under the definition as proposed, a securityholder would have been classified as lost only after two separate items of correspondence mailed at least three months apart had each been returned as undeliverable. Commenters in general were opposed to a requirement that three months elapse between the mailing of two undeliverable items of correspondence, stating that this approach would increase costs by requiring transfer agents to initiate new coding mechanisms.[11] In addition, some commenters stated that continuing to mail distributions to an incorrect address increases risk of loss. Commenters also noted that the proposed definition of lost securityholder could result in long delays before some shareholders are defined as lost.[12]

The Commission believes that the revised definition produces a more consistent result as to when shareholders are classified as lost.[13] In addition, the Commission understands that some transfer agents have internal procedures whereby they promptly remail returned correspondence because they have found such remailing procedures to be beneficial in reducing the number of lost securityholders.[14] Therefore, the revised definition gives transfer agents flexibility to delay coding a securityholder as lost until after the remailed item is returned as undeliverable.

In addition, the Commission is making minor technical amendments to the proposed definition of lost securityholder. For example, to take into account future developments in the methods used to disseminate shareholder communications, the rule no longer refers to returned correspondence that were ''sent by first class mail.''

2. Transfer Agents' Search Requirements

a. Type of Search

Rule 17Ad–17 requires every recordkeeping transfer agent whose master securityholder file includes accounts of lost securityholders to search for such securityholders' current address using at least one information data base. The transfer agent's search for a lost securityholder must be based on the taxpayer identification number (''TIN'') or on the name of the lost securityholder if a search based on TIN is not reasonably likely to locate the lost securityholder.

As originally proposed, the search could be based on a securityholder's name if such a search was reasonably likely to locate the lost securityholder. Commenters were divided as to the advisability of such provision. While most commenters agreed that TIN searches are more effective, some commenters argued that transfer agents should have the flexibility to search by name when advisable (*e.g.*, when the TIN is missing or incomplete). By revising the requirement to permit name searches only when a TIN search is not reasonably likely to locate the lost securityholder (*e.g.*, when the TIN is missing or incomplete), the Commission believes transfer agents are afforded sufficient flexibility to conduct the most effective search.

b. Time Frames for Search

The rule as adopted also differs from the proposal with respect to the time frames in which the searches must be conducted. As proposed, a transfer agent would have had to conduct a search within three months of a securityholder being classified as lost. If after the first search the securityholder had continued to be classified as lost, the proposal would have required another search between 12 and 18 months after the initial search. Many commenters suggested that conducting an initial search three months after a securityholder was classified as lost was too soon for the data bases to be updated, and that conducting a second search between 12 and 18 months after the first search was too long a period from loss of contact.

As adopted, a transfer agent must conduct the initial search between three and 12 months of a securityholder being classified as lost.[15–16] If the lost securityholder is not found, the transfer agent must conduct a second search between six and 12 months after the initial search.

Demonstrated below are time frames in which the second search would need to be conducted depending upon when the first search occurred.

[10] ''Master securityholder file'' is defined in Rule 17Ad–9(b) as the official list of individual securityholder accounts.

[11] The Proposing Release noted that the three month period was intended to give transfer agents time to receive any delayed change of address notifications prior to having to conduct searches.

[12] For example, if an issue does not pay dividends or interest, the only securityholder correspondence may be the annual report. In such an instance, a securityholder would not have been classified as lost until a year after the first correspondence had been returned as undeliverable.

[13] The revised definition avoids situations where securityholders of issues with quarterly mailings would have been defined as lost three months after a correspondence was first returned as undeliverable while securityholders of issues with only annual mailings would not have been defined as lost until a year after a correspondence was first returned as undeliverable.

[14] Transfer agents have found that some items are returned as a result of the deliverer's error rather than an incorrect address and that remailing will result in the securityholder receiving the item.

[15–16] As discussed in the Proposing Release, the Commission encourages transfer agents to take immediate steps upon learning a shareholder's address may not be correct. Proposing Release, note 16. The Proposing Release discusses several techniques that, while not required by the rule, may be beneficial in reducing the number of lost securityholders for which the transfer agent must search. Proposing Release, note 13.

[17] Between three to 12 months would have elapsed between the first and second returned items of correspondence, and the first search would have had to be conducted within three months after the return of the second item of correspondence.

```
                                   3 mos.   9 mos.   12 mos.   15 mos.   18 mos.   21 mos.   24 mos.
Lost
|                                  | ←1st Search→ |
1st search at:
  3 mos.                                  | ←2d Search→ |
  6 mos.                                            | ←2d Search→ |
  9 mos.                                                      | ←2d Search→ |
  12 mos.                                                                 | ←2d Search→ |
```

The second search is intended to take advantage of address changes that may have been added to the data base after the initial search. The transfer agent must conduct these searches without charge to a lost securityholder.

Under the proposed rule, the time in which transfer agents would have been required to conduct the first search would have depended on the frequency of mailings associated with an issue. (The first search would have had to be conducted between three and 15 months after the return of the first correspondence based on whether the issue had quarterly or annual mailings.) [17]

Because the timing of the search requirements would have been dependent upon the frequency of issuers' mailings, commenters noted that transfer agents would not have had much flexibility in determining when to search for lost securityholders.

Under the adopted rule, the first search must be conducted between three to 12 months after the first correspondence is returned. However, unlike the proposed rule, transfer agents may search at any time during this period. As a result, transfer agents' search requirements are triggered within basically the same timeframes whether there are quarterly or annual mailings, but transfer agents will be better able to use their discretion as to the most appropriate time to conduct the searches. Additionally, this revision may permit transfer agents to conduct more cost-effective searches by allowing transfer agents to bundle together many lost securityholders for submission to a data base service which should lower internal costs and increase the likelihood that transfer agents will qualify for volume discounts from data base services.

c. Exceptions to the Search Requirement

In the Proposing Release, the Commission requested comment on whether the requirement to search for lost securityholders should apply only when a lost securityholder's account contained assets over some de minimis amount.[18] Many commenters agreed that transfer agents should not be required to expend funds to search for a lost securityholder when the cost of a search could exceed the amount in the securityholder's account. Although varying de minimis amounts were suggested, most commenters favored a de minimis threshold of $100 per account.

The Commission believes that there should be a de minimis exception from the search requirements that will allow transfer agents to forgo searches that would not be cost-effective. Based on what the Commission understands to be the low cost of data base searches,[19] the Commission is amending the proposed rule to permit transfer agents to exclude from the search requirements any lost securityholder when the value of all dividend, interest, and other payments due to the securityholder plus the value of all assets listed in the lost securityholder's account is less than $25. The Commission believes that this exemption will reduce the economic impact of the rule on transfer agents while still affording sufficient protection to securityholders.[20]

In the Proposing Release, the Commission noted that data base searches generally are considered a cost-effective way to locate lost securityholders. The Commission requested comment on the potential effectiveness of the rule in addressing the lost securityholder issue. The request was intended to elicit comment on situations where data base searches would not be an appropriate method of locating lost securityholders. One commenter requested that exemptions from the search requirement be created for certain categories of securityholders that will not be reached through an electronic data base search, specifically any lost securityholder (1) whose last known address is outside of the United States; (2) whose account has a missing or incomplete TIN; (3) which is not a natural person (*e.g.*, a corporation); or (4) who is known to be deceased.

Based on this request and on additional research into the capabilities of existing commercial data bases, the Commission has decided to create an exemption from the search requirements for securityholders for whom the transfer agent has received documentation of their death [21] and an exemption for securityholders which are not natural persons. The Commission understands that the data bases relied upon by most transfer agents do not contain information on estates or heirs and that there is no automated method by which such information can be obtained. [22] Securityholders which are not natural persons likewise cannot be located easily through the use of information data bases and comprise a minuscule percentage of the total amount of lost securityholders.

The Commission is not adopting the other suggested exemptions because data base searches for those categories of lost securityholders could in many cases be effective. For example, although the Commission understands that most data bases currently do not contain the names of individuals living outside of the United States, it is possible that a securityholder with a foreign last known address was only temporarily living out of the country and that a data base search will provide an updated domestic address.

With respect to the commenter's request for an exemption for securityholders with missing or incomplete TINs, the adopted rule permits transfer agents to conduct a search based on a lost securityholder's name when a search based on a TIN is not reasonably likely to locate a lost

[17] Between three to 12 months would have elapsed between the first and second returned items of correspondence, and the first search would have had to be conducted within three months after the return of the second item of correspondence.

[18] In calculating this amount, all assets in that account for which the transfer agent maintains records are included regardless of whether the transfer agent is actually in possession of the property. Therefore, the value of the assets in the securityholder's account includes dividends, interest, and other payments due to the securityholder and the value of any underlying assets (*e.g.*, the value of securities owned by the shareholder as shown on the transfer agent's records).

[19] Refer to Section IV below for a discussion of the cost of data base searches.

[20] Some commenters stated that for efficiency reasons some transfer agents will search for all lost securityholders.

[21] Such documentation may consist of a report received from an information data base.

[22] The Commission has been informed that in the future some information data bases may be updated to include beneficiary data. If a low cost method of determining a deceased's beneficiary becomes available, the Commission may reexamine the application of search requirements to this category of securityholder.

securityholder. Therefore, the Commission also believes that no exemption should be created for accounts with missing TINs.

d. Assessment of Procedures

In the Proposing Release, the Commission requested comment on whether the rule should include (1) a requirement that transfer agents periodically assess the effectiveness and appropriateness of the search procedures and technology they employ, and/or (2) a requirement that transfer agents' search procedures meet a performance standard based on success in locating lost securityholders. Most commenters that addressed the issue generally did not support adopting a strict application of this requirement. For example, some commenters believe that transfer agents should not have an absolute requirement to locate a certain percentage of their shareholders because the results of the searches frequently were outside of their control. While the adopted rule does not specifically contain such requirements, the Commission believes that transfer agents should bear these concepts in mind in determining whether they have met their obligation to exercise reasonable care under Rule 17Ad–17(a). For example, if a transfer agent is using a data base service that routinely fails to locate any or that locates only a very small percentage of lost securityholders, the transfer agent should evaluate whether the use of such service constitutes the exercise of reasonable care.

3. Definition of Information Data Base

As proposed, Rule 17Ad–17 would have defined an information data base as any automated data base service that (1) contains addresses of U.S. residents, including addresses in the geographic area in which the lost securityholder's last known address is located, (2) covers a reasonably broad geographic area, (3) is indexed by TIN or by name, and (4) is updated at least four times a year. The Commission has revised the definition based on commenters' suggestions. The first requirement has been revised to require that the data base contain addresses from the entire United States. The second requirement has been revised to require that the data base contain names of at least 50% of the U.S. adult population. The third requirement also has been revised to clarify that an information data base must be indexed by TINs if a TIN search is used or by name if a name search is used. The fourth requirement is adopted as proposed. The revisions are intended to preclude the use of a data base that contains a small number of names but covers a broad geographic area or one that contains a large number of names but covers only a small geographic area.

The Commission also is adopting an alternative standard that will provide flexibility to transfer agents in fulfilling their obligations to search for lost securityholders. The alternative will permit transfer agents to use any service to locate lost securityholders if that service produces comparable results to the information data base described above. As part of their obligation to maintain records discussed below, a transfer agent relying on this alternative would be required to develop written procedures documenting and describing the alternative service used.

4. Use of Professional Search Firms

The Proposing Release discussed the current practice of some transfer agents to use professional search firms that charge a lost securityholder a fee for locating the lost securityholder's assets. As proposed and as adopted, Rule 17Ad–17 will prohibit a transfer agent from using any service to locate a securityholder that results in a charge to the securityholder until after the two data base searches required by the rule have been conducted. While a few commenters argued against the proposed prohibition, many commenters supported the provision with some arguing for additional restrictions.

Although the more extensive search techniques employed by professional search firms may locate some securityholders that the data base searches will not locate, the charges of such firms can cost a securityholder a significant portion of his or her assets. The Commission believes that transfer agents should make efforts (*i.e.*, the search provisions of Rule 17Ad–17(a)(1)) to locate lost securityholders before permitting services to charge them for reuniting them with their assets. Therefore, the Commission is adopting Rule 17Ad–17(a)(2) as proposed to delay transfer agents' use of professional search firms where the charge is assessed to the securityholder until after a transfer agent has completed two searches under Rule 17Ad–17.[23]

5. Verification of Securityholder

In order to guard against delivery of distributions to an incorrect recipient, the Commission recommended in the Proposing Release that transfer agents should verify that the person at the newly obtained address is in fact its account holder before disbursing securities or funds. One commenter expressed concern that requiring a transfer agent to confirm a securityholder's identity may restrict the transfer agent's ability to correct its master securityholder file because some shareholders may fail to return verification forms. The language in the Proposing Release was not intended to mandate a particular procedure. Instead, it was intended to highlight the need for transfer agents to use care prior to disbursement of securityholder funds. Prior to disbursing funds or to updating their master securityholder files, transfer agents should determine whether such action is appropriate based on all relevant factors.

B. Rules 17Ad–7 and 17Ad–17: Recordkeeping Requirements

Rule 17Ad–17 requires that all recordkeeping transfer agents maintain records to demonstrate their compliance with the requirements under the rule. Paragraph (i) is being added to Exchange Act Rule 17Ad–7 to require that transfer agents maintain the records required by Rule 17Ad–17 for a period of not less than three years and that transfer agents maintain these records in an easily accessible place during the first year.[24]

In the Proposing Release, the Commission suggested that transfer agents document the date each securityholder is classified as lost and the date the data base searches are conducted. One commenter interpreted this discussion to be a requirement that such dates be recorded on each lost securityholder's individual account record. This commenter stated that this requirement could require costly systems upgrades and that transfer agents instead should be allowed to demonstrate that data base searches have been conducted by referencing procedures that are in place and that reasonably assure that the searches are conducted on a timely basis. The language in the Proposing Release was not intended to specify the recordkeeping method to be used by transfer agents. Rather it was intended to provide flexibility to transfer agents to create systems that adequately demonstrate compliance with Rule 17Ad–17. However, the Commission does not believe that referencing

[23] Because a professional search firm that charges a fee to the transfer agent rather than to lost securityholders could qualify as an information data base search under the rule, professional search firms could be used to satisfy the transfer agent's search obligation under Rule 17Ad–17.

[24] Rule 17Ad–7 sets forth the lengths of time and the methods by which transfer agents must maintain the records which they are required to keep pursuant to Exchange Act Rules 17Ad–6, 17f–2, and 17Ad–17.

procedures without any specific documentation demonstrating that searches have been appropriately conducted is adequate.

The Commission also is adding language to Rule 17Ad–17 to clarify that transfer agents must maintain written procedures on how they will comply with the rule. The amendment to the rule is intended to give transfer agents more guidance on what the minimum recordkeeping requirements are while still providing flexibility to determine the most efficient method of demonstrating compliance with the requirements of the rule.

C. Rule 17a–24: Lost Securityholder Data

In the Proposing Release, the Commission also discussed the creation of a data base that would contain information (*e.g.*, TINs) on all lost securityholders. Proposed Rule 17a–24 would have required certain entities that hold assets for others (*e.g.*, transfer agents and broker-dealers) to file annually with the Commission a list of the TINs of all lost securityholders contained in their records. The Commission also requested comment on whether the Commission or its delegee should create and operate a lost securityholder data base or whether the Commission should release the information it received under Rule 17a–24 to the public to permit private entities to create data bases.

Most commenters were opposed to the creation of a lost securityholder data base. Many commenters believed that the data base would result in a loss of privacy for securityholders. Other commenters suggested that the data base could result in fraudulent claims. Finally, some commenters opined that the data base would be of limited utility because it would require that securityholders take the initiative to discover whether they had any unclaimed assets.

In response to concerns expressed by commenters, the Commission has determined to adopt proposed Rule 17a–24 with revisions that will only require the reporting of certain aggregate data. As noted in the Proposing Release, the Commission believes that there is a need to gather data on lost securityholders in order to obtain better information as to the extent to which lost securityholders are not receiving assets to which they are entitled and to assess the effectiveness of search techniques employed by transfer agents.[25] Similar to the proposed rule, the final rule will require each recordkeeping transfer agent to file annually with the Commission information on lost securityholders contained in the transfer agent's records.[26] However, the Commission has determined to require transfer agents to submit only aggregate data regarding the accounts of lost securityholders instead of the individual data that would have been required by proposed Rule 17a–24. This aggregate information would have been available by totaling the information that would have been required by proposed Rule 17a–24 or currently is readily accessible by transfer agents.

Specially, the Commission is revising proposed Rule 17a–24 to require registered transfer agents to disclose the aggregate number of lost securityholder accounts as of June 30 of each year and the percentage of total accounts represented by such lost securityholder accounts. These figures would be reported for specified periods of time: one year or less, three years or less, five years or less, or greater than five years.[27] The Commission also is requiring information on lost securityholder accounts that escheat to state unclaimed property administrators on an annual basis. To facilitate the reporting of this information, the Commission is amending Exchange Act Form TA–2,[28] the annual report of registered transfer agents. The Commission believes that this will be the least burdensome and most efficient way for transfer agents to comply with the revised rule.

The Commission believes that revised Rule 17a–24 is preferable to the rule as proposed at this time. The aggregate information required by the adopted rule should, as a result of Rule 17Ad–17, be readily available to transfer agents. Moreover, the collection of aggregate data, rather than taxpayer identification numbers or other personal data, ameliorates privacy concerns raised by some commenters. In addition to not requiring individual data, the revised rule will enable the Commission to better monitor the effectiveness of Rule 17Ad–17 over time and determine whether additional measures are necessary to find lost securityholders. Finally, the Commission has narrowed the scope of the rule. Unlike the proposed rule which would have applied to any recordkeeping broker-dealer or transfer agent, as adopted Rule 17a–24 applies only to recordkeeping transfer agents. The Commission believes that a narrower focus is preferable at this time.

III. Regulatory Flexibility Analysis

The following discussion summarizes the Commission's Final Regulatory Flexibility Analysis (''FRFA'') in accordance with the Regulatory Flexibility Act (''RFA'')[29] in connection with Rule 17Ad–17, Rule 17a–24, and the related amendments to Rule 17Ad–7 adopted today. A complete copy of the FRFA may be obtained by contacting Theodore Lazo, Attorney, Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 at 202/942–4187.

The FRFA explains both the need for and the objectives of the rules adopted by the Commission. As set forth in greater detail in the FRFA, the adopted rules with establish minimum standards for all transfer agents with respect to lost securityholders and may help the Commission to monitor the effectiveness of these standards. The FRFA further explains that the Commission believes that imposing an affirmative obligation on transfer agents to search for lost securityholders is in the public interest and will enhance investor protection.

The FRFA also (i) summarizes the significant issues raised by public comments in response to the Commission's Initial Regulatory Flexibility Analysis (''IRFA''), (ii) summarizes the Commission's assessment of such issues, and (iii) states any changes made in the proposed rules as a result of such comments. As noted in the FRFA, none of the comment letters received related directly to the IRFA, but seven commenters supplied data on the costs of proposed Rule 17Ad–17.[30] As discussed in the FRFA, the Commission believes that most of this cost data is overstated because it includes costs not created by the rule. The Commission also believes that the revisions to proposed Rule 17Ad–17 (*e.g.*, the extended time frames for conducting searches and the exceptions to the search requirements) will eliminate any excess costs of compliance with the rule that commenters contended would arise. The FRFA also notes that Rule

[25] 61 FR at 44252–44253.

[26] 61 FR at 44253.

[27] The Commission requested comment in the Proposing Release on whether the filing requirement should include information concerning the length of time securityholders have been lost. 61 FR at 44253.

[28] Pursuant to Exchange Act Rule 17Ac2–2, registered transfer agents are required to file an annual report on Form TA–2 by August 31 of each calendar year. 17 CFR 240.17Ac2–2.

[29] 5 U.S.C. 601–612.

[30] The cost data that the Commission received is discussed more fully in Section IV below.

17a–24 has been revised to minimize the costs to all transfer agents.

The FRFA also provides a description of and an estimate of the number of small entities to which the rule will apply. The FRFA states that the Commission estimates that 413 registered transfer agents qualify as ''small entities'' and will be subject to the requirements of the rule.

As required by the RFA, the FRFA describes the projected reporting, recordkeeping, and other compliance requirements of the rule and includes as estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the reports or records. As discussed above, Rule 17Ad–17 does not require any specific type of recordkeeping other than that which is necessary to demonstrate compliance with the rule, including establishing written procedures with respect to compliance with the rule. The FRFA states that the Commission believes that Rule 17Ad–17 as adopted provides sufficient flexibility for all transfer agents, including transfer agents which are small entities, to maintain records in the most cost-effective manner. The FRFA also states that the Rule 17a–24 as adopted will require transfer agents to report aggregate data regarding their lost securityholder accounts and that the Commission believes that such records will be readily available to transfer agents.

The FRFA also describes the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes (*e.g.*, alternative standards for small entities). As discussed further in the FRFA, the Commission has amended proposed Rule 17Ad–17 to provide additional flexibility to all transfer agents, including smaller transfer agents. In addition, the Commission has attempted to devise the most reasonable and simplest approach that would afford transfer agents as affective means to reduce the number of lost securityholders. The FRFA further explains that the Commission requested comment on the adoption of a requirement that transfer agents use search techniques based on their periodic assessment or a requirement that transfer agents' search procedures meet a performance based standard. In light of the comments received on the issue, the Commission is not adopting a periodic assessment requirement or a performance based standard. However, the Commission has revised the proposed rule to permit transfer agents to use any combination of services to local lost securityholders that provides a comparable result to an information data base.

As detailed in the FRFA, the Commission has decided not to create an exception to Rule 17Ad–17 for small entities. The FRFA explains that the Commission believes that any increased costs incurred by small entities because of the rule will be reasonable and are justified by the necessity to ensure that all securityholders receive the same level of investor protection. While the Commission has decided not to create an exception to the rule for small entities, the adopted rule does provide a de minimis exception for lost securityholders whose accounts hold assets of less than $25. The Commission believes that small transfer agents will likely rely on the de minimis exception more than large transfer agents.[31]

With respect to Rule 17a–24, the FRFA notes that the Commission has amended the proposed rule to reduce the reporting burden on all transfer agents and to minimize the compexity and operational burden of the requirements. Finally, the Commission states that any increased costs are justified by the need to monitor the effectiveness of Rule 17Ad–17.

Based on the analysis contained in the FRFA, the Commission believes that the adopted rules will not adversely affect small entities and include sufficient regulatory flexibility for compliance to minimize the impact on small entities. The FRFA is available for public inspection in File No. S7–21–96, and a copy may be obtained by contacting Theodore Lazo, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 5–1, Washington, DC 20549.

IV. Costs and Benefits of the Rules and Their Effects on Competition, Efficiency, and Capital Formation

Section 23(a)(2) of the Exchange Act[32] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules and to make a determination whether any burden on competition is necessary or appropriate in furthering the purposes of the Exchange Act. Furthermore, section 3 of the Exchange Act[33] as amended by the recently enacted National Securities Markets Improvement Act of 1996 (''Markets Improvement Act'')[34] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The Commission has considered Rule 17Ad–17 and Rule 17a–24 in light of the standards cited in sections 3 and 23(a)(2) of the Exchange Act and believes that for the reasons stated herein, the adoption of the rules will (i) promote efficiency for securityholder recordkeeping by subjecting all transfer agents to the same flexible rules governing searches for lost securityholders and reporting information to the Commission related to such searches, (ii) not adversely affect capital formation because it relates solely to post-issuance activity, and (iii) not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

In the Proposing Release, the Commission stated its view that the proposed Rule 17Ad–17 would not have a significant impact on transfer agent competition. All transfer agents will be subject to the same specified minimum standard for reasonable care in attempting to locate securityholders with whom contact has been lost. As discussed below, the cost of compliance with the proposed rule is minimal, and for many transfer agents that currently conduct securityholder searches using an information data base, the proposed rule will impose no additional cost. Because a transfer agent's cost of compliance generally is based upon the number of securityholders it must attempt to locate, transfer agents, regardless of their size, should incur comparable relative costs in exercising comparable care. On average, compliance costs should be roughly proportional to the number of securityholder records maintained by the transfer agent.

One commenter stated that the rule as proposed could have an anticompetitive effect because the costs could cause additional transfer agents to abandon an

[31] The Commission understands that small transfer agents tend to provide services to issuers with smaller prices per share. On occasion, when shareholders sell their positions, they fail to completely close out their account. As a result, they may leave an account holding only a few shares or the most recent dividend payment. Because a few shares of a smaller issuer is more likely to be under the de minimis amount than a few shares of a larger issuer, the Commission believes that the de minimis exception may be more beneficial to small transfer agents. Some large transfer agents also have stated that because it is more cost efficient to search for all of their lost securityholders than to segregate out the small accounts, they probably will not use the exemption.

[32] 15 U.S.C. 78w(a)(2).

[33] 15 U.S.C. 78c.

[34] Pub. L. 104–290, section 106, 110 Stat. 3416 (1996).

already contracting market. However, this commenter did not provide any detail as to the burden created by the rule or why such burden should disproportionately affect certain transfer agents. The Commission believes that the rule as adopted has been drafted so as to provide the maximum flexibility to transfer agents to meet their obligations in the most cost-effective manner possible. After careful consideration of the commenter's views, the Commission has determined that Rule 17Ad–17 will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

In the Proposing Release, the Commission estimated compliance costs to the industry of approximately $750,000, based on an estimated cost of $3.00 per account and a total estimated 250,000 lost securityholder accounts. Based on more recent data obtained from several large transfer agents, the Commission has revised its cost estimate per account to $3.38 the first year and $1.79 per account in the following years. Significantly, based on its most recent information, the Commission now believes that there may be as many as 3 million lost securityholder accounts. Due primarily to this change in estimated lost securityholder accounts, the Commission's revised estimate of the aggregate costs to the industry are one time compliance costs of $4.6 million and annual compliance costs of $5.2 million.

The Commission received seven comment letters that provided specific cost estimates. One commenter estimates (assuming one search and match) that the cost of locating an account will be approximately $6.00, which includes out-of-pocket postage, staff, and computer time. A second commenter states that vendor prices for data base searches may vary widely and that the actual cost per account will range from $5.00 to $12.00.[35] A third commenter estimates an aggregate cost of as much as $4.75 for each lost securityholder and total initial programming costs of $150,000.[36] Two commenters estimate that charges from firms for data base searches range from $2.00 per account to approximately $1.00 per account for tape files. Another commenter anticipates that the costs of complying with the rule will exceed $100,000 in additional labor costs together with software and hardware costs each year. Another commenter estimates that the cost per account for using an information data base ranges from less than $.10 when using a CD ROM to as much as $1.70 to use a third party vendor data base.

The Commission believes that the estimates higher than the Commission's estimate of $3.38 per lost account overstate the costs involved because the figures include expenses not related to the rule or which are required already as a part of the transfer agent's duties (*e.g.,* the cost of shareholder mailings). Furthermore, the Commission believes that compliance with the rule as it is being adopted will not require transfer agents to incur any substantial costs with respect to additional labor, hardware, or software because the rule's requirements regarding coding securityholders as lost are consistent with current state escheatment laws. Such state laws also require transfer agents to be able to produce information on lost securityholders for annual filings with the state, and therefore transfer agents' computer systems currently should be capable of producing lists of lost securityholders to provide to the data bases. Thus, the Commission believes that transfer agents' current computer systems should not require significant changes in order to comply with the rule.

Further, the Commission has amended the proposal so as to lower the cost of compliance with the rule. For example, the Commission has created a de minimis exception to the rule because searches for accounts with lesser values would not produce as great a benefit (*i.e.,* the cost of locating such securityholders would be a much larger percentage of the assets to be returned). In addition, the Commission has amended the rule to be more consistent with current state law requirements by eliminating the requirement that three months elapse between two mailings prior to coding a securityholder as lost. Accordingly, the Commission is retaining its estimate of $3.38 per account in the first year and $1.79 per account in the following years.

The Commission believes that the cost of the rule will be outweighed by its benefits. The rule will create a uniform standard applicable to all transfer agents thus ensuring that all investors have the opportunity to the reunited with their assets.[37] In addition, the rule will guarantee that transfer agents make at least two attempts to locate lost securityholders before forwarding names to a search firm that may result in substantial charges to the securityholder. Thus, the rule should help investors recover a greater percentage of their assets.

Based on comments received, the Commission believes that the number of lost securityholders compared to total accounts held by transfer agents is small, approximately 1.34%. However, the actual dollar amount of those assets can be significant. The Commission believes that the total value of assets held in accounts coded as ''lost'' may in fact exceed $450 million.[38]

The Commission believes that Rule 17Ad–17 mandates a cost-effective means for locating lost securityholders. Because of the de minimis exception, transfer agents are not required to search for lost securityholders unless their accounts are worth $25 or more. The Commission believes that the rate of success for data base searches is at least 60%.[39] Thus, even if every account of lost securityholders was worth only $25, the rule would provide an average benefit of $15 per lost securityholder account (*i.e.,* 60% of $25). This estimated benefit is larger than any commenter's estimate of the per account cost of data base searches.[40] Futhermore, because the value of many accounts will exceed $25, the Commission expects that the actual benefit will be higher.

The Commission has considered the substantial likely benefits that investors

[35] The commenter's estimates include the cost of the data base search itself plus such items as system processing expenses to generate the search and to receive the matched file from the data base vendor; printing and mailing expenses; handling and other related charges for returned items; and expenses for replacement of uncashed checks and lost securities.

[36] The estimate of $4.75 is based on postage, data base charges, and an increase in processing staff by two full time positions. Currently, this commenter conducts periodic searches for its lost securityholders.

[37] Some transfer agents currently attempt to locate lost securityholders, but the extent and type of efforts used vary greatly among transfer agents. In some cases, transfer agents forward the names of lost securityholders directly to professional search firms, in which case the securityholder must pay a fee to regain its assets. In other cases, the transfer agent searches for lost securityholders only if the search are authorized and paid for by the issuer.

[38] The data cited in this paragraph is based on a limited informal survey of several large transfer agents.

[39] The Commission staff contacted several transfer agents to obtain an estimated success rate. Only one of the transfer agents contacted currently uses data base searches to find lost securityholders. That transfer agent, which has been conducting searches on a monthly basis for over a year, stated that its success rate using data base searches is never less than 75% and sometimes is as high as 94%. For purposes of the cost-benefit analysis, the Commission is assuming a 60% success rate in order to be conservative.

[40] One commenter stated that the per account cost could be as high as $12.00. However, as discussed above, the Commission believes that this estimate includes many costs not created by the rule. Also, as noted above, the Division of Market Regulation estimates the average cost of data base searches required by the rule will total only $3.38 per account in the first year and $1.79 per account in the following years.

will receive from adoption of the rule and the additional cost the rule will impose on transfer agents. The Commission has decided to adopt the rule given the lack of consistent standards currently in effect with respect to lost securityholders and the relatively minor cost per account imposed by the rule. In consideration of cost, the Commission has designed the final rule to give transfer agents maximum flexibility to comply with the rule's requirements and to minimize their search and recordkeeping expenses.

Rule 17a–24 as adopted differs from the proposed rule. Because the adopted rule requires that information be reported on a form that all transfer agents subject to the rule are required to file, the rule should not create an additional filing burden. In addition, the information that the reporting transfer agents must file should be currently available to such transfer agents.[41] Thus, because the rule should not create any significant costs to transfer agents, the Commission has determined that Rule 17a–24 will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

In addition, the Commission believes that the benefits of the rule justify the costs. The benefits of the rule are to provide the Commission with information to determine whether transfer agents are more successful in locating lost securityholders and, therefore, whether Rule 17Ad–17 is effective. The costs of compliance with Rule 17a–24 should be limited to the costs involved in compiling the information required to be reported once a year.

V. Paperwork Reduction Act

As set forth in the Proposing Release, Rule 17Ad–17 and Rule 17a–24 contain collections of information within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[42] Accordingly, the collection of information requirements contained in the rules and related amendments were submitted to the Office of Management and Budget (''OMB'') for review and were approved by OMB which assigned the following control numbers: Rule 17Ad–17, control number 3235–0469; and Rule 17a–24, control number 3235–0470.[43] The collection of information requirements are in accordance with Section 3507 of the PRA.[44] An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless the agency displays a valid OMB control number.

The collections of information under Rule 17Ad–17, Rule 17a–24, and Rule 17Ad–7 are mandatory. As described in more detail above and in the Proposing Release, the collections of information are necessary to enable recordkeeping transfer agents, as the usual custodians of the records that determine the ownership of securities and the entitlement to corporate distributions, to reduce significantly the number of lost securityholders and for the Commission to monitor compliance with the rule. The Commission may review this information during periodic examinations or with respect to investigations. The records required to be filed with the Commission and any records required to be kept pursuant to these rules that are requested by and submitted to the Commission will be kept confidential to the extent permitted by the Freedom of Information Act[45] and the Privacy Act of 1974.[46]

Based upon further review of the disclosure and recordkeeping changes required by Rule 17Ad–7, the Commission is retaining its burden estimates for the collection of information under that rule. Thus, the description and estimated burden of the collection of information requirement under Rule 17Ad–7 have not changed and are set forth in the Proposing Release.

Originally, the Commission estimated compliance costs of Rule 17Ad–17 to the industry of approximately $750,000, based on an estimated cost of $3.00 per account and a total estimated 250,000 lost securityholder accounts. Based on comments received questioning the Commission's original burden estimate, the Commission obtained more recent data from several large transfer agents. As a result, the Commission has revised its cost estimate per account to $3.38 the first year and $1.79 per account in the following years. Significantly, based on its most recent information, the Commission now believes that there may be as many as 3 million lost securityholder accounts. Due primarily to this change in estimated lost securityholder accounts, the Commission's revised estimate of the aggregate costs to the industry are one time compliance costs of $4.6 million and annual compliance costs of $5.2 million.

Due to the changes in Rule 17a–24 as adopted and the corresponding changes on Form TA–2, the Commission will be resubmitting its collection of information requirement to OMB for review and approval.

VI. Statutory Basis

Pursuant to section 17A(d)(1) of the Exchange Act, 15 U.S.C. 78a–1(d)(1), the Commission amends Rule 17Ad–7 and Form TA–2 and adopts Rule 17Ad–17 and Rule 17a–24 in Chapter II of Title 17 of the Code of Federal Regulations.

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements; Securities; Transfer agents.

Text of the Amendments

For the reasons set out in the preamble, the Commission amends Title 17, Chapter II of the Code of Federal Regulations to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k–l, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. By adding § 240.17a–24 to read as follows:

§ 240.17a–24 Reports of lost securityholders.

(a) Each recordkeeping transfer agent shall file with the Commission on Form TA–2 (17 CFR 249b.102) the following aggregate information with respect to lost securityholder accounts contained on such transfer agent's master securityholder files:

(1) The total number of lost securityholder accounts and the percentage of lost securityholder accounts compared to total number of accounts contained on the transfer agent's master securityholder files.

(2) The information required by paragraph (a)(1) of this section shall be provided separately for securityholders lost one year or less, three years or less, five years or less, and more than five years and for securityholders whose assets which have escheated to unclaimed property administrators within the last calendar year.

[41] Transfer agents must record which of their securityholders are lost and the date that such securityholders become lost in order to comply with state escheatment laws.

[42] 44 U.S.C. 3501 *et seq.*

[43] Rule 17Ad–7 was previously submitted to OMB, which approved the rule and assigned the following control number 3235–0136.

[44] 44 U.S.C. 3507.

[45] U.S.C. 552.

[46] 5 U.S.C. 552a.

(b) For purpose of this section, *lost securityholder* means a securityholder:

(1) To whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable; provided, however, that if such item is re-sent within one month to the lost securityholder, the transfer agent may deem the securityholder to be a lost securityholder as of the day the re-sent item is returned as undeliverable and

(2) For whom the transfer agent has not received information regarding the securityholder's new address.

3. Section 240.17Ad–7 is amended by adding paragraph (i) to read as follows:

§ 240.17Ad–7 Record retention.

* * * * *

(i) The records required by § 240.17Ad–17(c) shall be maintained for a period of not less than three years, the first year in an easily accessible place.

4. Section 240.17Ad–17 is added to read as follows:

§ 240.17Ad–17 Transfer agents' obligation to search for lost securityholders.

(a)(1) Every recordkeeping transfer agent whose master securityholder file includes accounts of lost securityholders shall exercise reasonable care to ascertain the correct addresses of such securityholders. In exercising reasonable care to ascertain for its master securityholder file such lost securityholders' current addresses, each recordkeeping transfer agent shall conduct two data base searches using at least one information data base service. The transfer agent shall search by taxpayer identification number or by name if a search based on taxpayer identification number is not reasonably likely to locate the securityholder. Such data base searches must be conducted without charge to a lost securityholder and with the following frequency:

(i) Between three and twelve months of such securityholder becoming a lost securityholder and

(ii) Between six and twelve months after the transfer agent's first search for such lost securityholder.

(2) A transfer agent may not use a search method or service to establish contact with lost securityholders that results in a charge to a lost securityholder prior to completing the searches set forth in paragraph (a)(1) of this section.

(3) A transfer agent need not conduct the searches set forth in paragraph (a)(1) of this section for a lost securityholder if:

(i) It has received documentation that such securityholder is decreased or

(ii) The aggregate value of assets listed in the lost securityholder and all securities owned by the lost securityholder as recorded in the transfer agent's master securityholder files, is less than $25; or

(iii) The securityholder is not a natural person.

(b) For purposes of this section:

(1) *Information data base service* means either:

(i) Any automated data base service that contains addresses from the entire United States geographic area, contains the names of at least 50% of the United States geographic area, contains the names of at least 50% of the United States adult population, is indexed by taxpayer identification number or name, and is updated at least four times a year; or

(ii) Any service or combination of services which produces results comparable to those of the service described in paragraph (b)(1)(i) of this section in locating lost securityholders.

(2) *Lost securityholder* means a securityholder:

(i) To whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable; provided, however, that if such item is re-sent within one month to the lost securityholder, the transfer agent may deem the securityholder to be a lost securityholder as of the day the resent item is returned as undeliverable; and

(ii) For whom the transfer agent has not received information regarding the securityholder's new address.

(c) Every recordkeeping transfer agent shall maintain records to demonstrate compliance with the requirements set forth in this section which shall include written procedures which describe the transfer agent's methodology for complying with this section.

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

5. The authority citation for part 249b continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

Note: Form TA–2 does not and the amendments will not appear in the Code of Federal Regulations.

§ 249b.102 [Form TA–2 Amended]

6. Form TA–2 (referenced in § 249b.102) is amended by adding paragraph 8 to Instruction I.A. to read as follows:

Form TA–2

* * * * *

I. General Instruction for Filing and Amending Form TA–2.

A. * * *

8. ''Lost securityholder'' is defined in Rule 17a–24(b)(1) (17 CFR 240.17a–24(b)(1)).

* * * * *

§ 249b.102 [Form TA–2 Amended]

7. Form TA–2 (referenced in § 249b.102) is amended by adding paragraph c to Question 4 to read as follows:

Form TA–2

* * * * *

4. * * *

c. (i) Number of lost securityholder accounts and (ii) percentage of total accounts represented by lost securityholder accounts as of June 30 for:

Accounts of securityholders lost one year or less: _____

Accounts of securityholders lost three years or less: _____

Accounts of securityholders lost five years or less: _____

Accounts of securityholders lost more than five years: _____

Accounts of securityholders which have escheated to states within the year ended June 30: _____

* * * * *

Dated: October 1, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26519 Filed 10–6–97; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20, 310, 312, 314, and 600

[Docket No. 93N–0181]

RIN 0910–AA97

Expedited Safety Reporting Requirements for Human Drug and Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its expedited safety reporting regulations for human drug and biological products to provide consistency with the elements of FDA Form 3500A for use in pre- and postmarketing safety reporting;

implement definitions, reporting periods, formats, and standards as recommended by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and by the World Health Organization's Council for International Organizations of Medical Sciences (CIOMS); require applicants, manufacturers, packers, and distributors, as well as licensed manufacturers and other manufacturers of biological products, to develop written procedures for postmarketing safety monitoring and reporting; state that FDA Form 3500A reports that FDA forwards to any person subject to the postmarketing safety reporting requirements are not required to be resubmitted to the agency; and make other revisions to the regulations to provide uniformity with definitions and procedures used in expedited pre- and postmarketing safety reporting for human drug and biological products. These changes simplify and facilitate expedited safety reporting and enhance agencywide consistency in the collection of postmarketing safety data.

DATES: This regulation is effective April 6, 1998. Submit written comments on the information collection provisions of this final rule by December 8, 1997.

ADDRESSES: Submit written comments on the information collection provisions of this final rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

For information concerning human drug products: Audrey A. Thomas, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5625.

For information concerning human biological products: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of October 27, 1994 (59 FR 54046), FDA published a proposed rule to amend the regulations for expedited and periodic pre- and postmarketing safety reporting for human drug and biological products (hereinafter referred to as the October 1994 proposal). FDA also proposed to amend the requirements for clinical study design and conduct and annual sponsor reporting in the investigational new drug application (IND) regulations.

As explained in the October 1994 proposal, the amendments to the safety reporting regulations are intended to provide consistency with certain standardized definitions, procedures, and formats developed by ICH and CIOMS (59 FR 54046 at 54047). In the **Federal Register** of July 9, 1993 (58 FR 37408), FDA published an ICH draft guideline entitled ''Clinical Safety Data Management: Definitions and Standards for Expedited Reporting'' (hereinafter referred to as the draft ICH E2A guideline). The public was given an opportunity to comment on the draft ICH E2A guideline. After consideration of the comments received and revisions to the draft guideline, ICH finalized the guideline. In the **Federal Register** of March 1, 1995 (60 FR 11284), FDA published the ICH final guideline (hereinafter referred to as the final ICH E2A guideline). Although the final ICH E2A guideline pertains to expedited safety reporting during the preapproval phase of drug development, for consistency and simplicity many of the definitions, reporting periods, formats, and standards also could apply to FDA's expedited postmarketing safety reporting requirements.

In this final rule, FDA is amending its regulations for expedited safety reporting to implement certain definitions, reporting periods, and formats recommended in the final ICH E2A guideline. FDA is considering other recommendations in the final ICH E2A guideline that were not included in the October 1994 proposal and plans to propose additional amendments to its expedited safety reporting regulations shortly (e.g., pre- and postmarketing reporting of adverse drug reactions rather than adverse drug experiences, submission of expedited safety reports to FDA from clinical investigations based on the opinion of either the sponsor or investigator).

FDA is delaying finalization of the proposed amendments to the periodic postmarketing safety reporting regulations (59 FR 54046). The proposed amendments were based, for the most part, on recommendations developed by the CIOMS Working Group II (Ref. 1). ICH also developed recommendations, based on the CIOMS Working Group II proposals, for periodic postmarketing safety reporting. In the **Federal Register** of May 19, 1997 (62 FR 27470), FDA published an ICH final guideline entitled ''Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs'' (hereinafter referred to as the ICH E2C guideline). FDA will finalize the proposed amendments to the periodic postmarketing safety reporting regulations after consideration of the provisions of the ICH E2C guideline.

In light of the comments the agency received, FDA has reconsidered the proposed amendments to the requirements for clinical study design and conduct and annual sponsor reporting under the IND (59 FR 54046). In general, the comments opposed the proposed amendments because the current IND regulations protect the safety of the public in all but the most unusual cases. Based on these general comments and others specific to each of the proposed amendments, the agency has decided to withdraw the proposed amendments to the IND requirements for clinical study design and conduct and annual sponsor reporting. The agency will, instead, develop a guidance document providing recommendations on study design and monitoring of investigational drugs used to treat serious and potentially fatal illnesses, with particular attention to detection of adverse events that are similar to those caused by the underlying disease. In developing the draft guidance document, FDA will consider comments submitted in response to the proposed amendments and will provide opportunity for public input on the document prior to its implementation. Thus, in this final rule, FDA is withdrawing the proposed amendments to the IND regulations (part 312 (21 CFR part 312)) at §§ 312.23, the second sentence of 312.32(c)(1)(i), 312.33, 312.37, 312.42, 312.44, 312.56, and 312.64 (59 FR 54046 at 54057 to 54059).

In the **Federal Register** of June 25, 1997 (62 FR 34166), FDA published a final rule to amend its regulations on expedited reporting of postmarketing adverse experiences to revoke the requirement for increased frequency reports as expedited reports for human drug and licensed biological products. Thus, in this final rule, FDA is withdrawing the proposed amendments to the increased frequency reporting requirements published in the October 1994 proposal.

II. Background

In the **Federal Register** of June 3, 1993 (58 FR 31596), FDA announced the availability of a new form for reporting single cases of adverse events and product problems with medications, devices, and other FDA-regulated medical products (hereinafter referred to as the June 1993 notice). This form is available in two versions: FDA Form 3500 is for use by health care professionals and consumers for

voluntary reporting; FDA Form 3500A is for use by any person subject to FDA's mandatory safety reporting regulations. Adverse events associated with vaccines continue to be reported to FDA and the Centers for Disease Control and Prevention using the Vaccine Adverse Event Reporting System (VAERS) form.

Under the existing regulations, manufacturers, packers, and distributors; applicants of approved new and abbreviated marketing applications for drugs and antibiotics; and licensed manufacturers and other manufacturers of biological products must submit expedited reports of postmarketing adverse drug experiences under 21 CFR 310.305, 314.80, 314.98, and 600.80. Sponsors of IND's must also submit expedited reports, under § 312.32, for adverse experiences associated with the use of an investigational human drug or biological product. Currently, there is no standard form for these IND expedited safety reports.

FDA Forms 3500 and 3500A are part of FDA's Medical Products Reporting Program (MedWatch) and are designed to facilitate safety reporting for most FDA-regulated human medical products by the entire health care community, including manufacturers, distributors, user facilities, and health care professionals. FDA issued the new forms to simplify and consolidate safety reporting for human drug products, biologics, and medical devices, as well as other FDA-regulated medical products. The new forms eliminate redundant or nonessential elements from past reporting forms and clarify those areas that have caused confusion.

In developing FDA Forms 3500 and 3500A, and in developing the revisions to the expedited safety reporting regulations that are the subject of this final rule, the agency considered several ICH and CIOMS recommendations. These organizations were formed to facilitate international consideration of issues, particularly safety issues, concerning the use of both foreign and domestic data in the development and use of drugs and biological products. ICH has worked to promote the harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. In addition, several CIOMS working groups have served to coordinate and standardize the international reporting of suspected postmarketing adverse drug reactions by pharmaceutical manufacturers to regulatory authorities. FDA believes the changes recommended by CIOMS and ICH will result in more effective and efficient safety reporting to regulatory authorities worldwide.

III. Description of the Final Rule

This final rule amends parts 20, 310, 312, 314, and 600 (21 CFR parts 20, 310, 312, 314, and 600) to revise definitions, requirements, and procedures for expedited pre- and postmarketing safety reporting. This rulemaking finalizes many of the expedited safety reporting provisions as proposed in the October 1994 proposal. In addition, this final rule reflects amendments to the October 1994 proposal that were made in response to comments (discussed in section IV of this document), including comments recommending greater consistency with the ICH E2A guideline and uniformity between pre- and postmarketing safety reporting definitions. This final rule also incorporates minor revisions for clarity and further consistency. The major provisions of the final rule are summarized as follows:

1. *FDA Forms 3500/3500A*. As proposed, the final rule permits sponsors to submit IND safety reports, under § 312.32(c)(1)(i), on FDA Form 3500A rather than in a narrative format, and replaces, at §§ 310.305 and 314.80, Form FDA–1639 with FDA Form 3500A for use in postmarketing safety reporting for human drug products. The final rule also replaces, at § 20.112, Form FDA–1639 with FDA Form 3500 for voluntary drug experience reporting by physicians and hospitals. The final rule, like the proposed rule, instructs applicants, manufacturers, packers, and distributors to obtain approval from FDA's MedWatch office before using an alternative reporting format for postmarketing safety reporting under §§ 310.305(d)(3)(ii) and 314.80(f)(3)(ii). Pre- and postmarketing safety reporting of foreign events may continue to be reported to FDA on the CIOMS I form (Ref. 2). After consideration of the comments, the final rule, unlike the proposed rule, permits use of the CIOMS I form for this purpose without prior FDA approval.

2. *Definitions*. In response to comments, the proposed definition of ''serious'' at §§ 310.305(b), 312.32(a), 314.80(a), and 600.80(a) has been revised to make it consistent with the definition of ''serious'' in the final ICH E2A guideline and with the definition of ''serious'' used in FDA Form 3500A. To provide uniformity between the pre- and postmarketing definitions of ''serious,'' the following information has been removed from the current definition of ''serious adverse experience'' at § 312.32(a) and added as a reporting requirement to the IND safety reporting regulations at § 312.32(c)(1)(i):

> With respect to results obtained from tests in laboratory animals, a serious adverse drug experience includes any experience suggesting a significant risk for human subjects, including any finding of mutagenicity, teratogenicity, or carcinogenicity.

This revision represents an organizational change that does not impose a new burden because sponsors are already required to report such information to FDA.

In response to comments, the final rule also amends the proposed definitions of ''disability'' and ''life-threatening'' at §§ 310.305(b), 314.80(a), and 600.80(a) for consistency with the final ICH E2A guideline and for clarity. In addition, the definition of ''disability'' has been added to the ''definitions'' section of the premarketing safety reporting regulations at § 312.32(a), and the definition of ''life-threatening'' has been removed from the ''telephone safety report'' section of the premarketing safety reporting regulations at § 312.32(c)(2) and added to the ''definitions'' section of these regulations at § 312.32(a). For further clarity and consistency in reporting adverse drug experiences that are life-threatening, FDA has decided to replace, at §§ 310.305(b), 312.32(a), 314.80(a), and 600.80(a), the word ''serious'' with ''severe'' so that the first sentence of the definition of ''life-threatening'' includes the following: ''* * *, i.e., [Life-threatening] does not include a reaction that, had it occurred in a more severe form, might have caused death.'' As explained in the final ICH E2A guideline, ''severe'' refers to the intensity (severity) of a specific event (e.g., mild, moderate, or severe myocardial infarction); the event itself may be of relatively minor medical significance such as a severe headache. The term ''serious,'' however, is based on patient/event outcome or action criteria usually associated with events that pose a threat to a patient's life or functioning (e.g., an event that results in death or that is life-threatening or requires inpatient hospitalization) (60 FR 11284 at 11285). FDA has also decided to remove the following sentence from this definition: ''For example, drug-induced hepatitis that resolved without evidence of hepatic failure would not be considered life-threatening even though drug-induced hepatitis can be fatal.'' Use of hepatitis as an example for life-threatening may be confusing because viral transmission of certain types of hepatitis through blood products could be life-

threatening. To harmonize pre- and postmarketing safety reporting definitions, FDA has decided to withdraw the examples listed in the proposed postmarketing definition of ''life-threatening'' at §§ 310.305(b), 314.80(a), and 600.80(a). The agency has decided, instead, to revise the guidances associated with this final rule to include examples of life-threatening adverse drug experiences (CDER's ''Guideline for Postmarketing Reporting of Adverse Drug Experiences,'' March 1992 and CBER's ''Guideline for Adverse Experience Reporting for Licensed Biological Products,'' October 1993).

In this final rule, FDA is incorporating minor changes to the definition of ''unexpected'' adverse drug experience at §§ 310.305(b), 312.32(a), 314.80(a), and 600.80(a) to provide uniformity between pre- and postmarketing safety reporting definitions and consistency with the ICH E2A guideline.

The definition of ''unexpected'' adverse drug experience at §§ 310.305(b), 314.80(a), and 600.80(a) currently states:

> * * * an adverse drug experience that is not listed in the current labeling for the drug product and includes an event that may be symptomatically and pathophysiologically related to an event listed in the labeling, but differs from the event because of greater severity or specificity. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the labeling only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the labeling only listed cerebral vascular accidents.

To clarify what must be reported to the agency as an ''unexpected adverse drug experience,'' FDA is amending this definition by adding the following sentence:

> ''Unexpected,'' as used in this definition, refers to an adverse drug experience that has not been previously observed (i.e., included in the labeling) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

This amendment is consistent with the discussion of ''expectedness of an adverse drug reaction'' in the final ICH E2A guideline:

> The purpose of expedited reporting is to make regulators, investigators, and other appropriate people aware of new, important information on serious reactions. Therefore, such reporting will generally involve events previously unobserved or undocumented, and a guideline is needed on how to define an event as ''unexpected'' or ''expected'' (expected/ unexpected from the perspective of previously observed, not on the basis of what might be anticipated from the pharmacological properties of a medicinal product).

The definition of ''unexpected adverse experience'' at § 312.32(a) currently states:

> * * * any adverse experience that is not identified in nature, severity, or frequency in the current investigator brochure; or, if an investigator brochure is not required, that is not identified in nature, severity, or freuquency [sic] in the risk information described in the general investigational plan or elsewhere in the current application, as amended.

For clarity and consistency, FDA is amending this definition to conform with the definition of ''unexpected'' at §§ 310.305(b), 314.80(a), and 600.80(a) by removing the references to frequency, replacing the word ''nature'' with the word ''specificity,'' adding examples of unexpected adverse drug experiences, and making other minor revisions. The revised definition at § 312.32(a) states:

> *Unexpected adverse drug experience*: Any adverse drug experience, the specificity or severity of which is not consistent with the current investigator brochure; or if an investigator brochure is not required or available, the specificity or severity of which is not consistent with the risk information described in the general investigational plan or elsewhere in the current application, as amended. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the investigator brochure only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the investigator brochure only listed cerebral vascular accidents. ''Unexpected,'' as used in this definition, refers to an adverse drug experience that has not been previously observed (e.g., included in the investigator brochure) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

3. *IND Safety Reports*. As proposed, the final rule revises the time period for submitting written IND safety reports, under § 312.32(c)(1) and (d)(3), from 10 working days to 15 calendar days, and revises the time period for submitting telephone IND safety reports, under § 312.32(c)(2), from 3 working days to 7 calendar days. The final rule also permits telephone safety reports to be made by facsimile transmission under § 312.32(c)(2). The final rule, as proposed with minor revisions for clarity, also states, at § 312.32(c)(1)(i), that FDA may require sponsors to submit additional data.

In response to comments, FDA is making minor revisions to its IND safety reporting regulations to provide greater consistency with the final ICH E2A guideline. Currently, the requirement at § 312.32(b) states:

> The sponsor shall promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic, including information derived from clinical investigations, animal investigations, commercial marketing experience, reports in the scientific literature, and unpublished scientific papers.

To clarify the phrase ''any source,'' FDA is adding ''epidemiological investigations'' and ''foreign regulatory authorities that have not already been previously reported to the agency by the sponsor'' to the list of examples in § 312.32(b). This revision does not impose a new burden because sponsors are already required to review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic. The amendment clarifies for sponsors the type of safety information that must be examined for determination of whether information should be submitted to the agency in IND safety reports. This revision is consistent with the final ICH E2A guideline (60 FR 11284 at 11285 and 11286):

> [Expedited reporting] applies to reports from spontaneous sources and from any type of clinical or epidemiological investigation, independent of design or purpose.

The agency does not expect sponsors to search adverse drug experience data bases generated by regulatory authorities for safety information or to submit to FDA adverse drug experience reports submitted to them by FDA.

FDA is also amending its IND safety reporting regulations at § 312.32(c)(1)(i), as noted above, by adding, with minor revisions, language that is being moved from the current definition of ''serious adverse experience'' at § 312.32(a):

> any finding from tests in laboratory animals that suggests a significant risk for human subjects including reports of mutagenicity, teratogenicity, or carcinogenicity.

This revision represents an organizational change that does not impose any new burden because sponsors are currently required to report such information to FDA. For clarity and consistency, FDA is amending § 312.32(c)(1)(i) to state that reports from animal studies and epidemiological studies must be submitted in a narrative format rather than on FDA Form 3500A because FDA Form 3500A has been designed for reporting of adverse experience information from an individual patient.

4. *Postmarketing 15-day Alert and Followup Reports*. As proposed, the final rule revises, at §§ 310.305(c), 314.80(c), and 600.80(c), the time period for submitting postmarketing Alert reports from 15 working days to 15 calendar days. For clarity, the final rule is being amended, at § 310.305(c)(1)(i),

to state that the 15 calendar day timeframe for reporting adverse drug experiences on marketed prescription drugs for human use without approved new drug applications (NDA's) begins upon initial receipt of the information by the person whose name appears on the label. In addition, the final rule at §§ 310.305(c)(2), 314.80(c)(1)(ii), and 600.80(c)(1)(ii), as proposed, advises any person subject to the reporting requirements under §§ 310.305(c), 314.80(c), and 600.80(c), who has been unable to obtain additional information for adverse drug experiences that are the subject of postmarketing 15-day Alert reports, to maintain records of their unsuccessful attempts to seek additional information. For clarity, the final rule is being amended, at § 310.305(c)(2), to state that 15-day Alert reports and followups to them must be submitted under separate cover.

The final rule specifies, like the proposed rule, at §§ 310.305(c)(6), 314.80(b), and 600.80(b), that no one subject to this rule is required to resubmit to the agency reports of adverse drug experiences that the agency has forwarded to them. For clarity, the final rule is being amended, at §§ 310.305(c)(6), 314.80(b), and 600.80(b), to emphasize that followup reports must be submitted for reports received from the agency. The final rule also requires, at §§ 310.305(a), 314.80(b), and 600.80(b), any person subject to the reporting requirements under §§ 310.305(c), 314.80(c), and 600.80(c) to develop written procedures for the postmarketing surveillance, receipt, evaluation, and reporting of adverse drug experiences to FDA. In response to comments, the final rule permits persons subject to the reporting requirements under §§ 310.305(c), 314.80(c), and 600.80(c) to submit reports of serious adverse drug experiences to a manufacturer, applicant, or licensed manufacturer of a final biological product instead of FDA in 5 calendar days, instead of 3 calendar days as proposed.

In this final rule, FDA is also amending the postmarketing expedited reporting regulations, at §§ 314.80(c)(1)(i) and 600.80(c)(1)(i), by replacing, in the first sentence, the phrase ''regardless of source'' with the phrase ''whether foreign or domestic.'' This amendment is consistent with §§ 314.80(b) and 600.80(b) which describe adverse drug experience information that must be reviewed by applicants and licensed manufacturers:

> Each applicant (Any person having a product license) * * * shall promptly review all adverse drug experience information (pertaining to its product) obtained or otherwise received by the applicant (licensed manufacturer) from any source, foreign or domestic, including * * *.

FDA is making this revision to clarify that 15-day Alert reports are to be submitted for appropriate foreign as well as domestic adverse drug experiences.

5. *Implementation Schedule*. The effective date for this final rule has been extended to 180 days after its publication in the **Federal Register** to allow sufficient time for the agency to comply with the provisions of the Paperwork Reduction Act of 1995. Any person subject to FDA's mandatory safety reporting requirements may comply with the provisions of this final rule prior to its effective date.

6. *Guidances*. In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice of a guidance document entitled ''Good Guidance Practices (GGP's),'' in which FDA announced that notices of draft and final guidances will be provided both in the **Federal Register** and on the FDA World Wide Web (WWW) home page (http://www.fda.gov) (62 FR 8961 at 8965). In this final rule, FDA is amending its postmarketing safety reporting regulations at §§ 314.80(j) and 600.80(j) to remove reference to guidelines prepared by the agency for submission of reports of adverse drug experiences and suggested followup investigation of these reports. FDA is also withdrawing its proposed amendments of October 27, 1994, regarding the availability of adverse experience reporting guidelines under §§ 310.305(g), 314.80(j), and 600.80(j). FDA is making these amendments because the guidance document of February 27, 1997, describes processes for timely notification of availability of draft and final guidance documents and it is no longer necessary for the agency to include reference to these documents in its postmarketing safety reporting regulations.

At the present time, FDA is in the process of revising guidances pertaining to this final rule (CDER's ''Guideline for Postmarketing Reporting of Adverse Drug Experiences,'' March 1992 and CBER's ''Guideline for Adverse Experience Reporting for Licensed Biological Products,'' October 1993) to provide persons with the agency's current thinking on reporting of postmarketing adverse drug experiences. The agency will provide notice of availability of any draft or final guidance document pertaining to these regulations in the **Federal Register** and on the FDA WWW home page.

IV. Comments on the Proposed Rule

FDA received 57 comments on the proposed rule from representatives of pharmaceutical companies, health care professional and pharmaceutical associations, academic and government institutions, and individuals. The comments addressed all aspects of the October 1994 proposal, including those areas that are not being finalized in this final rule. In general, the comments endorsed FDA's efforts in the proposal to support global harmonization through the adoption of certain ICH and CIOMS recommendations. However, many comments described areas where the proposed regulations did not conform to the international guidelines, and recommended that the proposal be revised to be more consistent. The agency also received comments recommending uniformity between its pre- and postmarketing safety reporting definitions. In response to these comments, FDA, as described in section III of this document, is amending its regulations to implement additional provisions recommended in the final ICH E2A guideline and to provide uniformity in its safety reporting definitions.

A discussion of the comments pertaining to this final rule and the agency's responses follows.

A. Definition of Disability

FDA proposed to define ''disability,'' in §§ 310.305(b), 314.80(a), and 600.80(a), as ''a substantial disruption of a person's ability to carry out normal life functions.''

1. Eight comments requested clarification of this definition. One comment asked whether it included missing work because of an adverse experience, quitting a job, an inability to get out of bed, or a decrease in earning capacity. Another comment asked if it included nausea, vomiting, and diarrhea that would keep a person home from work. One questioned whether the proposed definition included events such as migraine headaches, severe influenza, or accidental trauma (e.g., sprained ankle). Another comment contended that if the proposed definition is intended to mean the substantial disruption of normal life functions, then such a condition would require hospitalization or the in-house use of life-support equipment.

FDA proposed to include the definition of ''disability'' in the regulations to enable reporters to determine when a ''serious'' adverse drug experience occurs. The extent of a disability required for a serious adverse drug experience is described in the

definition of ''serious'' by the phrase ''* * * results in *persistent* or *significant* disability/*incapacity* * * *.'' Thus, only a persistent or significant or incapacitating disability is intended. The type of disability that would constitute a serious adverse drug experience is also described in the final ICH E2A guideline, which states that a serious adverse drug experience is based on events that pose a threat to a patient's life or functioning and not on events of relatively minor medical significance (60 FR 11284 at 11285). Thus, disability is not intended to include experiences of relatively minor medical significance such as headache, nausea, vomiting, diarrhea, influenza, and accidental trauma (e.g., sprained ankle).

For clarity, FDA has revised the proposed definition of ''disability'' by substituting the words ''to conduct'' for the words ''to carry out.''

To assure a consistent interpretation of serious adverse drug experience in premarketing and postmarketing safety reporting, FDA has decided to revise the ''definitions'' section of the IND safety reports regulation, at § 312.32(a), by adding the definition of ''disability'' that is used in the postmarketing safety reporting regulations at §§ 310.305(b), 314.80(a), and 600.80(a).

B. Definition of Life-Threatening

FDA proposed to define ''life-threatening,'' in §§ 310.305(b), 314.80(a), and 600.80(a), as follows:

> [T]hat the patient was, in the view of the initial reporter, at immediate risk of death from the adverse experience as it occurred. It does not include an adverse experience that, had it occurred in a more serious form, might have caused death. For example, product-induced hepatitis that resolved without evidence of hepatic failure would not be considered life-threatening even though hepatitis of a more severe nature can be fatal. Similarly, an allergic reaction resulting in angioedema of the face would not be life-threatening, even though angioedema of the larynx, allergic bronchospasm, or anaphylaxis can be fatal.

2. Five comments opposed the use of the phrase ''in the view of the initial reporter.'' The comments stated that the initial reporter could be a lay person whose judgment of what constitutes an ''immediate risk of death'' may be contrary to an evaluation by a medically knowledgeable source. Several comments suggested alternative language for the definition to minimize inaccurate reporting of events. One comment requested deletion of the word ''initial.'' Another suggested changing the phrase ''initial reporter'' to ''a health care professional directly associated with the care of the patient,'' while a third recommended changing the word ''reporter'' to ''health care provider who reports the adverse experience.''

FDA declines to amend the proposed definition of ''life-threatening'' by deleting or revising the phrase ''in the view of the initial reporter.'' As explained in the June 1993 notice (58 FR 31596 and 31604), FDA encourages health care professionals and consumers to report adverse drug experiences to manufacturers. FDA Form 3500A includes a section for identifying the ''initial reporter'' and for indicating the reporter's occupation and whether the person is a health care professional. Thus, the manufacturer and FDA will know whether the adverse drug experience report came from a lay person or a health care professional and can take that information into account when evaluating the report.

Current IND safety reporting regulations for telephone reports define a ''life-threatening'' experience at § 312.32(c)(2), as:

> * * * that the patient was, in the view of the investigator, at *immediate* (emphasis added) risk of death from the reaction as it occurred, i.e., it does not include a reaction that, had it occurred in a more serious form, might have caused death. For example, drug-induced hepatitis that resolved without evidence of hepatic failure would not be considered life-threatening even though drug-induced hepatitis can be fatal.

FDA has decided, on its own initiative, to remove the definition of ''life-threatening'' from the telephone safety reports section, at § 312.32(c)(2), and add it to the general ''definitions'' section of § 312.32, at § 312.32(a). This action will clarify that reporting of life-threatening events apply to both written and telephone IND safety reports. FDA has also replaced ''serious'' with ''severe'' in the definition of ''life-threatening'' to make it consistent with the final ICH E2A guideline. FDA has also decided, on its own initiative, to add the words ''or subject'' after ''patient'' in this definition to clarify that IND safety reports apply to healthy subjects as well as patients. FDA has also removed the last sentence in the definition of ''life-threatening'' under § 312.32 (and the last two sentences in the proposed postmarketing definition of ''life-threatening'' under §§ 310.305(b), 314.80(a), and 600.80(a)), as noted in section III of this document, to minimize confusion. The revised definition of ''life-threatening adverse drug experience'' in the IND safety reporting regulations at § 312.32(a) reads as follows:

> Any adverse drug experience that places the patient or subject, in the view of the investigator, at *immediate* risk of death from the reaction as it occurred, i.e., it does not include a reaction that, had it occurred in a more severe form, might have caused death.

C. Definition of Serious

FDA proposed to revise the definition of ''serious,'' in §§ 310.305(b), 312.32(a), 314.80(a), and 600.80(a), to read as follows:

> *Serious* means an adverse drug experience occurring at any dose that is fatal or life-threatening, results in persistent or significant disability/incapacity, requires or prolongs inpatient hospitalization, necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure, or is a congenital anomaly.

3. Twenty-five comments opposed all or parts of the phrase ''necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.'' Nine comments stated that this phrase makes the U.S. definition of ''serious'' inconsistent with harmonized safety reporting standards such as the ICH E2A and E6 guidelines and with the CIOMS II report. One comment said that although the phrase was included to provide a consistent definition of what constitutes a serious adverse event for all FDA-regulated products, it causes inconsistency between United States and international reporting requirements. Another comment said that the difference in definitions between the United States and the international community will cause confusion and additional expense for manufacturers who are complying with the reporting requirements of several countries. One comment stated that if the definition is finalized as proposed, preparation and submission of a single postmarketing periodic report worldwide will not be possible. Another comment said that a definition as important as ''serious'' should be internationally consistent in order to be easy to learn, quote, and recognize in global clinical development and medical safety. One comment noted that it would be especially difficult to implement the proposed criterion of ''medical/surgical intervention'' during the course of an ongoing clinical study.

Ten comments recommended deletion of the phrase. Eleven comments requested clarification of the phrase because it is too vague and misinterpretation would result in overreporting or underreporting of adverse events. Another comment suggested that the phrase be reworded as an ''unusual and potentially serious experience that necessitates any medical or surgical intervention.'' One comment recommended adopting the approach in the final ICH E2A guideline of including ''medical and surgical intervention''

within the area of ''other important medical events.'' The comment indicated that the guideline leaves the determination of whether or not such an event is serious to medical and scientific judgment.

As explained in the June 1993 notice (58 FR 31596), FDA Forms 3500 and 3500A are designed to encourage and facilitate the reporting of adverse events and product problems for most FDA-regulated human medical products by the entire health care community, including manufacturers, distributors, user facilities, and health care professionals. This includes reporting of adverse events and product problems with human drug products, biologics, and medical devices, as well as other FDA-regulated medical products.

FDA adopted several recommendations from ICH and CIOMS in developing the definitions used in the forms and in the proposed amendments to the safety reporting regulations for human drug and biological products. The agency believes that certain standardized definitions, procedures, and formats proposed by ICH and CIOMS will result in more effective and efficient safety reporting to regulatory authorities worldwide. The agency proposed to amend the definition of ''serious'' to have a consistent definition of what constitutes a serious adverse drug experience for all FDA-regulated products and to avoid confusion about what events should be reported to regulatory authorities worldwide.

FDA agrees with the comments that the differences between the definition of serious, as proposed, and the definition recommended in the final ICH E2A guideline and in the CIOMS II report may create confusion about what events to report as serious. Therefore, the agency has revised the definition of ''serious'' to be consistent with the final ICH E2A guideline (60 FR 11284 at 11285) and FDA Forms 3500 and 3500A. The revised definition states:

Any adverse drug experience occurring at any dose that results in any of the following outcomes: Death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

The term ''serious'' is defined similarly in the final ICH E2A guideline (60 FR 11284 at 11285) as:

A serious adverse event (experience) or reaction is any untoward medical occurrence that at any dose:

- Results in death,
- Is life-threatening,

* * *

- Requires inpatient hospitalization or prolongation of existing hospitalization,
- Results in persistent or significant disability/incapacity, or
- Is a congenital anomaly/birth defect.

Medical and scientific judgment should be exercised in deciding whether expedited reporting is appropriate in other situations, such as important medical events that may not be immediately life-threatening or result in death or hospitalization but may jeopardize the patient or may require intervention to prevent one of the other outcomes listed in the definition above. These should also usually be considered serious.

Examples of such events are intensive treatment in an emergency room or at home for allergic bronchospasm; blood dyscrasias or convulsions that do not result in hospitalization; or development of drug dependency or drug abuse.

The revised definition of ''serious'' is also consistent with section B.2 of FDA Forms 3500 and 3500A, which directs persons completing the forms to indicate which of the following outcomes is attributed to the adverse event: ''death, life-threatening, hospitalization—initial or prolonged, disability, congenital anomaly, required intervention to prevent permanent impairment/damage, or other.''

In order to make the definition of ''serious'' in the premarketing safety reporting regulations at § 312.32(a) uniform with the revised definition of ''serious'' in the postmarketing safety reporting regulations at §§ 310.305(b), 314.80(a), and 600.80(a), FDA is removing the following sentence from the current definition of ''serious'' at § 312.32(a), and adding it, with minor revisions, to the IND written safety reporting requirements under § 312.32(c)(1)(i):

With respect to results obtained from tests in laboratory animals, a serious adverse drug experience includes any experience suggesting a significant risk for human subjects, including any finding of mutagenicity, teratogenicity, or carcinogenicity.

4. One comment requested adding the phrase ''including overdose and underdose'' after the phrase ''occurring at any dose'' in the definition of ''serious'' in order to eliminate confusion. Otherwise, the comment claimed, adverse outcomes associated with underdoses may be interpreted as a lack of therapeutic effect rather than an adverse drug experience.

FDA declines to amend the definition of ''serious'' to include the phrase ''including overdose or underdose.'' Use of the phrase ''occurring at any dose'' in the revised definition of ''serious'' will ensure that serious adverse drug experiences occurring at any dose, including an overdose or an underdose, must be reported.

5. Five comments asked for examples of what is considered serious. One comment asked whether intravenous (IV) treatment for dehydration without hospital admission or the use of IV antibiotics, blood products, or dialysis would be considered serious.

FDA advises that use of IV fluids, antibiotics, or blood products, or dialysis may or may not be serious, depending on why they are being used. A decision using medical judgment should be made based on the circumstances surrounding each case. As stated in the revised definition of ''serious'', other examples include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, and the development of drug dependency or drug abuse.

6. Five comments requested clarification of the following sentence in the preamble to the proposed rule under the discussion of the definition of ''serious'': ''FDA notes that a serious adverse experience would not include the discontinuation of therapy, changes in dosage, or routine treatment with a prescription medication'' (59 FR 54046 at 54048). One comment stated that the sentence should also be included in the codified definition of ''serious'' because the qualifiers are extremely important in limiting the range of events not considered serious. Three comments asked for clarification of the phrase ''routine treatment with a prescription medication.'' One of these comments noted that treatment with any new medication could potentially be considered a medical intervention and therefore could be classified as serious. Another comment requested clarification of the phrase ''would not include discontinuation of therapy'' because it implies that discontinuation of therapy in response to a clinically significant rise in serum aminotransferases or serum creatinine would not be considered intervention and therefore would not be serious.

FDA declines to revise the definition of ''serious'' to include examples of events not considered serious. FDA

clarifies that discontinuation of therapy, changes in dosage, and routine treatment with a prescription medication are not in themselves serious events but may occur as the result of a serious event.

7. Several comments discussed the use of the words ''persistent'' and ''permanent'' in the definition of ''serious''. One comment requested rewording the phrase ''persistent or significant disability'' to read ''permanent or persistent disability.'' Another comment suggested that the term ''permanent disability'' in the current definition of ''serious'' should be retained because replacing ''permanent'' with ''persistent'' does not further define disability. The comment noted that a condition like influenza might be significantly incapacitating but may not qualify as a serious event. Three comments recommended changing the word ''permanent'' to ''persistent'' in the phrase ''preclude permanent impairment of a body function or permanent damage to a body system.'' One comment requested that the phrase ''persistent or significant disability'' be used instead of ''permanent or significant disability'' in the definition of ''serious'' in proposed § 312.32(a) in order to be consistent with proposed §§ 310.305(b), 314.80(a), and 600.80(a).

As explained in the preamble to the October 1994 proposal (59 FR 54046 at 54047), FDA is revising the phrase ''is permanently disabling'' to ''results in a persistent or significant disability/incapacity'' in order to clarify that a disability need not be permanent to be considered a serious adverse drug experience. Thus, FDA declines to substitute the phrase ''permanent or persistent disability'' for ''persistent or significant disability'' or retain ''permanent disability.'' In addition, FDA has corrected the typographical error in proposed § 312.32(a) by revising ''permanent or significant disability'' to read ''persistent or significant disability.''

8. One comment requested the addition of the word ''immediately'' before ''life-threatening'' in the definition of ''serious''. The comment stated that although ''immediate'' is stated in the definition of ''life-threatening'', it is not indicated on FDA Form 3500 or 3500A. As a result, reporters may interpret ''life-threatening'' to mean ''potentially'' life-threatening rather than ''immediately'' life-threatening.

FDA declines to revise the definition of ''serious'' to add the word ''immediately'' before ''life-threatening'' because the phrase ''at *immediate* risk of death'' is part of the definition of ''life-threatening adverse drug experience.'' Although the word ''immediately'' does not appear before the word ''life-threatening'' on FDA Forms 3500 and 3500A, the MedWatch ''FDA Desk Guide for Adverse Event and Product Problem Reporting'' explains that a life-threatening adverse event would be immediate.

D. IND Safety Reports—Written

FDA proposed to revise the requirements for submitting written IND safety reports, under § 312.32(c)(1) and (d)(3), by altering the time period for submitting such reports from 10 working days to 15 calendar days. In addition, FDA proposed to permit sponsors to submit written IND safety reports to the agency by using FDA Form 3500A or in a narrative format. If a sponsor chose to use FDA Form 3500A, additional narrative data might be required if the agency determined that insufficient data were submitted on the form.

9. Three comments expressed support for the 15 calendar days timeframe. One comment commended FDA for requiring the same timeframe for both pre- and postmarketing expedited reporting. Two other comments requested that the timeframe be increased to 20 calendar days, while another comment recommended any period longer than 15 calendar days. The comments stated that 15 calendar days would not provide enough time for the submission of reports or for contacting non-U.S. physicians. One comment noted that a longer timeframe would permit better review and reporting of serious adverse experiences.

As explained in the October 1994 proposal (59 FR 54046 at 54051), FDA believes that the extended timeframe is sufficient for sponsors to gather appropriate data to help initially interpret the reports before submitting them to FDA. This timeframe is also consistent with the 15 calendar day period in the final ICH E2A guideline (60 FR 11284 at 11286).

10. Although one comment expressed support for use of FDA Form 3500A for written IND safety reports because it would provide consistency with the form for postmarketing reports, another comment requested that the form not be required for these reports because of limited space for describing narrative information.

FDA notes that it is not ''requiring'' use of FDA Form 3500A for written IND safety reports. Reporters may use the form or, alternatively, may submit these reports in a narrative format. In addition, as explained in the June 1993 notice announcing the availability of the form, reporters may use additional blank sheets of paper, referenced to the section of the form being described, to complete any narrative sections of the form.

In the June 1993 notice (58 FR 31596 at 31598), FDA also stated that companies may use the CIOMS I form for reporting foreign events after obtaining FDA approval. FDA has decided, based on comments to its postmarketing safety reporting regulations (see section IV.F of this document), to amend § 312.32(c)(1) to permit use of the CIOMS I form for reporting foreign events without prior approval. FDA has decided to take this action to expedite reporting of foreign events and harmonize its pre- and postmarketing safety reporting regulations.

11. One comment requested clarification about what sponsors must include in a written IND safety report. The comment also requested guidance on how often a report should be submitted and whether one is required every time a new case is reported.

Under § 312.32(b), as amended in this final rule, FDA requires that the sponsor must promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic, including information derived from any clinical or epidemiological investigations, animal investigations, commercial marketing experience, reports in the scientific literature, and unpublished scientific papers, as well as reports from foreign regulatory authorities that have not already been previously reported to the agency by the sponsor. This requirement qualifies for sponsors the type of safety information that must be examined for determination of whether the information should be included in IND safety reports.

As noted earlier, FDA is amending its IND safety reports regulations, at § 312.32, by moving, for organizational purposes, certain information from the current definition of ''serious adverse experience,'' at § 312.32(a), to the written IND safety reports section, at § 312.32(c)(1)(i). Under § 312.32(c)(1)(i), as revised in this final rule, sponsors must submit written IND safety reports to FDA and all participating investigators within 15 calendar days after the sponsor's receipt of information on any adverse experience associated with the use of the drug that is both serious and unexpected; or any finding from tests in laboratory animals that suggests a significant risk for human subjects including reports of

mutagenicity, teratogenicity, or carcinogenicity.

FDA advises sponsors, as described in greater detail in the final ICH E2A guideline (60 FR 11284 at 11285 and 11286), to submit in written IND safety reports as much information as possible on a case. In some instances, information for final description and evaluation of a case report may not be available within 15 calendar days. Nevertheless, initial reports should be submitted within this timeframe when the following minimum criteria are met: An identifiable patient; a suspected medicinal product; an identifiable reporter; and an adverse event or outcome that can be identified as serious and unexpected, and for which, in clinical investigation cases, there is a reasonable suspected causal relationship between the investigational product and the adverse event (i.e., the causal relationship cannot be ruled out). For reportable events that occur during a ''blinded'' clinical investigation, sponsors should only break the blind for the subject in question. Sponsors should consult with the FDA review division responsible for their IND in situations in which the sponsor believes that breaking the blind would compromise their study (e.g., when a fatal or other serious outcome is the primary efficacy endpoint in a clinical investigation). Reportable events attributed to a specific dosage form, formulation, or route of administration should be cross-referenced to other IND's for the drug. Reportable events associated with a particular population or for a specific indication should also be cross-referenced to other IND's for the drug.

FDA expects sponsors to submit written IND safety reports every time the sponsor receives or otherwise obtains information about a serious and unexpected adverse experience associated with the use of the drug until the current investigator brochure or, if the investigator brochure is not required, until the risk information described in the general investigational plan or elsewhere in the current application is amended. This is consistent with the final ICH E2A guideline (60 FR 11284 at 11285): ''Until source documents are amended, expedited reporting is required for additional occurrences of the reaction.''

12. One comment asked when a written safety report would be due if the 15th day occurs on a weekend or holiday.

FDA advises that if the 15th calendar day occurs on a weekend or U.S. Federal holiday, the written safety report would be due the 1st working day after the weekend or U.S. Federal holiday.

E. IND Safety Reports—Telephone

FDA proposed to revise the requirements for submitting IND safety reports by telephone, under § 312.32(c)(2), by altering the time period for submitting such reports from 3 working days to 7 calendar days. FDA also proposed to allow telephone safety reports to be made by facsimile transmission.

13. Two comments expressed support for the 7 calendar day timeframe. Other comments requested longer timeframes because 7 days does not provide a significant difference from the current time period, and because additional time is needed for contacting non-U.S. physicians. One comment asked for a timeframe of 10 calendar days, and another requested any period longer than 7 calendar days.

FDA declines to lengthen the timeframe for IND safety reports by telephone or facsimile transmission. FDA believes it is important that unexpected fatal or life-threatening experiences associated with the use of the drug be reported to the agency as expeditiously as possible. A 7 calendar day timeframe is reasonable for these types of reports. This timeframe is also consistent with recommendations in the final ICH E2A guideline (60 FR 11284 at 11286).

14. Three comments supported FDA's proposal to accept telephone safety reports by ''facsimile transmission.'' The comments also requested that FDA permit transmission of these reports by other electronic mechanisms such as Internet or electronic mail systems.

In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a final rule that permits the agency to accept electronic records, electronic signatures, and handwritten signatures executed to electronic records as generally equivalent to paper records and handwritten signatures executed on paper. FDA stated in this final rule that it will announce in the **Federal Register** when it is prepared to accept certain submissions in electronic format only. At the present time, FDA is not prepared to accept electronic submission of IND safety reports, but is developing a system to accept such submissions in the future.

15. One comment requested that FDA restore the phrase ''in the clinical studies conducted under the IND'' to the language in § 312.32(c)(2) for telephone safety reports of any unexpected fatal or life-threatening experience associated with the use of the drug. The phrase did not appear in the October 27, 1994, proposed revisions to this section.

It is FDA's intention not to restrict telephone safety reports of any unexpected fatal or life-threatening experience associated with the use of the drug to clinical studies conducted under the IND. As stated under § 312.32(b), as revised in this final rule, the sponsor shall promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic, including information derived from any clinical or epidemiological investigations, animal investigations, commercial marketing experience, reports in the scientific literature, and unpublished scientific papers, as well as reports from foreign regulatory authorities that have not already been previously reported to the agency by the sponsor. Thus, the sponsor is responsible for notifying FDA by telephone or facsimile transmission, as soon as possible, but in no event later than 7 calendar days, of any unexpected fatal or life-threatening experience associated with the use of the drug from any source. This requirement is consistent with the final ICH E2A guideline (60 FR 11284 at 11286):

> Information obtained by a sponsor or manufacturer on serious, unexpected reports from any source should be submitted on an expedited basis to appropriate regulatory authorities if the minimum criteria for expedited reporting can be met.

F. Postmarketing Alert and Followup Reports

FDA proposed to amend §§ 310.305(c), 314.80(c), and 600.80(c) by reorganizing, renumbering, and retitling the paragraphs in these sections to distinguish between postmarketing 15-day Alert reports and followups to these reports. FDA also proposed to distinguish between the reporting intervals for postmarketing 15-day Alert reports and the intervals proposed for postmarketing periodic reports. In addition, FDA proposed to amend §§ 310.305(c)(1) through (c)(4), 314.80(c)(1)(i) through (c)(1)(iv), and 600.80(c)(1)(i) through (c)(1)(iv), to alter the time period for submitting postmarketing 15-day Alert reports and followup reports from 15 working days to 15 calendar days.

16. Twelve comments stated that the 15 calendar day timeframe is overly burdensome. One comment noted that the change from 15 working days to 15 calendar days would result in approximately one-third (6 days) less time for preparation of reports for submission to FDA. Another comment indicated that, although the proposed

timeframe is in accord with the final ICH E2A guideline, it would cause significant disruption in reporting schedules and would probably result in incomplete reports. Another comment stated that the revised timeframe would not provide international companies with sufficient time to receive and translate foreign reports. One comment said that the proposed timeframe incorrectly assumes that reporters are universally accessible anywhere in the world. Six comments offered suggestions for alternative timeframes. Three comments recommended 20 calendar days, one recommended 21 calendar days, and another recommended 22 calendar days. Two of the comments encouraged retention of the 15 working day timeframe currently required by FDA.

FDA declines to revise its proposed 15 calendar day timeframe for postmarketing Alert reports. The agency proposed to revise the reporting period from 15 working days to 15 calendar days to provide consistency in pre- and postmarketing safety reporting timeframes for products and to decrease misunderstandings with reporting requirements by stating all timeframes in terms of calendar days. This timeframe is consistent with the 15 calendar day reporting timeframe in the final ICH E2A guideline (60 FR 11284 at 11286) and consistent with the change in timeframe set forth in this final rule at § 312.32(c)(1) and (d)(3) for IND safety reporting of serious and unexpected experiences. This timeframe is sufficient for persons subject to the postmarketing safety reporting requirements to gather appropriate data and initially interpret reports before submitting them to the agency.

In this final rule, FDA is amending its postmarketing expedited safety reporting regulations, at § 310.305(c)(1)(i), by adding the following phrase to the end of the first sentence: ''by the person whose name appears on the label.'' FDA is making this revision to clarify when the 15 calendar day timeframe begins for marketed prescription drugs for human use without approved new drug applications. This change is consistent with current language under §§ 314.80(c)(1)(i) and 600.80(c)(1)(i) for marketed prescription drugs for human use with approved NDA's and for licensed biological products. Under § 314.80(c)(1)(i), 15-day Alert reports must be submitted no later than 15 calendar days of initial receipt of information by the applicant. Under § 600.80(c)(1)(i), such reports must be submitted within the same timeframe based on initial receipt of information by the licensed manufacturer.

17. Two comments requested that they be permitted to use the CIOMS I form for reporting foreign events as an alternative to FDA Form 3500A without obtaining prior FDA approval. In addition, the comments preferred using the CIOMS I form instead of FDA Form 3500A for all adverse drug experience reporting worldwide.

In the June 1993 notice, the agency stated that reporters may use the CIOMS I form for reporting foreign events with prior FDA approval. FDA has considered the comments and has decided to revise §§ 310.305, 314.80, and 600.80 to permit the use of the CIOMS I form for reports of foreign events without first obtaining prior FDA approval. FDA is taking this action to expedite the reporting of foreign events.

FDA will continue to require use of FDA Form 3500A for reports of domestic events. FDA Form 3500A is more comprehensive than the CIOMS I form and includes elements recommended by the final ICH E2A guideline that are not part of the CIOMS I form (60 FR 11284 at 11287). For example, the following items are included in FDA Form 3500A and requested in the ICH E2A guideline but are not included in the CIOMS I form: Body weight, the terms ''congenital anomaly'' and ''other'' (identifiers of adverse event outcomes), the lot number and dosage strength of suspected medicinal product(s), details on the event reporter, and the regulatory code number (e.g., IND/NDA number).

18. One comment requested that FDA accept postmarketing 15-day Alert and followup reports through electronic transmission.

As explained above, FDA has published a final rule to permit the agency to accept electronic records, electronic signatures, and handwritten signatures executed to electronic records as generally equivalent to paper records and handwritten signatures executed on paper (62 FR 13430). At the present time, FDA is not prepared to accept electronic submission of 15-day Alert reports, but is developing a system to accept such submissions in the future.

G. Written Procedures for Monitoring Adverse Drug Experiences

FDA proposed to amend §§ 310.305(a), 314.80(b), and 600.80(b) to require that any person subject to the reporting requirements under §§ 310.305(c), 314.80(c), and 600.80(c) develop written procedures for the surveillance, receipt, evaluation, and reporting of adverse drug experiences to FDA.

19. One comment opposed this amendment. The comment stated that these written procedures are customary and usual in the industry and, if made part of a regulation, could be potentially burdensome to manufacturers and would permit FDA to dictate internal procedures.

FDA declines to withdraw this proposed amendment. As explained in the preamble to the October 1994 proposal (59 FR 54046 at 54053), this requirement would improve postmarketing surveillance by applicants and manufacturers and would enhance an applicant's and a manufacturer's ability to evaluate and report adverse drug experiences to the agency. In addition, because such written procedures are usual and customary, FDA believes that this provision would not impose a new burden on applicants and manufacturers.

20. One comment stated that it is inappropriate to require packers and distributors to develop written procedures for the surveillance, receipt, evaluation, and reporting of adverse drug experiences to FDA if they elect to submit these reports to the manufacturer.

Under §§ 310.305(c)(1)(i), 314.80(c)(1)(iv), and 600.80(c)(1)(iv), packers and distributors are subject to the reporting requirements if their name appears on the label of a marketed prescription drug product or licensed biological product. A packer or distributor who elects to submit adverse drug experience reports to an applicant, manufacturer, or licensed manufacturer of a final biological product under §§ 310.305(c)(4), 314.80(c)(1)(iv), and 600.80(c)(1)(iv) must include information about making such an election in their written procedures, as well as procedures for recordkeeping required to be maintained under these regulations. For the reasons explained in the October 1994 proposal (59 FR 54046 at 54053), it is appropriate to require that these packers and distributors develop written procedures to ensure that they comply with these regulations.

21. One comment requested that FDA specify the minimum requirements for a company's written procedures for reporting adverse drug experiences.

FDA declines to specify minimum requirements for written reporting procedures. As explained in the October 1994 proposal (59 FR 54046 at 54053), written procedures for handling adverse drug experiences are customary and usual in the pharmaceutical industry. In

addition, such procedures have been required for many years by FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals (21 CFR 211.198).

H. Submission of Postmarketing 15-day Alert Reports by Persons Other Than Applicants, Manufacturers, and Licensed Manufacturers of a Final Biological Product

Current postmarketing safety reporting regulations, at § 310.305(c)(5), permit packers and distributors to submit reports of serious adverse drug experiences to the manufacturer instead of FDA. Under § 314.80(c)(1)(iii), manufacturers, packers, and distributors may submit these reports to the applicant. Under § 600.80(c)(1)(iii), packers, distributors, and manufacturers other than licensed manufacturers of the final biological product may submit these reports to the licensed manufacturer of the final product. Currently, these reports must be submitted within 3 working days of their receipt. FDA proposed to revise this timeframe to 3 calendar days. The manufacturer, applicant, and licensed manufacturer of the final biological product would then comply with the requirements described in this section by submitting the report to FDA as soon as possible, but in no case later than 15 calendar days of initial receipt of the information.

22. Five comments opposed changing 3 working days to 3 calendar days because the new timeframe is overly burdensome, especially if the period includes holidays or weekends. One comment said that manufacturers, packers, distributors, and shared and joint manufacturers would probably submit these reports directly to FDA in order to utilize the longer timeframe. This would result in duplicative reporting to the agency. The comments suggested alternative timeframes. Three comments recommended 5 calendar days, one recommended 7 calendar days, and another recommended that the current requirement of 3 working days be maintained.

FDA agrees with the comments and has revised the final rule at §§ 310.305(c)(4), 314.80(c)(1)(iv), and 600.80(c)(1)(iv) to permit manufacturers, packers, and distributors, as well as manufacturers, packers, distributors, shared manufacturers, joint manufacturers, and any other participant involved in divided manufacturing of a biological product, to submit reports of serious adverse drug experiences to the manufacturer, applicant, or licensed manufacturer of the final biological product in 5 calendar days.

23. One comment requested that the regulations state that manufacturers should not submit to FDA reports it receives from a reporter, if the reporter has submitted the report to FDA.

FDA declines to revise its regulations to exempt manufacturers from submitting safety reports to FDA that it receives from a voluntary reporter who has submitted the report to FDA, regardless of whether the reporter is a physician, pharmacist, or other health care professional, or a consumer. The agency requires manufacturers to submit such reports to FDA to ensure that the agency receives all safety reports. However, as now stated at §§ 310.305(c)(6), 314.80(b), and 600.80(b), no one subject to the postmarketing safety reporting regulations at §§ 310.305(c), 314.80(c), and 600.80(c) is required to resubmit to the agency FDA Form 3500A reports that the agency has forwarded to them.

I. General Comments

24. One comment asked whether the **Federal Register** notices announcing the availability of FDA Forms 3500 and 3500A had been withdrawn, revised, or replaced by the October 1994 proposal. The comment indicated that the effective date for FDA Form 3500A was put on hold pending revision of the regulations for safety reporting.

The June 1993 notice (58 FR 31596), announced the availability of FDA Forms 3500 and 3500A. The use of FDA Form 3500 was effective immediately, while the use of FDA Form 3500A was scheduled to be effective on November 30, 1993. Manufacturers, medical device distributors, and user facilities were encouraged to begin using the form immediately. In the **Federal Register** of December 3, 1993 (58 FR 64001), FDA extended the effective date for use of FDA Form 3500A until FDA issues a final rule amending the regulations to require the use of the form. This final rule makes the requirement for use of FDA Form 3500A effective on April 6, 1998.

25. Four comments requested that FDA publish guidelines to explain the proposed regulations. Two of the comments asked whether a draft guideline could be published with an opportunity for public comment before publication of the final rule.

In the **Federal Register** of March 1, 1995 (60 FR 11284), FDA published the final ICH E2A guideline ''Clinical Safety Data Management: Definitions and Standards for Expedited Reporting.'' Concerning the opportunity for comment on guidances, on July 9, 1993 (58 FR 37408), FDA published the draft ICH E2A guideline for public comment.

As described under section III of this document, FDA is in the process of revising guidances pertaining to this final rule and will provide opportunity for public comment and notice of availability of any draft or final guidance documents in the **Federal Register** and on FDA's WWW home page, under the GGP's (62 FR 8961).

26. One comment asked whether information on the United Kingdom Medicines Control Agency's Medical Dictionary for Drug Regulatory Affairs would be incorporated into the final rule.

This terminology was not discussed in the proposed rule and will not be incorporated into this final rule. At the September 1994 CIOMS meeting, it was agreed that this terminology would be the basis for the development of a new international medical terminology to support classification of terms relating to all aspects of drug regulation. In July 1997, ICH developed a final consensus guideline on this topic (ICH M1). At this time, FDA is considering the ICH M1 document.

V. Environmental Impact

The agency has determined under 21 CFR 25.30(h) 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.

VI. Analysis of Impacts

The agency has considered the potential economic impact of this final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by Subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–721), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. According to the Small Business Administration, manufacturers of medicinals and botanicals or pharmaceutical preparations with 750 or less employees, and manufacturers of diagnostic substances or biological products with 500 or less employees are considered a small business. As discussed in section VII of this document, modifications and additions to the recordkeeping requirements will not result in a change in industry's current recordkeeping burden hours. Therefore, under the Regulatory Flexibility Act, no further analysis is needed.

The final rule will also not impose annual expenditures of $100 million or more on either State, local, and tribal governments in aggregate, or on the private sector. Therefore, a written statement and economic analysis is not required as prescribed under section 202(a) of the Unfunded Mandates Reform Act of 1995.

VII. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below.

Title: Expedited Safety Reporting Requirements for Human Drug and Biological Products; Final Rule.

Description: FDA is amending its current expedited safety reporting requirements to replace current Form FDA–1639 with new FDA Form 3500A; to revise certain definitions, reporting periods and formats; to require applicants, manufacturers, packers, and distributors, as well as licensed manufacturers and other manufacturers of biological products to develop written procedures for postmarketing safety monitoring and reporting of adverse drug experiences to FDA; and to make other revisions to provide uniformity to the expedited pre- and postmarketing safety reporting regulations. These changes will simplify and facilitate expedited safety reporting and enhance agencywide consistency in the collection of postmarketing safety data.

Respondent Description: Businesses and other for-profit organizations, State or local governments, Federal agencies, and nonprofit institutions.

FDA believes that this final rule will not result in any increase in paperwork burden as compared to current expedited safety reporting requirements. The new requirement under §§ 310.305(a), 314.80(b), and 600.80(b), that persons subject to the postmarketing safety reporting requirements develop written procedures for the surveillance, receipt, evaluation, and reporting to FDA of adverse drug experiences, does not impose a new burden because it codifies a practice that is already customary and usual in the pharmaceutical industry for handling adverse drug experiences.

The new recordkeeping requirements under §§ 310.305(c)(2), 314.80(c)(1)(ii), and 600.80(c)(1)(ii), that persons subject to the postmarketing safety reporting requirements maintain records of unsuccessful attempts to obtain additional followup information on 15-day Alert reports, do not result in a change in the burden. Current regulations provide for submission of a followup report describing steps taken to seek additional information and the reasons why it could not be obtained; FDA estimates that the effort needed to file this existing information will be, at worst, no more than the effort that would have been required to submit it to FDA.

The new language in § 312.32(b) explicitly requiring that sponsors review: (1) Information derived from any epidemiological investigations, or (2) reports from foreign regulatory authorities that have not already been previously reported to the agency by the sponsor does not impose a new burden because this amendment is only a clarification. Sponsors are already required to review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic.

Although the October 1994 proposal provided a 90-day comment period under the Paperwork Reduction Act of 1980, FDA is providing an additional opportunity for public comment under the Paperwork Reduction Act of 1995, which was enacted after the expiration of the comment period and applies to this final rule. Therefore, FDA now 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. Individuals and organizations may submit comments on the information collection provisions of this final rule by December 8, 1997. Comments should be directed to the Dockets Management Branch (address above).

At the close of the 60-day comment period, FDA will review the comments received, revise the information collection provisions as necessary, and submit these provisions to OMB for review and approval. FDA will publish a notice in the **Federal Register** when the information collection provisions are submitted to OMB, and an opportunity for public comment to OMB will be provided at that time. Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VIII. References

The following references have been placed on display at the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. International Reporting of Periodic Drug-Safety Update Summaries, Final Report of CIOMS Working Group II, 1992.

2. International Reporting of Adverse Drug Reactions, Final Report of CIOMS Working Group I, 1990.

List of Subjects

21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 20, 310, 312, 314, and 600 are amended as follows:

PART 20—PUBLIC INFORMATION

1. The authority citation for 21 CFR part 20 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1); 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 1401–1403.

§ 20.112 [Amended]

2. Section 20.112 *Voluntary drug experience reports submitted by physicians and hospitals* is amended in paragraph (a) by removing the words ''Form FDA–1639'' and adding in their place ''FDA Form 3500''.

PART 310—NEW DRUGS

3. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379e); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

4. Section 310.305 is amended by adding a new sentence at the end of paragraph (a); by revising paragraphs (b), (c), (d)(1), (d)(3)(ii), and (d)(4); by removing in paragraph (d)(2), the introductory text of paragraph (d)(3), and paragraph (d)(3)(i) the words ''Form FDA–1639'' or ''FDA–1639'' and adding in their place ''FDA Form 3500A'' to read as follows:

§ 310.305 Records and reports concerning adverse drug experiences on marketed prescription drugs for human use without approved new drug applications.

(a) * * * Any person subject to the reporting requirements of paragraph (c) of this section shall also develop written procedures for the surveillance, receipt, evaluation, and reporting of postmarketing adverse drug experiences to FDA.

(b) *Definitions*. The following definitions of terms apply to this section:

Adverse drug experience. Any adverse event associated with the use of a drug in humans, whether or not considered drug related, including the following: An adverse event occurring in the course of the use of a drug product in professional practice; an adverse event occurring from drug overdose whether accidental or intentional; an adverse event occurring from drug abuse; an adverse event occurring from drug withdrawal; and any failure of expected pharmacological action.

Disability. A substantial disruption of a person's ability to conduct normal life functions.

Life-threatening adverse drug experience. Any adverse drug experience that places the patient, in the view of the initial reporter, at *immediate* risk of death from the adverse drug experience as it occurred, i.e., it does not include an adverse drug experience that, had it occurred in a more severe form, might have caused death.

Serious adverse drug experience. Any adverse drug experience occurring at any dose that results in any of the following outcomes: Death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

Unexpected adverse drug experience. Any adverse drug experience that is not listed in the current labeling for the drug product. This includes events that may be symptomatically and pathophysiologically related to an event listed in the labeling, but differ from the event because of greater severity or specificity. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the labeling only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the labeling only listed cerebral vascular accidents. ''Unexpected,'' as used in this definition, refers to an adverse drug experience that has not been previously observed (i.e., included in the labeling) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

(c) *Reporting requirements*. Each person identified in paragraph (c)(1)(i) of this section shall report to FDA adverse drug experience information as described in this section and shall submit one copy of each report to the Division of Pharmacovigilance and Epidemiology (HFD–730), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(1) *Postmarketing 15-day ''Alert reports''*. (i) Any person whose name appears on the label of a marketed prescription drug product as its manufacturer, packer, or distributor shall report to FDA each adverse drug experience received or otherwise obtained that is both serious and unexpected as soon as possible, but in no case later than 15 calendar days of initial receipt of the information by the person whose name appears on the label. Each report shall be accompanied by a copy of the current labeling for the drug product.

(ii) A person identified in paragraph (c)(1)(i) of this section is not required to submit a 15-day ''Alert report'' for an adverse drug experience obtained from a postmarketing study (whether or not conducted under an investigational new drug application) unless the applicant concludes that there is a reasonable possibility that the drug caused the adverse experience.

(2) *Postmarketing 15-day ''Alert reports''—followup*. Each person identified in paragraph (c)(1)(i) of this section shall promptly investigate all serious, unexpected adverse drug experiences that are the subject of these postmarketing 15-day Alert reports and shall submit followup reports within 15 calendar days of receipt of new information or as requested by FDA. If additional information is not obtainable, records should be maintained of the unsuccessful steps taken to seek additional information. Postmarketing 15-day Alert reports and followups to them shall be submitted under separate cover.

(3) *Submission of reports*. To avoid unnecessary duplication in the submission of, and followup to, reports required in this section, a packer's or distributor's obligations may be met by submission of all reports of serious adverse drug experiences to the manufacturer of the drug product. If a packer or distributor elects to submit these adverse drug experience reports to the manufacturer rather than to FDA, it shall submit each report to the manufacturer within 5 calendar days of its receipt by the packer or distributor, and the manufacturer shall then comply with the requirements of this section even if its name does not appear on the label of the drug product. Under this circumstance, the packer or distributor shall maintain a record of this action which shall include:

(i) A copy of each adverse drug experience report;

(ii) The date the report was received by the packer or distributor;

(iii) The date the report was submitted to the manufacturer; and

(iv) The name and address of the manufacturer.

(4) Each report submitted to FDA under this section shall bear prominent identification as to its contents, i.e., ''15-day Alert report,'' or ''15-day Alert report-followup.''

(5) A person identified in paragraph (c)(1)(i) of this section is not required to resubmit to FDA adverse drug experience reports forwarded to that person by FDA; however, the person must submit all *followup* information on such reports to FDA.

(d) * * * (1) Except as provided in paragraph (d)(3) of this section, each person identified in paragraph (c)(1)(i) of this section shall submit each report of a serious and unexpected adverse drug experience on an FDA Form 3500A (foreign events may be submitted either on an FDA Form 3500A or, if preferred, on a CIOMS I form).

* * * * *

(3) * * *

(ii) The format is agreed to in advance by MedWatch: The FDA Medical Products Reporting Program.

(4) Ten copies or fewer of FDA Form 3500A and/or a copy of the instructions for completing the form may be obtained from the Division of Pharmacovigilance and Epidemiology (HFD–730), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. More than 10 copies of the form may be obtained by writing to the Consolidated Forms and Publications Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785.

* * * * *

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

5. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

6. Section 312.32 is amended by revising paragraphs (a), (b), (c)(1)(i), (c)(2), and (d)(3); by adding in the second sentence of paragraph (c)(3) the words ''new drug review'' before the phrase ''division in the Center for Drug Evaluation and Research'' and the words ''the director of the product review division in'' before the phrase ''the Center for Biologics Evaluation and Research''; and by removing in paragraph (e) the word ''section'' and replacing it with the word ''part'', to read as follows:

§ 312.32 IND safety reports.

(a) *Definitions*. The following definitions of terms apply to this section:

Associated with the use of the drug. There is a reasonable possibility that the experience may have been caused by the drug.

Disability. A substantial disruption of a person's ability to conduct normal life functions.

Life-threatening adverse drug experience. Any adverse drug experience that places the patient or subject, in the view of the investigator, at immediate risk of death from the reaction as it occurred, i.e., it does not include a reaction that, had it occurred in a more severe form, might have caused death.

Serious adverse drug experience: Any adverse drug experience occurring at any dose that results in any of the following outcomes: Death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

Unexpected adverse drug experience: Any adverse drug experience, the specificity or severity of which is not consistent with the current investigator brochure; or, if an investigator brochure is not required or available, the specificity or severity of which is not consistent with the risk information described in the general investigational plan or elsewhere in the current application, as amended. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the investigator brochure only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the investigator brochure only listed cerebral vascular accidents. ''Unexpected,'' as used in this definition, refers to an adverse drug experience that has not been previously observed (e.g., included in the investigator brochure) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

(b) *Review of safety information*. The sponsor shall promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from any source, foreign or domestic, including information derived from any clinical or epidemiological investigations, animal investigations, commercial marketing experience, reports in the scientific literature, and unpublished scientific papers, as well as reports from foreign regulatory authorities that have not already been previously reported to the agency by the sponsor.

(c) *IND safety reports*. (1) *Written reports*—(i) The sponsor shall notify FDA and all participating investigators in a written IND safety report of:

(A) Any adverse experience associated with the use of the drug that is both serious and unexpected; or

(B) Any finding from tests in laboratory animals that suggests a significant risk for human subjects including reports of mutagenicity, teratogenicity, or carcinogenicity. Each notification shall be made as soon as possible and in no event later than 15 calendar days after the sponsor's initial receipt of the information. Each written notification may be submitted on FDA

Form 3500A or in a narrative format (foreign events may be submitted either on an FDA Form 3500A or, if preferred, on a CIOMS I form; reports from animal or epidemiological studies shall be submitted in a narrative format) and shall bear prominent identification of its contents, i.e., ''IND Safety Report.'' Each written notification to FDA shall be transmitted to the FDA new drug review division in the Center for Drug Evaluation and Research or the product review division in the Center for Biologics Evaluation and Research that has responsibility for review of the IND. If FDA determines that additional data are needed, the agency may require further data to be submitted.

* * * * *

(2) *Telephone and facsimile transmission safety reports.* The sponsor shall also notify FDA by telephone or by facsimile transmission of any unexpected fatal or life-threatening experience associated with the use of the drug as soon as possible but in no event later than 7 calendar days after the sponsor's initial receipt of the information. Each telephone call or facsimile transmission to FDA shall be transmitted to the FDA new drug review division in the Center for Drug Evaluation and Research or the product review division in the Center for Biologics Evaluation and Research that has responsibility for review of the IND.

* * * * *

(d) * * *

(3) If the results of a sponsor's investigation show that an adverse drug experience not initially determined to be reportable under paragraph (c) of this section is so reportable, the sponsor shall report such experience in a written safety report as soon as possible, but in no event later than 15 calendar days after the determination is made.

* * * * *

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

7. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 704, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 379e).

8. Section 314.80 is amended by revising paragraphs (a), (c)(1), (f)(1), (f)(3)(ii), and (f)(4) and the introductory text of paragraph (c); by adding two new sentences at the end of paragraph (b); by removing in paragraph (d)(2) the words ''Epidemiology and Surveillance'' and adding in their place the words ''Pharmacovigilance and Epidemiology''; by removing in paragraphs (c)(2)(ii)(b), (d)(2), (f)(2), and (f)(3) and in the heading for paragraph (f) the words ''Form FDA–1639'' or ''FDA–1639'' and adding in their place the words ''FDA Form 3500A''; and by removing paragraph (j) and redesignating paragraphs (k) and (l) as paragraphs (j) and (k), respectively, to read as follows:

§ 314.80 Postmarketing reporting of adverse drug experiences.

(a) *Definitions.* The following definitions of terms apply to this section:

Adverse drug experience. Any adverse event associated with the use of a drug in humans, whether or not considered drug related, including the following: An adverse event occurring in the course of the use of a drug product in professional practice; an adverse event occurring from drug overdose whether accidental or intentional; an adverse event occurring from drug abuse; an adverse event occurring from drug withdrawal; and any failure of expected pharmacological action.

Disability. A substantial disruption of a person's ability to conduct normal life functions.

Life-threatening adverse drug experience. Any adverse drug experience that places the patient, in the view of the initial reporter, at *immediate* risk of death from the adverse drug experience as it occurred, i.e., it does not include an adverse drug experience that, had it occurred in a more severe form, might have caused death.

Serious adverse drug experience. Any adverse drug experience occurring at any dose that results in any of the following outcomes: Death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

Unexpected adverse drug experience. Any adverse drug experience that is not listed in the current labeling for the drug product. This includes events that may be symptomatically and pathophysiologically related to an event listed in the labeling, but differ from the event because of greater severity or specificity. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the labeling only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the labeling only listed cerebral vascular accidents. ''Unexpected,'' as used in this definition, refers to an adverse drug experience that has not been previously observed (i.e., included in the labeling) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

(b) * * * Applicants are not required to resubmit to FDA adverse drug experience reports forwarded to the applicant by FDA; however, applicants must submit all followup information on such reports to FDA. Any person subject to the reporting requirements under paragraph (c) of this section shall also develop written procedures for the surveillance, receipt, evaluation, and reporting of postmarketing adverse drug experiences to FDA.

(c) *Reporting requirements.* The applicant shall report to FDA adverse drug experience information, as described in this section. The applicant shall submit two copies of each report described in this section to the Central Document Room, 12229 Wilkins Ave., Rockville, MD 20852. FDA may waive the requirement for the second copy in appropriate instances.

(1)(i) *Postmarketing 15-day ''Alert reports''.* The applicant shall report each adverse drug experience that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the applicant.

(ii) *Postmarketing 15-day ''Alert reports''—followup.* The applicant shall promptly investigate all adverse drug experiences that are the subject of these postmarketing 15-day Alert reports and shall submit followup reports within 15 calendar days of receipt of new information or as requested by FDA. If additional information is not obtainable, records should be maintained of the unsuccessful steps taken to seek additional information. Postmarketing 15-day Alert reports and followups to

them shall be submitted under separate cover.

(iii) *Submission of reports*. The requirements of paragraphs (c)(1)(i) and (c)(1)(ii) of this section, concerning the submission of postmarketing 15-day Alert reports, shall also apply to any person other than the applicant (nonapplicant) whose name appears on the label of an approved drug product as a manufacturer, packer, or distributor. To avoid unnecessary duplication in the submission to FDA of reports required by paragraphs (c)(1)(i) and (c)(1)(ii) of this section, obligations of a nonapplicant may be met by submission of all reports of serious adverse drug experiences to the applicant. If a nonapplicant elects to submit adverse drug experience reports to the applicant rather than to FDA, the nonapplicant shall submit each report to the applicant within 5 calendar days of receipt of the report by the nonapplicant, and the applicant shall then comply with the requirements of this section. Under this circumstance, the nonapplicant shall maintain a record of this action which shall include:

(A) A copy of each adverse drug experience report;

(B) The date the report was received by the nonapplicant;

(C) The date the report was submitted to the applicant; and

(D) The name and address of the applicant.

(iv) *Report identification*. Each report submitted under this paragraph shall bear prominent identification as to its contents, i.e., ''15-day Alert report,'' or ''15-day Alert report-followup.''

* * * * *

(f) * * * (1) Except as provided in paragraph (f)(3) of this section, the applicant shall complete FDA Form 3500A for each report of an adverse drug experience (foreign events may be submitted either on an FDA Form 3500A or, if preferred, on a CIOMS I form).

* * * * *

(3) * * * (ii) the format is agreed to in advance by MedWatch: The FDA Medical Products Reporting Program.

(4) Ten copies or fewer of FDA Form 3500A and/or a copy of the instructions for completing the form may be obtained from the Division of Pharmacovigilance and Epidemiology (HFD–730), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. More than 10 copies of the form may be obtained by writing to the Consolidated Forms and Publications Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785.

* * * * *

PART 600—BIOLOGICAL PRODUCTS: GENERAL

9. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 519, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374); secs. 215, 351, 352, 353, 361, 2125 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25).

10. Section 600.80 is amended by revising paragraphs (a), (c)(1), (f)(1), and the first sentence of paragraph (g); by adding two new sentences at the end of paragraph (b); and by removing paragraph (j) and redesignating paragraphs (k), (l), and (m) as paragraphs (j), (k), and (l), respectively, to read as follows:

§ 600.80 Postmarketing reporting of adverse experiences.

(a) *Definitions*. The following definitions of terms apply to this section:

Adverse experience. Any adverse event associated with the use of a biological product in humans, whether or not considered product related, including the following: An adverse event occurring in the course of the use of a biological product in professional practice; an adverse event occurring from overdose of the product whether accidental or intentional; an adverse event occurring from abuse of the product; an adverse event occurring from withdrawal of the product; and any failure of expected pharmacological action.

Blood Component. As defined in § 606.3(c) of this chapter.

Disability. A substantial disruption of a person's ability to conduct normal life functions.

Life-threatening adverse experience. Any adverse experience that places the patient, in the view of the initial reporter, at immediate risk of death from the adverse experience as it occurred, i.e., it does not include an adverse experience that, had it occurred in a more severe form, might have caused death.

Serious adverse experience. Any adverse experience occurring at any dose that results in any of the following outcomes: Death, a life-threatening adverse experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

Unexpected adverse experience: Any adverse experience that is not listed in the current labeling for the biological product. This includes events that may be symptomatically and pathophysiologically related to an event listed in the labeling, but differ from the event because of greater severity or specificity. For example, under this definition, hepatic necrosis would be unexpected (by virtue of greater severity) if the labeling only referred to elevated hepatic enzymes or hepatitis. Similarly, cerebral thromboembolism and cerebral vasculitis would be unexpected (by virtue of greater specificity) if the labeling only listed cerebral vascular accidents. ''Unexpected,'' as used in this definition, refers to an adverse experience that has not been previously observed (i.e., included in the labeling) rather than from the perspective of such experience not being anticipated from the pharmacological properties of the pharmaceutical product.

(b) * * * Licensed manufacturers are not required to resubmit to FDA adverse product experience reports forwarded to the licensed manufacturer by FDA; licensed manufacturers, however, must submit all followup information on such reports to FDA. Any person subject to the reporting requirements under paragraph (c) of this section shall also develop written procedures for the surveillance, receipt, evaluation, and reporting of postmarketing adverse experiences to FDA.

(c) * * *

(1)(i) *Postmarketing 15-day ''Alert reports''*. The licensed manufacturer shall report each adverse experience that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the licensed manufacturer.

(ii) *Postmarketing 15-day ''Alert reports''—followup*. The licensed manufacturer shall promptly investigate

all adverse experiences that are the subject of these postmarketing 15-day Alert reports and shall submit followup reports within 15 calendar days of receipt of new information or as requested by FDA. If additional information is not obtainable, records should be maintained of the unsuccessful steps taken to seek additional information. Postmarketing 15-day Alert reports and followups to them shall be submitted under separate cover.

(iii) *Submission of reports.* The requirements of paragraphs (c)(1)(i) and (c)(1)(ii) of this section, concerning the submission of postmarketing 15-day Alert reports, shall also apply to any person whose name appears on the label of a licensed biological product as a manufacturer, packer, distributor, shared manufacturer, joint manufacturer, or any other participant involved in divided manufacturing. To avoid unnecessary duplication in the submission to FDA of reports required by paragraphs (c)(1)(i) and (c)(1)(ii) of this section, obligations of persons other than the licensed manufacturer of the final biological product may be met by submission of all reports of serious adverse experiences to the licensed manufacturer of the final product. If a person elects to submit adverse experience reports to the licensed manufacturer of the final product rather than to FDA, the person shall submit each report to the licensed manufacturer of the final product within 5 calendar days of receipt of the report by the person, and the licensed manufacturer of the final product shall then comply with the requirements of this section. Under this circumstance, a person who elects to submit reports to the licensed manufacturer of the final product shall maintain a record of this action which shall include:

(A) A copy of all adverse biological product experience reports submitted to the licensed manufacturer of the final product;

(B) The date the report was received by the person;

(C) The date the report was submitted to the licensed manufacturer of the final product; and

(D) The name and address of the licensed manufacturer of the final product.

(iv) *Report identification.* Each report submitted under this paragraph shall bear prominent identification as to its contents, i.e., ''15-day Alert report,'' or ''15-day Alert report-followup.''

* * * * *

(f) *Reporting forms.* (1) Except as provided in paragraph (f)(3) of this section, the licensed manufacturer shall complete the reporting form designated by FDA for each report of an adverse experience (FDA Form 3500A, or, for vaccines, a VAERS form; foreign events including those associated with the use of vaccines, may be submitted either on an FDA Form 3500A or, if preferred, on a CIOMS I form).

* * * * *

(g) *Multiple reports.* A licensed manufacturer should not include in reports under this section any adverse experience that occurred in clinical trials if they were previously submitted as part of the license application. * * * * * * * * *

Dated: September 25, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26255 Filed 10–6–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309, 1310 and 1313

[DEA Number 154F]

RIN 1117–AA42

Implementation of the Comprehensive Methamphetamine Control Act of 1996; Possession of List I Chemicals Definitions, Record Retention, and Temporary Exemption From Chemical Registration for Distributors of Combination Ephedrine Products

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: DEA is finalizing the Interim Rule, which included a request for comment, published in the **Federal Register** on February 10, 1997, (62 FR 5914). The Interim Rule amended the regulations to incorporate certain amendments to the Controlled Substances Act (CSA) made by the Comprehensive Methamphetamine Control Act of 1996 (MCA) and to provide temporary exemption from registration for persons who distribute combination ephedrine products. Comments were received regarding industry interpretation of certain requirements of both the CSA and the MCA. This notice responds to those comments and clarifies the requirements of the CSA and MCA with respect to the distribution of combination ephedrine products.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: On February 10, 1997, DEA published an interim rule, with request for comment, in the **Federal Register** (62 FR 5914) to implement certain regulatory changes mandated by the MCA and to provide temporary exemption from registration pending promulgation of final regulations to implement the MCA.

Five comments were received regarding the interim rule. Three separate issues were raised in the comments:

(1) Two comments expressed support for the temporary exemptions and urged that the exemption from registration for retail distributors as described in the MCA be made permanent. DEA agrees and will make the exemption permanent.

(2) Three comments asserted that DEA's interpretation of the MCA is incorrect and that the registration requirement does not apply to wholesale distributors that engage in only sub-threshold transactions of combination ephedrine products.

Specifically, the commentors assert that while Section 302(a)(1) of the CSA (21 U.S.C. 822(a)(1)) requires that any person who distributes a List I chemical must register, that requirement is tempered by Section 303(h) of the CSA (21 U.S.C. 823(h)), which provides, in part, that registration shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). Section 102(39) of the CSA (21 U.S.C. 802(39)) defines the term ''regulated transaction''. The definition provides in paragraph (A)(iv) that a transaction in a listed chemical contained in a drug product that may be marketed or distributed under the Food, Drug, and Cosmetic Act (FDC Act) is not a regulated transaction, unless the drug contains ephedrine, pseudoephedrine, or phenylpropanolamine, and the quantity of ephedrine, pseudoephedrine, or phenylpropanolamine equals or exceeds the threshold established for the chemical. These provisions are echoed in DEA's regulations; Title 21, Code of Federal Regulations (CFR), Section 1309.21(a) requires registration for the distribution of a List I chemical, other than a List I chemical contained in a drug product that is exempted under 21 CFR section 1310.01(f)(1)(iv). The commentors assert the definition of regulated transaction provides that a

drug product remains exempt if the amount of List I chemical involved in the transaction is less than the threshold established for that chemical. Under the circumstances, the commentors argue that persons who engage only in sub-threshold distributions of List I chemicals contained in drug products are exempt from the registration requirement.

The commentors analysis of the referenced portions of the law fails to acknowledge certain points of law that must be considered in determining who must register.

First, the MCA amends existing language to remove the exemption for combination ephedrine products. The specific language that is subject to the commentors analysis (21 U.S.C. 802(39)(A)(iv) (I) and (II) and 21 U.S.C. 823(h)) was added to the CSA by the Domestic Chemical Diversion Control Act of 1993 (DCDCA).

A review of the legislative history of the DCDCA reveals that, as described in a letter of support for the DCDCA from the then Acting Administrator of DEA to the Chairman of the House Committee on Energy and Commerce, the registration system established under that act was ''* * * precisely patterned after the system which we have successfully employed for handlers of controlled substances since 1971.'' (U.S. Congressional and Administrative News, 103rd Congress, Vol. 4, Page 2986) The registration system for handlers of controlled substances, while providing for the exemption of certain products that contain controlled substances, does not consider the quantity involved in a distribution when determining whether registration is required; either the product is exempt or non-exempt. Thus, 21 U.S.C. 823(h) provides that the exemption from registration applies to exempted products, and not, as the commentor apparently reads it, to selective exempted distributions. In addition, the House Report No. 103–379, relating to the bill (H.R. 3216) which subsequently was enacted as the DCDCA, states ''This provision removes the exemption from record-keeping and reporting requirements of the Controlled Substances Act (CSA) for drugs containing ephedrine as the only active medicinal ingredient * * * It also removes the exemption for ephedrine products containing therapeutically insignificant quantities of other active ingredients.'' [emphasis added] At the time the DCDCA was enacted, the established threshold for ephedrine in any form was one kilogram. As Congress did not mention thresholds in its discussion of the exemption from registration created by the 1993 amendments, it follows that in enacting 21 U.S.C. 823(h), it meant the exemption from registration to apply to drug products themselves, rather than to transactions in drug products. Exempt products are not subject to the CSA's system of thresholds; therefore, thresholds had no relevance to the discussion.

Therefore, a distributor who distributes any amount of a List I chemical, including a drug product that is not exempt, is subject to the registration requirement.

Two additional points were raised in this matter by the commentors. The first dealt with the claimed inconsistency in DEA's determination to exempt retail distributors from the registration requirement and not exempt wholesale distributors if they engage solely in sub-threshold sales. These commentors stated that since retail distributors, by definition, limit sales to sub-threshold levels, wholesale distributors who limit sales to the substantially higher thresholds for wholesalers should also be exempt from registration.

There is no inconsistency in DEA's decision. The United States Congress, with the substantial participation of the affected industries, developed the MCA with the intent of providing controls to prevent the diversion of products to the illicit manufacture of methamphetamine, while not unnecessarily interfering with legitimate public access to the products at the retail level.

The MCA does not make any pretense of amending the existing chemical registration and recordkeeping requirements under the CSA, as amended by the CDTA and DCDCA. The principal effect of the MCA is the removal of the exemption for pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products, making these products subject to the controls under the CSA that apply to all List I chemicals. Thus, as with any other List I chemical, any person who distributes, imports, or exports any amount of these products will be subject to the chemical registration requirement and, to the extent that the transaction(s) meet the threshold criteria, the chemical recordkeeping and reporting requirements.

Within this framework, the MCA specifically establishes in the CSA the unique category of 'retail distributor' which is distinct from all other distributors of List I chemicals. A retail distributor is defined as a ''* * * person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.'' The MCA further provides that the ''* * * sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction * * *'' [emphasis added]. These provisions clearly establish Congress' intent that public access to the products at the retail level be protected and that the protection applies only to one specific type of activity carried out by one specific type of distributor. It is equally clear, given the absence of any corresponding provisions in the MCA for other distributors, that the existing chemical controls, including registration, apply to the activities of all other distributors.

DEA recognized that the threat of diversion from the retail level would be minimized by adherence to the 24 gram per transaction threshold and that this reduced threat does not now justify the potential impact that the chemical controls might have on legitimate public access to the products at the retail level. Thus, DEA determined that an exemption from the registration requirement for retail distributors of combination ephedrine products who engage exclusively in sub-threshold transactions was consistent with the intent of the MCA that legitimate public access to drug products at the retail level be protected.

The absence of any exceptions in the MCA for non-retail distributors, coupled with the much larger thresholds (1 kilogram for combination ephedrine products and pseudoephedrine and 2.5 kilograms for phenylpropanolamine); the need to balance the lack of controls over transactions at the retail level with controls at the wholesale level; and the fact that it has been DEA's experience that the most efficient and effective means to identify and control diversion from the retail and wholesale levels is through application of the controls at the wholesale level, all pointed to the need to maintain the registration requirement envisioned by the MCA at the wholesale level.

The second concern dealt with the lack of a comprehensive listing identifying all of the products that contain ephedrine, and the difficulties that distributors could encounter in terms of identifying regulated products and complying with the chemical control requirements. DEA recognizes that in the absence of a 'closed system' of distribution as exists for controlled

substances, the identification of products that may be subject to regulation is more difficult. DEA will, where possible, work with the industry to assist in identification of such products. Further, the MCA makes all products containing ephedrine subject to regulation. Manufacturers of such products will have to obtain their distributor customers DEA registration numbers prior to distributing the products, which should assist in identifying products that are subject to regulation.

(3) Two comments asserted that the MCA exemption for sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products by retail distributors and EAS's general exemption for retail distributors (21 CFR 1309.29) should also apply to distributions to the retail distributors by warehouses that are owned or operated by the owner of a retail chain. The commentors argue that the definition of retail distributors should encompass the entire retail distribution system, which includes both the retail outlets and the warehouses or storage facilities which are owned or operated by the same corporate entity that owns the retail outlets. They state that the distributions from the warehouses or storage facilities are not sales but transfers or intracompany sales within the retail distributor operation that are related to the retail sales of the products. One commentor last noted that within their industry warehouses and storage facilities are classified within the same Standard Industrial Classification (SIC) code that the MCA references in the definition for the retail outlets.

The MCA provides that the ''* * * sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction * * *''. MCA, Section 401(b)(1); 21 U.S.C. 802(39)(A)(iv)(I)(aa). The MCA defines 'retail distributor' as ''* * * a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.'' (emphasis added] MCA Section 401(b)(4); 21 U.S.C. 802(46). 'Sales for personal use' is defined as ''* * * the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.'' MCA 401(b)(4); 21 U.S.C. 802(46)(B).

The definitions printed above describe the activities that a retail distributor may engage in with sufficient detail to establish the type of transactions that are to be exempted from regulation. The MCA provides that the exemption shall apply to sales by persons whose activities are limited almost exclusively to sales to individuals for legitimate medical use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. This language clearly does not contemplate an exception for a major class of wholesale distributions.

Further, the assertion that retail distributor should be defined as the corporate entity that is engaged in the process of retail distribution fails to acknowledge the requirements of the CSA with respect to separate registration for separate locations. The chemical registration requirements parallel the registration requirements established for controlled substances handlers; under such requirements, each location at which List I chemicals are distributed, imported, or exported must be viewed individually, as a separate person, for purposes of application of the chemical controls under the CSA.

Under the circumstances, the MCA cannot be read as providing an exemption for warehouses or storage facilities that operate within a retail distribution system. The MCA recognizes, quite logically, that if one portion of the distribution chain is to be granted exemption from regulation, then the other portion of the chain must be subject to control to insure that the distribution chain does not become a source of supply for the methamphetamine traffickers.

DEA does wish to note that in addition to receiving comments regarding registration for distributors of sub-threshold amounts of product and registration for distributors within retail distribution chains, the agency was also approached directly by the commentors for clarification of the requirements in each case. At the same time that this notice was drafted, individual responses were also provided directly to the commentors in response to their requests for clarification. While it may appear unusual for DEA to respond directly to persons regarding issues that have been raised in formal comments submitted in response to a rulemaking notice, it should be noted that neither concern has a direct bearing on the substance of the interim rule. The question of registration of distributors of sub-threshold amounts of product involves interpretation of the registration requirements established under the DCDCA in 1993; the MCA is only peripherally involved through its removal of the exemption from regulation for pseudoephedrine, phenylpropanolamine, and combination ephedrine products, subjecting them to the existing registration requirements. The question of registration for distributors within the retail distribution system involves clarification of a specific provision of the law which does not require any additional regulatory provisions to implement beyond technical amendments to make the language of the regulations consistent with the language of the law. Further, it was necessary that the requestors be given clarification of these points as quickly as possible to insure that the affected distributors could be advised as to the need to submit applications for registration prior to the deadline.

Following the close of the comment period of April 11, 1997, DEA received a written request, dated April 17, 1997, for an extension of the filing deadline for the temporary exemption in 21 CFR 1310.09. The requestor, a representative of a segment of industry heretofore not subject to DEA's chemical controls, cited industry misunderstandings regarding the registration requirements of the CSA and DEA's administration of the chemical control program in justifying the need for an extension of the deadline. DEA recognized that there had been confusion in the industry regarding the application of certain requirements under the MCA; therefore, the application deadline for temporary exemption was extended to July 12, 1997.

Accordingly, DEA's interim rule, published on February 10, 1997 (62 FR 5914), and amended on May 21, 1997 (62 FR 27693), is being adopted as a final rule.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that this rulemaking will not have a significant economic impact upon a substantial number of entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rulemaking is an administrative action to make the regulations consistent with the law and to avoid interruption of legitimate commerce by granting temporary exemptions from registration pending promulgation, through notice and comment, of the regulations necessary to implement the provisions of the MCA pertaining to combination ephedrine products. Further, since this is a temporary action which provides affected persons with a means to

comply with the law pending promulgation of regulations implementing the MCA, this action is not a significant regulatory action and therefore has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866. Consideration of the significant and impact of the new requirements of the MCA will be addressed as part of a future notice by DEA proposing regulations to implement the MCA.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

This rule will not resulting the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

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

Accordingly, the interim rule amending 21 CFR parts 1309, 1310, and 1313, which was published at 62 FR 5914 on February 10, 1997, and amended at 62 FR 27693 on May 21, 1997, is adopted as a final rule.

Dated: September 29, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 97–26177 Filed 10–6–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[TD 8736]

RIN 1545–AU66

Time for Filing Form 4720 Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains a regulation that specifies the filing date by which Form 4720 returns must be filed by disqualified persons and organization managers liable for Internal Revenue Code section 4958 excise taxes. These excise taxes are imposed on excess benefit transactions between disqualified persons and section 501(c)(3) organizations (except for private foundations) or section 501(c)(4) organizations.

DATES: This regulation is effective October 7, 1997.

For dates of applicability, see § 53.6071–1(f).

FOR FURTHER INFORMATION CONTACT: Phyllis Haney, (202) 622–4290 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Foundation and Similar Excise Taxes regulations (26 CFR part 53) under Internal Revenue Code (Code) section 6071. Those amendments provide guidance on the time for filing the return that is required to accompany payment of section 4958 excise taxes. This rule was first published in Notice 96–46 (1996–39 I.R.B. 7) (September 23, 1996). A notice of proposed rulemaking (NPRM) of that rule was published at 62 FR 84, by cross reference to a temporary regulation, (TD 8705, 62 FR 25), on January 2, 1997. The deadline for comments on the NPRM was April 2, 1997; no comments were received.

Taxpayer Bill of Rights 2, Public Law 104–168, 110 Stat. 1452 (TBOR2), enacted July 30, 1996, added section 4958 to the Code, which imposes excise taxes on excess benefit transactions. Section 4958 taxes apply retroactively to excess benefit transactions occurring on or after September 14, 1995. The taxes do not, however, apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

An ''excess benefit transaction'' subject to tax under section 4958 is any transaction in which an economic benefit is provided by an organization described in Code section 501(c)(3) (except for a private foundation) or 501(c)(4) directly or indirectly to, or for the use of, any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing the benefit. A ''disqualified person'' is any person who was, at any time during the 5-year period ending on the date of the excess benefit transaction, in a position to exercise substantial influence over the affairs of the organization. Disqualified persons also include family members and certain entities in which at least 35 percent of the control or beneficial interest are held by persons described in the preceding sentence.

Code section 4958 imposes three taxes. The first tax is equal to 25 percent of the excess benefit amount, and is to be paid by any disqualified person who engages in an excess benefit transaction. The second tax is equal to 200 percent of the excess benefit amount, and is to be paid by any disqualified person if the excess benefit transaction is not corrected within the taxable period. The third tax is equal to 10 percent of the excess benefit amount, and is to be paid generally by any organization manager who knowingly participates in an excess benefit transaction. The maximum amount of this third tax with respect to any one excess benefit transaction may not exceed $10,000. An ''organization manager'' is any officer, director, trustee, or any individual having powers or responsibilities similar to those of any officer, director, or trustee. Final regulations under Code section 6011 were published on January 2, 1997, at TD 8705 (62 FR 25), prescribing Form 4720 for calculating and paying the first and third taxes described above.

TBOR2 also amended Code section 6033(b) to require section 501(c)(3) organizations to report the amounts of the taxes paid under section 4958 with respect to excess benefit transactions involving the organization, as well as any other information the Secretary may require concerning those transactions. Section 6033(f) also was amended to impose the same reporting requirements on section 501(c)(4) organizations. Those amendments to section 6033 only apply to organizations' returns for taxable years beginning after July 30, 1996. These and other TBOR2 amendments to the reporting requirements for section 501(c)(3) and section 501(c)(4) organizations are

reflected on IRS Forms 990 and 990–EZ beginning with the 1996 versions.

Explanation of Provisions

This regulation provides the general rule that Form 4720 returns will be due on or before the 15th day of the fifth month following the close of the taxable year of any disqualified person or organization manager who is liable for section 4958 excise taxes on excess benefit transactions. The regulations also provide that returns on Form 4720 for taxable years ending after September 13, 1995, and on or before July 30, 1996, will be due on or before December 15, 1996. See also Notice 96–46 (1996–39 I.R.B. 7) (September 23, 1996), and 62 FR 25, 84 (January 2, 1997).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Phyllis Haney, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 53 is amended as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 53.6071–1T and § 53.6071–1 [Amended]

Par 2. In § 53.6071–1T, paragraph (f) is redesignated as paragraph (f) of § 53.6071–1.

§ 53.6071–1T [Removed]

Par 3. § 53.6071–1T is removed.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: August 27, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97–26556 Filed 10–6–97; 8:45 am]

BILLING CODE 4830–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 97–2110]

List of Office of Management and Budget Approved Information Collections Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of the Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

Order

By the Managing Director:

Adopted: September 30, 1997.

Released: October 2, 1997.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display a current control number assigned by the Director of the Office of Management and Budget (''OMB'') for each agency information collection requirement.

2. Section 0.408 of the Commission's Rules displays the OMB control numbers assigned to the Commission's public information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and Section 0.231(b) of the Commission's Rules. Since this amendment is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. Section 553(b)(A)(d).

4. Accordingly, *it is ordered, that* Section 0.408 of the Rules is *revised* as set forth in the revised text, effective on the date of publication in the **Federal Register**.

5. Persons having questions on this matter should contact Judy Boley at (202) 418–0214.

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Andrew S. Fishel,

Managing Director.

1. Part 0—The authority citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director of OMB for each approved information collection requirement. Not withstanding any other provisions of law, 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. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, Washington, DC 20554.

(b) *Display.*

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0003	FCC 610	10/31/99
3060–0004	Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation, ET Doc. 96–62.	03/31/00
3060–0009	FCC 316	05/31/99
3060–0010	FCC 323	07/31/98
3060–0012	Parts 21, 23, 25 and FCC 701	05/31/00
3060–0016	FCC 346	07/31/00
3060–0017	FCC 347	07/31/00
3060–0019	FCC 403	10/31/97
3060–0020	FCC 406	05/31/99
3060–0021	FCC 480	12/31/97
3060–0022	FCC 610A	08/31/98
3060–0024	Sec. 76.29	08/31/98
3060–0025	FCC 755	07/31/00
3060–0027	FCC 301	08/31/98
3060–0028	FCC 313	02/28/99
3060–0029	FCC 302–TV	07/31/00
3060–0031	FCC 314	08/31/98
3060–0032	FCC 315	08/31/98
3060–0034	FCC 340	11/30/97
3060–0035	FCC 313–R	04/30/00
3060–0040	FCC 404/404–R	08/31/00
3060–0041	FCC 301–A	02/28/00
3060–0048	FCC 704	05/31/00
3060–0049	FCC 753	06/30/00
3060–0050	FCC 801	01/31/98
3060–0051	FCC 405–B	08/31/00
3060–0053	FCC 703	11/30/99
3060–0054	FCC 820	02/28/99
3060–0055	FCC 327	04/30/00
3060–0056	FCC 730	03/31/00
3060–0057	FCC 731	09/30/99
3060–0061	FCC 325	10/31/97
3060–0062	FCC 330	08/31/98
3060–0064	FCC 402	06/30/98
3060–0065	FCC 422	09/30/98
3060–0066	FCC 330–R	07/31/00
3060–0068	FCC 702	08/31/00
3060–0069	FCC 756	09/30/99
3060–0072	FCC 409	08/31/98
3060–0075	FCC 345	12/31/96
3060–0076	FCC 395	12/31/99
3060–0079	FCC 610–B	08/31/99
3060–0084	FCC 323–E	04/30/99
3060–0089	FCC 503	06/30/98
3060–0093	FCC 405	05/31/00
3060–0095	FCC 395–A, 395–AS	06/30/99
3060–0096	FCC 506, 506–A	08/31/99
3060–0099	FCC M	08/31/99
3060–0104	FCC 572	05/31/00
3060–0105	FCC 430	09/30/00
3060–0106	Sec. 43.61, FCC 43.61	12/31/97
3060–0107	FCC 405–A	01/31/00
3060–0108	FCC 201	11/30/97
3060–0110	FCC 303–S	08/31/99
3060–0113	FCC 396	01/31/00
3060–0119	Sec. 90.145	12/31/99
3060–0120	FCC 396–A	10/31/99
3060–0126	Sec. 73.1820	08/31/99
3060–0127	FCC 1046	03/31/00
3060–0128	FCC 574	06/30/98
3060–0132	FCC 1068A	12/31/97
3060–0134	FCC 574–R	05/31/99
3060–0136	FCC 574–T	03/31/98
3060–0139	FCC 854/854–R	06/30/98
3060–0141	FCC 402–R	06/30/00
3060–0147	Sec. 64.804	01/31/00
3060–0149	Part 63, Sec. 214, 63.01–63.601	06/30/98
3060–0157	Sec. 73.99	02/28/00
3060–0160	Sec. 73.158	02/28/99
3060–0161	Sec. 73.61	12/31/99
3060–0165	Part 41 Sec. 41.31	01/31/00
3060–0166	Part 42	08/31/98

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0168	Sec. 43.43	12/31/99
3060–0169	Sec. 43.51, 43.53	08/31/98
3060–0170	Sec. 73.1030	01/31/99
3060–0171	Sec. 73.1125	02/28/99
3060–0173	Sec. 73.1207	12/31/97
3060–0174	Sec. 73.1212	03/31/99
3060–0175	Sec. 73.1250	10/31/99
3060–0176	Sec. 73.1510	12/31/99
3060–0178	Sec. 73.1560	12/31/99
3060–0179	Sec. 73.1590	03/31/98
3060–0180	Sec. 73.1610	01/31/99
3060–0181	Sec. 73.1615	01/31/99
3060–0182	Sec. 73.1620	12/31/97
3060–0184	Sec. 73.1740	01/31/99
3060–0185	Sec. 73.3613	05/31/98
3060–0187	Sec. 73.3594	12/31/97
3060–0188	Sec. 73.3550	07/31/00
3060–0190	Sec. 73.3544	12/31/97
3060–0192	Sec. 87.103	11/30/97
3060–0194	Sec. 74.21	01/31/99
3060–0202	Sec. 87.37	12/31/97
3060–0204	Sec. 90.38(B)	04/30/99
3060–0206	Part 21	10/31/97
3060–0208	Sec. 73.1870	01/31/00
3060–0209	Sec. 73.1920	10/31/99
3060–0210	Sec. 73.1930	03/31/98
3060–0211	Sec. 73.1943	05/31/98
3060–0212	Sec. 73.2080	12/31/99
3060–0213	Sec. 73.3525	10/31/97
3060–0214	Sec. 73.3526	12/31/99
3060–0215	Sec. 73.3527	12/31/99
3060–0216	Sec. 73.3538	11/30/98
3060–0218	Sec. 90.41(b)	12/31/97
3060–0219	Sec. 90.49(b)	10/31/99
3060–0221	Time in which stations must be placed in operation (exceptions)	12/31/97
3060–0222	Sec. 97.213	12/31/97
3060–0223	Sec. 90.129(B)	05/31/99
3060–0224	Sec. 90.151	02/28/98
3060–0225	Sec. 90.131(B)	09/30/99
3060–0226	Sec. 90.135 (d)&(e)	02/28/98
3060–0228	Sec. 80.59	08/31/98
3060–0233	Part 36	07/31/99
3060–0236	Sec. 74.703	07/31/99
3060–0240	Sec. 74.651	02/28/00
3060–0241	Sec. 74.633	02/28/00
3060–0242	Sec. 74.604	02/28/00
3060–0243	Sec. 74.551	05/31/99
3060–0245	Sec. 74.537	05/31/99
3060–0246	Sec. 74.452	07/31/00
3060–0248	Sec. 74.751	07/31/99
3060–0249	Sec. 74.781	01/31/00
3060–0250	Sec. 74.784	01/31/00
3060–0251	Sec. 74.833	10/31/99
3060–0253	Part 68 Sec. 68.106, 68.108, 68.110	02/28/98
3060–0254	Sec. 74.433	07/31/00
3060–0258	Sec. 90.176	10/31/99
3060–0259	Sec. 90.263	12/31/97
3060–0261	Sec. 90.215	12/31/97
3060–0262	Sec. 90.179	11/30/98
3060–0263	Sec. 90.177	09/30/99
3060–0264	Sec. 80.413	12/31/97
3060–0265	Sec. 80.868	08/31/98
3060–0270	Sec. 90.443	01/31/00
3060–0272	Sec. 94.31	03/31/98
3060–0280	Sec. 90.633(F)&(G)	05/31/99
3060–0281	Sec. 90.651	02/28/98
3060–0284	Sec. 94.25(F)(G)&(I)	02/28/98
3060–0286	Sec. 80.302	05/31/98
3060–0287	Sec. 78.69	08/31/98
3060–0288	Sec. 78.33	12/31/99
3060–0289	Sec. 76.601	02/28/99
3060–0290	Sec. 90.517	05/31/99
3060–0291	Sec. 90.477	02/28/98

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0292	Part 69	09/30/97
3060–0295	Sec. 90.607(b)(1) & (c)(1)	12/31/97
3060–0297	Sec. 80.503	12/31/97
3060–0298	Part 61	10/31/97
3060–0300	Sec. 94.107	02/28/98
3060–0307	Sec. 90.629(A)	04/30/99
3060–0308	Sec. 90.505	02/28/98
3060–0309	Sec. 74.1281	09/30/99
3060–0310	Sec. 76.12	12/31/99
3060–0311	Sec. 76.54	09/30/99
3060–0313	Sec. 76.207	05/31/98
3060–0314	Sec. 76.209	12/31/97
3060–0315	Sec. 76.221	09/30/99
3060–0316	Sec. 76.305	05/31/98
3060–0318	FCC 489	10/31/97
3060–0319	FCC 490	09/30/00
3060–0320	Sec. 73.1350	02/28/98
3060–0321	Sec. 73.68	02/28/99
3060–0325	Sec. 80.605	06/30/99
3060–0326	Sec. 73.69	09/30/99
3060–0329	Sec. 2.955	04/30/99
3060–0330	Part 62	02/28/98
3060–0331	Sec. 76.615	05/31/98
3060–0332	Sec. 76.614	06/30/98
3060–0340	Sec. 73.51	08/31/00
3060–0341	Sec. 73.1680	08/31/00
3060–0342	Sec. 74.1284	07/31/00
3060–0344	Sec. 1.1705	08/31/00
3060–0345	Sec. 1.1709	08/31/00
3060–0346	Sec. 78.27	12/31/97
3060–0347	Sec. 97.311	11/30/97
3060–0348	Sec. 76.79	12/31/97
3060–0349	Sec. 76.73 and 76.75	11/30/97
3060–0355	FCC 492 and FCC 492A	05/31/98
3060–0357	Sec. 63.701	05/31/98
3060–0360	Sec. 80.409(c)	07/31/98
3060–0361	Sec. 80.29	05/31/98
3060–0362	Sec. 80.401	08/31/99
3060–0364	Sec. 80.409(d) and (e)	07/31/98
3060–0368	Sec. 97.523	08/31/00
3060–0370	Part 32	09/30/98
3060–0374	Sec. 73.1690	11/30/98
3060–0384	Sec. 64.904	02/28/99
3060–0386	Sec. 73.1635	05/31/99
3060–0387	Sec 15.201(d)	05/31/99
3060–0390	FCC 395B	12/31/99
3060–0391	Monitoring Program for Impact of Federal State Joint Board Decisions	08/31/98
3060–0392	Sec. 1.1401—1.1416	01/31/00
3060–0393	Sec. 73.45	10/31/99
3060–0394	Sec. 1.420	10/31/99
3060–0395	Sec. 43.21 and 43.22 FCC 43–02, FCC 43–05 and FCC 43–07	02/28/00
3060–0397	Sec. 15.7(A)	04/30/00
3060–0398	Sec. 2.948, 15.117(G)(2), 80.1053	10/31/99
3060–0400	Tariff Review Plan	09/30/96
3060–0404	FCC 350	02/28/00
3060–0405	FCC 349	09/30/98
3060–0407	FCC 307	06/30/00
3060–0410	FCC 495A and FCC 495B	03/31/00
3060–0411	Sec. 1.720–1.735	02/28/00
3060–0414	Terrain Shielding Policy	09/30/00
3060–0419	Sec. 76.94, 76.95, 76.155, 76.156, 76.157, 76.159	09/30/98
3060–0421	New Service Reporting Requirements under Price Cap Regulation	02/28/99
3060–0422	Sec. 68.5	05/31/98
3060–0423	Sec. 73.3588	10/31/99
3060–0425	Sec. 74.913	08/31/98
3060–0427	Sec. 73.3523	09/30/00
3060–0430	Sec. 1.1206	05/31/98
3060–0433	FCC 320	01/31/99
3060–0434	Sec. 90.19(F)(7)	05/31/99
3060–0435	Sec. 80.361	10/31/99
3060–0436	Sec. 15.214 and 68.200	05/31/99
3060–0438	FCC 464	11/30/97
3060–0439	Regulations Concerning Indecent Communications by Telephone	02/28/98

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0441	Sec. 90.621(B)(4)	08/31/99
3060–0443	FCC 572C	05/31/99
3060–0444	FCC 800A	05/31/99
3060–0446	Sec. 1.402	09/30/98
3060–0447	Sec. 25.134	12/31/97
3060–0448	Sec. 63.07	08/31/00
3060–0449	Sec. 1.65(c)	01/31/99
3050–0450	Detariffing and Installation of Inside Wiring Services Reports on State Regulatory Activities.	02/28/98
3060–0452	Sec. 73.3589	10/31/99
3060–0454	Regulation of International Accounting Rates	02/28/98
3060–0461	Sec. 90.173	12/31/99
3060–0463	Telecommunications Services for Individuals with Hearing and Speech Disabilities	07/31/00
3060–0465	Sec. 74.985	12/31/99
3060–0466	Sec. 74.1283	01/31/00
3060–0470	Computer III Remand Proceeding: BOC Safeguards and Tier 1 LEC Safeguards and Implementation of Further Costs, CC Docket 90–623.	08/31/98
3060–0473	Sec. 74.1251	02/28/99
3060–0474	Sec. 74.1263	02/28/00
3060–0475	Sec. 90.713	12/31/98
3060–0478	Informational Tariffs	04/30/00
3060–0480	FCC 493	12/31/97
3060–0481	FCC 452R	08/31/00
3060–0483	Sec. 73.687	07/31/00
3060–0484	Sec. 63.100	02/28/99
3060–0486	Document Index Terms	12/31/97
3060–0488	Sec. 73.30	12/31/97
3060–0489	Sec. 73.37	12/31/97
3060–0490	Sec. 74.902	12/31/97
3060–0491	Sec. 74.991	12/31/97
3060–0492	Sec. 74.992	12/31/97
3060–0493	Sec. 74.986	12/31/97
3060–0494	Sec. 74.990	12/31/97
3060–0496	FCC Report 43–08	11/30/97
3060–0497	FCC 91 FCC 92	08/31/98
3060–0498	FCC 90	08/31/98
3060–0500	Sec. 76.607	05/31/98
3060–0501	Sec. 76.206	05/31/98
3060–0502	Sec. 73.1942	05/31/98
3060–0504	Sec. 90.658	08/31/98
3060–0506	FCC 302–FM	04/30/00
3060–0508	Rewrite and Update of Part 22, of the Public Mobile Service Rules, CC Docket 92–115.	10/31/97
3060–0509	FCC Reports FCC 21–01, FCC 22–01, FCC 25–01 and FCC 25–02	08/31/98
3060–0511	FCC Report 43–04	02/28/00
3060–0512	ARMIS Annual Summary Report	09/30/00
3060–0513	FCC Report 43–03	02/28/00
3060–0514	Sec. 43.21(c)	02/28/97
3060–0515	Sec. 43.21(d)	08/31/98
3060–0516	Revision of Radio Rules and Policies, Time Brokerage Ruling	11/30/98
3060–0519	Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.	09/30/98
3060–0520	Sec. 90.127(E)	02/28/99
3060–0526	Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Facilities (CC Docket 91–141).	01/31/99
3060–0531	Local Multipoint Distribution Service (LMDS)	06/30/00
3060–0532	Sec. 2.975(A)(8) and 2.1033(B)(12)	05/31/99
3060–0536	FCC 431	09/30/00
3060–0537	Sec. 13.217	05/31/99
3060–0540	Tariff Filing Requirement for Nondominant Common Carriers	02/28/99
3060–0541	FCC 464–A	02/28/99
3060–0542	Frequency Coordinator Evaluation	05/31/98
3060–0543	Signal Booster Stations, Sec 21.913	07/31/99
3060–0544	Sec. 76.701	06/30/99
3060–0546	Sec. 76.59	06/30/99
3060–0547	Sec. 76.61 and 76.7	09/30/98
3060–0548	Sec. 76.302 and 76.56	09/30/98
3060–0549	FCC 329	09/30/97
3060–0550	FCC 328	08/31/99
3060–0551	Sec. 76.1002 and 76.1004	05/31/00
3060–0552	Sec. 76.1003 and 76.1004	05/31/00
3050–0554	Section 87.199	06/30/99
3060–0556	Sec. 80.1061	06/30/99

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0560	Sec. 76.911	12/31/97
3060–0561	Sec. 76.913	08/31/00
3060–0562	Sec. 76.916	12/31/97
3060–0563	Sec. 76.915	06/30/00
3060–0564	Sec. 76.924	08/31/99
3060–0565	Sec. 76.944	08/31/00
3060–0567	Sec. 76.962	05/31/98
3060–0568	Commercial Leased Access Rates, Terms, & Conditions, Sec. 76.970	04/30/00
3060–0569	Sec. 76.975	06/30/00
3060–0570	Sec. 76.982	12/31/97
3060–0572	Filing Manual for Annual International Circuit Status Reports, Sec. 43.82	09/30/99
3060–0573	FCC 394	09/30/99
3060–0574	FCC 395–M	06/30/99
3060–0576	FCC 610R	08/31/99
3060–0577	Expanded Interconnection with Local Telephone Company Facilities	09/30/00
3060–0579	Expanded Interconnection with Local Telephone Company Facilities for Interstate Switched Transport Service.	09/30/00
3060–0580	Sec. 76.504	06/30/00
3060–0581	Sec. 76.503	01/31/00
3060–0582	Sec. 76.1302	03/31/00
3060–0584	FCC 45 FCC 44	07/31/99
3060–0589	FCC 159, and 159C	09/30/98
3060–0594	FCC 1220	10/31/97
3060–0595	FCC 1210	02/28/98
3060–0599	Implementation of Sections 3(n) and 322 of the Communications Act, GN 93–253	06/30/00
3060–0600	FCC 175 and 175–S	09/30/98
3060–0601	FCC 1200	10/31/97
3060–0602	Sec. 76.917	04/30/00
3060–0604	FCC 401, 489, 490, 405, 430, and 854	11/30/97
3060–0607	Sec. 76.922	08/31/00
3060–0609	Sec. 76.934(D)	11/30/97
3060–0610	Sec. 76.958	11/30/97
3060–0611	Sec. 74.783	07/31/00
3060–0613	Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91–141.	09/30/98
3060–0621	FCC 401, 405, 430, 489, 490 and 854	10/31/97
3060–0623	FCC 600	02/28/99
3060–0624	Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, ET Docket 92–100 and GN Docket 90–314.	12/31/97
3060–0625	Amendment of the Commission's Rules to Establish New Personal Communications Services, GN Docket 90–314.	11/30/97
3060–0626	Implementation of Sections 3(N) and 332 of the Communications Act, GN Docket 93–252.	11/30/97
3060–0627	FCC 302–AM	01/31/98
3060–0629	Sec. 76.987(G)	02/28/98
3060–0630	Sec. 73.62	02/28/98
3060–0631	Sec. 73.1300	02/28/98
3060–0632	Sec. 73.1570	02/28/98
3060–0633	Sec. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265.	02/28/98
3060–0634	Sec. 73.691	02/28/98
3060–0635	FCC 610–V	04/30/98
3060–0636	Part 2 and 18	06/30/98
3060–0638	Sec. 76.934(F)(1)	05/31/98
3060–0639	Implementation of Section 309(J) of the Communications Act Competitive Bidding, PP 93–253.	04/30/98
3060–0640	FCC 800I	07/31/98
3060–0641	FCC 218–I	09/30/99
3060–0643	Part 65 and 69	08/31/98
3060–0644	FCC 1230	08/31/98
3060–0645	Antenna Registration, Part 17	02/28/99
3060–0646	Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers: CC Docket 94–129.	09/30/98
3060–0647	FCC Annual Survey of Cable Industry Prices (1997 Price Survey)	11/30/97
3060–0648	Sec. 21.902	09/30/98
3060–0649	Sec. 76.58	09/30/98
3060–0650	Sec. 76.502	09/30/98
3060–0651	Sec. 76.9	09/30/98
3060–0652	Sec. 76.309 and 76.964	09/30/98
3060–0653	Sec. 64.703(b)	09/30/98
3060–0654	FCC 304	09/30/98
3060–0655	Request for Waivers of Regulatory Fees Predicated on Allegations of Financial Hardship, MM Docket 94–19.	09/30/98

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0656	FCC 175–M	09/30/98
3060–0657	Sec. 21.956	09/30/98
3060–0658	Sec. 21.960	09/30/98
3060–0660	Sec. 21.937	09/30/98
3060–0661	Sec. 21.931	09/30/98
3060–0662	Sec. 21.930	09/30/98
3060–0663	Sec. 21.934	09/30/98
3060–0664	FCC 304A	09/30/98
3060–0665	Sec. 64.707	09/30/98
3060–0666	Sec. 64.703(a)	09/30/98
3060–0667	Sec. 76.630	09/30/98
3060–0668	Sec. 76.936	09/30/98
3060–0669	Sec. 76.946	09/30/98
3060–0673	Sec. 76.956	09/30/98
3060–0674	Sec. 76.931 and 76.932	09/30/98
3060–0676	Sec. 64.1100	09/30/98
3060–0678	FCC 312	04/30/00
3060–0679	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures.	09/30/98
3060–0681	Toll-Free Access Codes	09/30/00
3060–0682	Sec. 63.16	01/31/99
3060–0683	Direct Broadcast Satellite Service	01/31/99
3060–0684	Cost Sharing Plan for Microwave Relocation	08/31/99
3060–0685	FCC 1240	11/30/97
3060–0686	Streamlining the International Section 214 Authorization Process and Tariff Requirements.	06/30/99
3060–0687	Access to Telecommunications Equipment and Services by Persons with Disabilities.	02/28/99
3060–0688	FCC 1235	02/28/99
3060–0690	ET Docket 95–183, FCC 402, FCC 494	04/30/99
3060–0691	Amendment to Part 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHZ Bands Allotted to Specialized Mobile * * *.	06/30/99
3060–0692	Sec. 76.802	04/30/99
3060–0695	WT Docket No. 96–1	04/30/99
3060–0697	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems.	04/30/99
3060–0698	Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico.	05/31/99
3060–0699	Streamlining Broadcast EEO Rules and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules—MM Doc. 96–16.	05/31/99
3060–0700	FCC 1275	07/31/00
3060–0701	CC Docket 96–23	05/31/99
3060–0702	Amendment to Part 20 and 24 of the Commission's Rules Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap.	05/31/99
3060–0703	FCC 1205	06/30/99
3060–0704	Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended—CC Doc. 96–61.	02/28/98
3060–0706	Order and NPRM on Cable Reform: Implementation of the Telecommunications Act of 1996.	10/31/97
3060–0707	Restriction on Over-the-Air Reception Devices (NPRM)	10/31/99
3060–0708	NPRM in MM Docket 96–58	07/31/99
3060–0709	Revision to Part 22 and Part 90 to Facilitate Future Development of the Paging System and Implementation of Section 309(j) of the Communications Act.	01/31/00
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Doc. 96–98.	02/28/97
3060–0711	Implementation of Section 34(a)(1) of the Public Utility Holding Act of 1935, as amended by the Telecommunications Act of 1996—GC Doc. 96–101.	07/31/99
3060–0712	Petition for Declaratory Ruling by Inmate Calling Services Providers Task Force	07/31/99
3060–0713	Alternative Broadcast Inspection Program	07/31/99
3060–0714	Antenna Registration Number Required as Supplement to Application Forms	09/30/99
3060–0715	Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information—CC Doc. 96–115.	08/31/99
3060–0716	Section 73.1630	08/31/99
3060–0717	CC Docket No. 92–77d	05/31/98
3060–0718	Part 101 Governing the Terrestrial Microwave Fixed Radio Service	09/30/99
3060–0719	Proposed Quarterly Report of IntraLATA Carriers Listing Pay Phone Automatic Numbering Identification.	12/31/99
3060–0720	Proposed Report of Bell Operating Companies of Modified Comparably Efficient Interconnection Plans.	09/30/99

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0721	One-Time Report of Local Exchange Companies of Cost Accounting Studies	12/31/99
3060–0722	Proposed Initial Report of Bell Operating Companies of Comparably Efficient Interconnect Plans.	08/31/99
3060–0723	Proposed Public Disclosure of Network Information by Bell Operating Companies	12/31/99
3060–0724	Annual Report of Interexchange Carriers Listing the Compensation Amount Paid to Pay Phone Providers and the Number of Payees.	12/31/99
3060–0725	Proposed Annual Filing of Nondiscrimination Reports (On Quality of Service, Installation, and Maintenance) by BOC's.	08/31/99
3060–0726	Proposed Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for which Compensation is Being Paid to Pay Phone Owners.	12/31/99
3060–0727	Sec. 73.213	09/30/99
3060–0728	Supplemental Information Requesting Taxpayer Identifying Numbers for Debt Collection.	05/31/00
3060–0729	Bell Operating Provision of Out-of-Region Interexchange Services (Affiliated Company Recordkeeping Requirements).	12/31/99
3060–0730	Toll-Free Service Access Codes, 800/888 Number Release Procedures	02/28/00
3060–0731	Telecommunications Relay Services (TRS)	09/30/99
3060–0732	Consumer Education Concerning Wireless 911	10/31/98
3060–0734	Implementation of the Telecommunications Act of 1996: Accounting Safeguards under the Telecommunications Act of 1996.	03/31/00
3060–0735	Partitioning and Disaggregation	09/30/99
3060–0736	Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended—CC Doc. 96–149.	03/31/00
3060–0737	Disclosure Requirements for Information Services Provided under a Presubscription or Comparable Arrangement.	09/30/99
3060–0738	Implementation of the Telecommunications Act of 1996: Electronic Publishing and Alarm Monitoring Services.	04/30/00
3060–0739	Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provisions of Commercial Mobile Radio Service.	10/31/99
3060–0740	Sec. 95.1015	10/31/99
3060–0741	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–96, Second Report and Order and Memorandum Opinion and Order.	10/31/99
3060–0742	Part 52, Subpart C, Sec. 52.21—52.31	12/31/99
3060–0743	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–128.	12/31/99
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions in the Telecommunications Act of 1996–CC Docket No. 96–187.	11/30/97
3060–0746	FCC 900	06/30/00
3060–0747	FCC 415	12/31/99
3060–0748	Sec. 64.1504, CC Docket No. 96–146	12/31/99
3060–0749	Sec. 64.1509	01/31/00
3060–0750	Sec. 73.673	12/31/99
3060–0751	Regulation of International Accounting Rates: CC Docket No. 90–337	01/31/00
3060–0752	Billing Disclosure Requirements for Pay-Per-Call and Other Information Services, 47 CFR 64.1510.	01/31/00
3060–0753	Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket 9661 (Integrated Rate Plans).	01/31/00
3060–0754	FCC 398	12/31/99
3060–0755	Infrastructure Sharing—CC Docket 96–237	05/31/00
3060–0756	Procedural Requirements and Policies for Commission Processing of Bell Operating Company Applications for the Provision of In-Region, InterLATA Services under Section 271 of the Communications Act.	06/30/00
3060–0757	FCC Auctions Customer Survey	09/30/00
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations—ET Docket No. 96–256 (Proposed Rule).	03/31/00
3060–0759	Implementation of Section 273 of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996.	04/30/00
3060–0760	Access Charge Reform—CC Docket No. 96–272 (First Report and Order)	12/31/97
3060–0761	Closed Captioning of Video Programming	04/30/00
3060–0762	Sec. 274(b)(3)(B), CC Docket No. 96–152 (FNPRM)	04/30/00
3060–0763	ARMIS Customer Satisfaction Report, FCC 43–06	11/30/97
3060–0764	Regulation of International Accounting Rates—CC Docket No. 90–337	12/31/97
3060–0765	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems (Further Notice of Proposed Rulemaking).	05/31/00
3060–0766	Digital Television Licenses	12/30/97
3060–0767	Auction Forms and License Transfer Disclosures; Supplement Fifth Notice of Proposed Rulemaking in CC Docket No. 92–297.	10/31/97
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.03 GHz Frequency Band, and to Establish.	06/30/00
3060–0769	Aeronautical Services Transition Plan	06/30/00

OMB control No.	FCC form No. or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1	06/30/00
3060–0771	Sec. 5.56	11/30/97
3060–0772	Non-U.S. Satellite Procedures Pursuant to the WTO Basic Telecommunications Agreement.	01/31/98
3060–0773	Sec. 2.803	07/31/00
3060–0774	Federal-State Joint Board on Universal Service—CC Docket No. 96–45, 47 CFR 36.611—36.612 and 47 CFR Part 54.	09/30/00
3060–0775	47 CFR 64.1901—64.1903	07/31/00
3060–0776	Price Cap Performance Review for Local Exchange Carriers, Fourth Report and Order.	11/30/97
3060–0777	Access Charge Reform—CC Docket No. 92–262 (Further Notice of Proposed Rulemaking.	08/31/00
3060–0779	Amendment to Part 90 of the Commission's Rules to Provide for Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Doc. 89–552.	08/31/00
3060–0780	Uniform Rate-Setting Methodology	09/30/00
3060–0781	Universal Service Data Request	01/31/98
3060–0782	Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.	01/31/98
3060–0783	Coordination Notification Requirements on Frequencies Below 512 MHz—Sec. 90.176.	09/30/00
3060–0785	FCC 457	01/31/98
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies	01/31/98
3060–0788	DTV Showings/Interference Agreements	02/28/98
3060–0789	Modified Alternative Plan, CC Doc. 90–571, Order ("1997 Suspension Order")	03/31/98
3060–0793	Procedures for State Regarding Lifeline Consent, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.	03/31/98
3060–0795	ULS TIN Registration and FCC 606	12/31/97

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26417 Filed 10–6–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Parts 1401, 1425 and 1452

RIN 1090–AA65

Department of the Interior Acquisition Regulation; Regulatory Streamlining

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: In the interests of streamlining processes and improving relationships with contractors, the Department of the Interior (DOI) is issuing this final rule which amends 48 CFR Chapter 14 by revising and updating the Department of the interior Acquisition Regulation (DIAR).

EFFECTIVE DATES: November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Mary L. McGarvey at (202) 208–3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C Street, N.W. (MS5522 MIB), Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

A. Background

Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, essential portions of the DIAR are being removed, revised and/or retained in 48 CFR, when appropriate. This review identified Sections to be removed from 48 CFR Chapter 14. Specifically, Section 1425.203, which requires the use of a 6% differential to evaluate U.S. versus foreign construction materials, is being removed. Sections 1425.205 and 1452.225–70 are the prescription and the clause associated with this Department of the Interior policy. This language is being removed from 48 CFR because the same information is now located in the Federal Acquisition Regulation and it is redundant to maintain the information in the Department of the Interior Acquisition Regulation. This removes Part 1425 in its entirety from 48 CFR Chapter 14.

Section 1401.106, OMB approval under the Paperwork Reduction Act DIAR Segment 1452.225–70—OMB Control Number 0018, is being removed from 48 CFR Chapter 14 because the new OMB control Number 9000–0141 approved through February 28, 1999 is now part of the Federal Acquisition Regulation.

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.; an Initial Regulatory Flexibility Analysis has, therefore, not been performed.

Paperwork Reduction Act

The final rule does not impose recordkeeping requirements or information collection requirements or collection of information from offerors, contractors or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

Required Determinations: The Department believes that public comment is unnecessary because removal of the information is due to redundancy with the Federal Acquisition Regulation and public comment was sought in that rulemaking process. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject to Office of Management and Budget review under Executive Order 12866. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Department has determined that this rule will not have a significant economic impact on a substantial

number of small entities because no requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 48 CFR Parts 1401, 1425 and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: September 22, 1997.

Brooks B. Yeager,

Acting Assistant Secretary—Policy, Management and Budget.

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR parts 1401, 1425 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. In 48 CFR Part 1401, section 1401.106, remove from the table therein the reference to DIAR Segment 1452.225–70 and OMB Control Number 1084–0018.

3. 48 CFR part 1425 is removed in its entirety.

4. In 48 CFR part 1452, remove 1452.225–70, Use of Foreign Construction Materials.

[FR Doc. 97–26555 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–RF–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. 97–067; Notice 1]

RIN 2127–AG98

List of Nonconforming Vehicles Decided to be Eligible for Importation

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

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation. This list is contained in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The revised list includes all vehicles that NHTSA has decided to be eligible for importation since October 1, 1996. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: The revised list of import eligible vehicles (Appendix A to Part 593) is effective on October 7, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made ''on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under (49 U.S.C. 30141(c)).'' The Secretary's authority to make these decisions has been delegated to the Administrator of NHTSA under 49 CFR 1.50(a). The Administrator initially redelegated to the Associate Administrator for Enforcement (now Safety Assurance) the authority to grant or deny petitions for import eligibility decisions submitted by motor vehicle manufacturers and registered importers, and subsequently transferred this authority to the Director, Office of Vehicle Safety Compliance (49 CFR 501.8(l)). Thus far, a number of import eligibility decisions have been made on the Administrator's own initiative, and the Associate Administrator and Office Director have granted many petitions for such decisions submitted by registered importers.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. NHTSA previously published notices containing this list on four occasions, at 57 FR 29553 (July 2, 1992), 59 FR 8671 (February 23, 1994), 60 FR 8268 (February 13, 1995), and 61 FR 8097 (March 1, 1996). On October 1, 1996, NHTSA published a final rule at 61 FR 51242 that added the list as an appendix to the agency's regulations at 49 CFR part 593 that establish procedures for import eligibility decisions. As described in the final rule, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242–43. In that document, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the revisions resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Because this rulemaking does not impose any regulatory requirements, but merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have been made, it has no economic impact.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, P.L. 96–511, the agency notes that there are no information collection requirements associated with this rulemaking action.

6. Civil Justice Reform

This rule does not have any retroactive effect. It does not repeal or modify any existing Federal regulations. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

7. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this action does not impose any regulatory requirements, but merely revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation into the United States to include all vehicles for which such decisions have been made since October 1, 1996.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next edition of 49 CFR parts 400 to 999, which is due for revision on October 1, 1997, good cause exists to dispense with the requirement in 5 U.S.C. 553(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, part 593 of Title 49 of the Code of Federal Regulations, *Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation,* is amended as follows:

PART 593—[AMENDED]

1. The authority citation for Part 593 continues to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.50.

2. Appendix A to part 593 is revised to read as follows:

Appendix A to part 593—List of Vehicles Determined to be Eligible for Importation

Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS–7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

''VSA'' eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under § 593.8.

''VSP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists.

''VCP'' eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Vehicles for which eligibility decisions have been made are listed alphabetically by make, with the exception of Mercedes-Benz vehicles, which appear at the end of the list. Eligible models within each make are listed numerically by ''VSA,'' ''VSP,'' or ''VCP'' number.

All hyphens used in the Model Year column mean ''through'' (for example, ''1973–1989'' means ''1973 through 1989'').

The initials ''MC'' used in the Manufacturer column mean ''motorcycle.''

The initials ''SWB'' used in the Model Type column mean ''Short Wheel Base.''

The initials ''LWB'' used in the Model Type column mean ''Long Wheel Base.''

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

Number	Vehicles
VSA–80	(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989; (b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208; (c) All passenger cars manufactured on or after September 1, 1996 and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS Nos. 208, and that comply with FMVSS No. 214.
VSA–81	(a) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4536 kg. (10,000 lbs.) or less that are less than 25 years old and that were manufactured before September 1, 1991; (b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4536 kg. (10,000 lbs.) or less that were manufactured on and after September 1, 1991, and before September 1, 1993, and that, as originally manufactured, comply with FMVSS Nos. 202 and 208; (c) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg. (10,000 lbs.) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, and 216; (d) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg. (10,000 lbs.) or less, that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured, comply with the requirements of FMVSS Nos. 202, 208, 214, and 216.

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS—Continued

Number	Vehicles
VSA–82	All multipurpose passenger vehicles, trucks and buses with a GVWR greater than 4536 kg. (10,000 lbs.) that are less than 25 years old.
VSA–83	All trailers, and all motorcycles that are less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Manufacturer	VSP	VSA	VCP	Model type	Model year
Acura	51			Legend	1988
	77			Legend	1989
Alfa Romeo	70			Spider	1987
	76			164	1991
	124			GTV	1985
	156			164	1994
	196			164	1989
Aston Martin	123			Volante	1990–1991
Audi	93			100	1989
	160			200 Quattro	1987
BMW		3		2002	1973–1976
		7		2002A	1973–1976
		10		2002Tii	1973–1974
		12		3.0CSi & 3.0CSiA	1973–1974
		13		3.0S & 3.0SA	1974
		14		3.0Si & 3.0SiA	1975
		15		530i & 530iA	1975–1978
		16		320, 320i, & 320iA	1976–1985
		17		630CSi 630CSiA	1977
		18		633CSi & 633CSiA	1977–1984
		19		733i & 733iA	1977–1984
		20		528i & 528iA	1979–1984
		21		528e & 528eA	1982–1988
		22		533i & 533iA	1983–1984
		23		318i & 318iA	1981–1989
		24		325e & 325eA	1984–1987
		25		535i & 535iA	1985–1989
		26		524tdA	1985–1986
		27		635, 635CSi, & 635CSiA	1979–1989
		28		735, 735i, & 735iA	1980–1989
		29		L7	1986–1987
		30		325, 325i, 325iA & 325E	1985–1989
		31		325 is & 325isA	1987–1989
		32		M6	1987–1988
		33		325iX & 325iXA	1988–1989
		34		M5	1988
		35		M3	1988–1989
		66		316	1978–1982
		67		323i	1978–1985
		68		520 & 520i	1978–1983
		69		525 & 525i	1979–1982
		70		728 & 728i	1977–1985
		71		730, 730i, & 730iA	1978–1980
		72		732i	1980–1984
		73		745i	1980–1986
		78		All other models except those in the M1 and Z1 series.	1973–1989
	4			518i	1986
	5			525i	1989
	6			730iA	1988
	9			520iA	1989
	10			850i	1991
	14			728i	1986
	15			625CSi	1981
	24			730i	1991
	25			316	1986
	32			628CSi	1980
	41			750iL	1993
	46			518i	1991
	55			850i	1993
	57			730i	1993
	79			525i	1991–1992

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model year
	81			750iL	1991
	91			750iL	1990
	96			325i	1991
	99			840Ci	1993
	110			520i	1992
	119			520i	1994
	131			730i	1994–1995
	133			525i	1993
	146			735iL	1991
	183			520 Series	1995
	194			5 Series	1990–1995
	197			325i	1992–1996
	205			325iX	1990
BMW MC	30			R75/6	1974
	58			R100S	1977
	177			R1100RS	1994
Bristol Bus			2	VRT Bus-Double Decker	1978–1981
			4	VRT Bus-Double Decker	1977
			10	VRT Bus-Double Decker	1973–1976
Chevrolet	150			400SS	1995
Chrysler	216			Shadow	1989
Citroen			1	XM	1990–1992
Ducati MC	201			900SS	1990–1996
Dodge	112			Colt	1973
	135			Ram	1994–1995
Ferrari		36		308 (all models)	1974–1985
		37		328 GTS	1985–1989
		37		328 (all other models)	1985 and 1988–1989
Ferrari		38		GTO	1985
		39		Testarossa	1987–1989
		74		Mondial (all models)	1980–1989
		76		208, 208 Turbo (all models)	1974–1988
	86			348TB	1992
	100			365 GTB/4 Daytona	1973
	107			Dino	1973
	161			348TS	1992
	173			512TR	1993
Ford		9		Escort RS	1994–1995
Freightliner	178			FTLD 112064SD	1991–1996
	179			FLD12064ST	1991–1996
GMC	134			Suburban	1992–1994
Harley-Davidson MC	202			FX, FL, XL Series	1973–1997
Hobson			8	Horse Trailer	1985
Honda	128			Civic DX	1989
	191			Prelude	1989
Honda MC	34			VFR750	1990
	106			CB1000F	1988
	174			CP450SC	1986
Jaguar		40		XJS	1980–1987
		41		XJ6	1973–1986
	47			XJ6	1987
	78			Sovereign	1993
	129			XJS	1992
	175			XJS	1991
	195			XJS	1994–1996
	215			XJ6 Sovereign	1988
Jaguar Daimler	12			Limousine	1985
Jeep	164			Cherokee	1992
	180			Cherokee	1995
	211			Cherokee	1991
	217			Wrangler	1993
Kawasaki MC	182			ZX1000–B1	1988
	190			KZ550B	1982
Ken-Mex	187			T800	1990–1996
Kenworth	115			T800	1992
Lancia	7			Fulvia	1973
Land Rover	212			Defender 110	1993
Laverda MC	37			1000	1975
Lincoln	144			Mark VII	1992
Maserati	155			Bi-Turbo	1985
Mazda	42			RX7	1978–1981
	184			MX–5 Miata	1990–1993

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model year
	199			RX–7	1986
MG	206			MGB Roadster	1974
Mitsubishi	8			Galant VX	1988
	13			Galant SUP	1989
	170			Pajero	1984
Moto Guzzi MC	118			Daytona	1993
Nissan		75		Z and 280Z	1973–1981
		75		Fairlady and Fairlady Z	1975–1979
	138			Maxima	1989
	139			Stanza	1987
	162			240SX	1988
	198			300ZX	1984
Peugeot		65		405	1989
Pontiac	189			Transport MPV	1993
Porsche		56		911 Coupe	1973–1989
		56		911 Targa	1973–1989
		56		911 Turbo	1976–1989
		56		911 Cabriolet	1984–1989
		56		911 Carrera	1973–1989
		58		914	1973–1976
		59		924 Coupe	1976–1989
		59		924 Turbo Coupe	1979–1989
		59		924 S	1987–1989
		60		928 Coupe	1976–1989
		60		928 S Coupe	1983–1989
		60		928 S4	1979–1989
		60		928 GT	1979–1989
		61		944 Coupe	1982–1989
		61		944 Turbo Coupe	1985–1989
		61		944 S Coupe	1987–1989
		79		All other models except Model 959	1973–1989
	29			911 C4	1990
	52			911 Carrera	1992
	97			944	1990
	103			911 Carrera	1994
	116			946	1994
	125			911 Turbo	1992
	152			944 S2 2dr Hatchback	1990
Porsche	165			911 Carrera	1993, 1995, 1996
	210			928 S4	1990
Rolls Royce		62		Silver Shadow	1973–1979
	16			Bentley	1989
	53			Bentley Turbo	1986
	122			Camargue	1984–1985
	186			Bentley Brooklands	1993
	188			Silver Spur	1984
Saab	59			9000	1988
	158			900	1983
	213			900 SE	1995
	219			900 SE	1990–1994, 1996, 1997
Sprite			12	Musketeer Trailer	1980
Suzuki MC	111			GS850	1985
	208			GSX750	1983
Toyota		63		Camry	1987–1988
		64		Celica	1987–1988
		65		Corolla	1987–1988
	39			Camry	1989
	101			Landcruiser	1989
	102			Landcruiser	1991
	181			Landcruiser	1994
	200			Van	1987, 1988
	218			Landcruiser	1990–1996
Triumph	108			Spitfire	1973
Volkswagen		42		Scirocco	1986
	733			Golf Rally	1988
	80			Golf	1988
	92			Golf	1993
	148			Passat 4 door Sedan	1992
	149			GTI (Canadian)	1991
	159			Golf	1987
Volvo	43			262C	1981
	87			740 Sedan	1988

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model year
	95			940GL	1993
	132			945GL	1994
	176			960 Sedan and Wagon	1994
Yamaha MC	113			FJ1200	1991
Yamaha MC	171			RD–350	1983

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
Mercedes Benz		43		600	100.012	1973–1981
		43		600 Long 4dr	100.014	1973–1981
		43		600 Landaulet	100.015	1973–1981
		43		600 Long 6dr	100.016	1973–1981
		44		280 S.C	107.022	1975–1981
		44		350 S.C	107.023	1973–1979
		44		450 S.C	107.024	1973–1989
		44		380 S.C	107.025	1981–1989
		44		500 S.C	107.026	1978–1981
		44		300 SL	107.041	1986–1988
		44		280 SL	107.042	1973–1985
		44		350 SL	107.043	1973–1978
		44		450 SL	107.044	1973–1989
		44		380 SL	107.045	1980–1989
		44		500 SL	107.046	1980–1989
		44		420 SL	107.047	1986
		44		560 SL	107.048	1986–1989
		45		280 SE (3.5)	108.057	1973
		45		280 SEL (3.5)	108.058	1973
		49		230.6	114.015	1973–1976
		49		250	114.010	1973–1976
		49		250	114.011	1973–1976
		49		250 CE	114.022	1973–1976
		49		250 C	114.023	1973–1976
		49		280	114.060	1973–1976
		49		280 E	114.062	1973–1976
		49		280 CE	114.072	1973–1976
		49		280 C	114.073	1973–1976
		50		200	115.015	1973–1976
		50		230.4	115.017	1974–1976
		50		220 D	115.110	1973–1976
		50		240 D (3.0)	115.114	1974–1976
		50		240 D	115.117	1974–1976
		51		280 S	116.020	1973–1980
		51		280 SE	116.024	1973–1988
		51		280 SEL	116.025	1973–1980
		51		350 SE	116.028	1973–1980
		51		350 SEL	116.029	1973–1980
		51		450 SE	116.032	1973–1980
		51		450 SEL	116.033	1973–1988
		51		450 SEL (6.9)	116.036	1973–1988
		52		200	123.020	1976–1980
		52		230	123.023	1976–1985
		52		250	123.026	1976–1985
		52		280	123.030	1976–1985
		52		280 E	123.033	1976–1985
		52		230 C	123.043	1978–1980
		52		280 C	123.050	1977–1980
		52		280 CE	123.053	1977–1985
		52		230 T	123.083	1977–1985
		52		280 TE	123.093	1977–1985
		52		200 D	123.120	1980–1982
		52		240 D	123.123	1977–1985
		52		300 D	123.130	1976–1985
		52		300 D	123.133	1977–1985
		52		300 CD	123.150	1978–1985
		52		240 TD	123.183	1977–1985
		52		300 TD	123.193	1977–1985
		52		200	123.220	1979–1985
		52		230 E	123.223	1977–1985
		52		230 CE	123.243	1980–1984
		52		230 TE	123.283	1977–1985
		53		280 S	126.021	1980–1983

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
	.....	53	.....	280 SE	126.022	1980–1985
	.....	53	.....	280 SEL	126.023	1980–1985
	.....	53	.....	300 SE	126.024	1985–1989
	.....	53	.....	300 SEL	126.025	1986–1989
	.....	53	.....	380 SE	126.032	1979–1989
	.....	53	.....	380 SEL	126.033	1980–1989
	.....	53	.....	420 SE	126.034	1985–1989
	.....	53	.....	420 SEL	126.035	1986–1989
	.....	53	.....	500 SE	126.036	1980–1986
	.....	53	.....	500 SEL	126.037	1980–1989
	.....	53	.....	560 SEL	126.039	1986–1989
	.....	53	.....	380 SE	126.043	1982–1989
	.....	53	.....	500 SEC	126.044	1981–1989
	.....	53	.....	560 SEC	126.045	1986–1989
	.....	53	.....	300 SD	126.120	1981–1989
	.....	54	.....	190	201.022	1984
	.....	54	.....	190 E (2.3)	201.024	1983–1989
	.....	54	.....	190 E	201.028	1986–1989
	.....	54	.....	190 E (2.6)	201.029	1986–1989
	.....	54	.....	190 E 2.3 16	201.034	1984–1989
	.....	54	.....	190 D (2.2)	201.122	1984–1989
	.....	54	.....	190 D	201.126	1984–1989
	.....	55	.....	200	124.020	1985
	.....	55	.....	230 E	124.023	1985–1987
	.....	55	.....	260 E	124.026	1985–1989
	.....	55	.....	300 E	124.030	1985–1989
	.....	55	.....	300 CE	124.050	1988–1989
	.....	55	.....	230 TE	124.083	1985
	.....	55	.....	300 TE	124.090	1986–1989
	.....	55	.....	300 D	124.130	1985 and 1986
	.....	55	.....	300 D Turbo	124.133	1985–1989
	.....	55	.....	300 TD Turbo	124.193	1986–1989
	.....	77	.....	All other models except Model ID 114 and 115 with sales designations ''long,'' ''station wagon,'' or ''ambulance''.	.....	1973–1989
	1	.....	.....	230 E	124.023	1988
	2	.....	.....	230 TE	124.083	1989
	3	.....	.....	200 TE	124.081	1989
	7	.....	.....	300SL	107.041	1989
	11	.....	.....	200E	124.021	1989
	17	.....	.....	200D	124.120	1986
	18	.....	.....	260SE	126.020	1986
	19	.....	.....	230E	124.023	1990
	20	.....	.....	230E	124.023	1989
	21	.....	.....	300SEL	126.025	1990
	22	.....	.....	190E	201.024	1990
	23	.....	.....	500SEL	129.066	1989
	26	.....	.....	500SE	140.050	1991
	27	.....	.....	600SEL	140.057	1992
	28	.....	.....	260SE	126.020	1989
	33	.....	.....	500SL	129.066	1991
	35	.....	.....	500SE	126.036	1988
	40	.....	.....	300TE	124.090	1990
	45	.....	.....	190E	201.024	1991
	48	.....	.....	420SEL	126.035	1990
	50	.....	.....	500SE	140.050	1992
	54	.....	.....	300SL	129.061	1992
	56	.....	.....	500E	124.036	1991
	60	.....	.....	500SL	129.006	1992
	63	.....	.....	500SEL	126.037	1991
	64	.....	.....	300CE	124.051	1990
	66	.....	.....	500SEC	126.044	1990
	67	.....	.....	300SE	140.032	1993
	68	.....	.....	300SE	126.024	1990
	69	.....	.....	300SE	140.032	1992
	71	.....	.....	190E	201.028	1992
	74	.....	.....	230E	124.023	1991
	75	.....	.....	200E	124.019	1993
	83	.....	.....	300CE	124.051	1991
	84	.....	.....	230CE	124.043	1991
	85	.....	.....	S280	140.028	1994
	89	.....	.....	560SEL	126.039	1990
	105	.....	.....	260E	124.026	1992
	109	.....	.....	200E	124.012	1991

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
	114			300E	124.031	1992
	117			300CE	124.050	1992
	120			S320	140.033	1994
	121			600SL	129.076	1992
	126			190E	201.018	1992
	127			230E	124.023	1993
	130			600SL	129.076	1992, 1993
	140			500SL	129.067	1993–1995
	141			560SEC	126.045	1990
	142			320SL		1992, 1993
	147			500SEL		1992–1993
	153			500SEL		1990
	154			500SE		1990
	157			C220		1995
	163			E500		1994
	166			280E		1993
	166			E280		1994–1996
	167			220TE Station Wagon		1993–1996
	168			220E		1993
	168			E220		1994–1996
	169			420E		1993
	169			E420		1994–1996
	172			250D		1992
	185			600SEC Coupe		1993
	185			S600 Coupe		1994–1996
	192			300E 4-Matic		1990–1993
	203			300TE		1992
	204			C280		1994
	207			E200		1994
	209			420SEC		1990
	214			S600L		1994
			3	300GE	463.228	1993
			5	300GE	463.228	1990–1992, 1994
			6	G320		1995
			11	463		1996
			13	463 LWB V–8		1992–1996
			14	463 SWB		1990–1996
			15	463		1997

Issued on: October 1, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–26470 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket Nos. 970214031–7031–01, I.D. 011697C and 970324064–7064–01, I.D. 021997B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 16; Framework Adjustment 23; Correction

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

ACTION: Correction to final rules.

SUMMARY: On March 3, 1997, NMFS published a final rule to implement measures contained in Framework Adjustment 16 to the Northeast Multispecies Fishery Management Plan (FMP) and on April 1, 1997, NMFS published a final rule to implement measures contained in Framework Adjustment 23 to the Northeast Multispecies FMP. Because of the effective dates of the implementing regulations for both of these frameworks, Framework Adjustment 16 regulatory text inadvertently superseded Framework Adjustment 23 regulatory text. This action corrects those sections of the regulatory text inadvertently superseded by Framework Adjustment 16.

DATES: Effective April 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Tokarcik, (978) 281–9300.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1997 (62 FR 9377), NMFS published a final rule implementing measures contained in Framework Adjustment 16 to the Northeast Multispecies FMP. This rule prohibited the use of all gillnets capable of catching Northeast multispecies during the periods to which the harbor porpoise time/area closures are in effect, unless the gillnet meets certain specifications. The intent of this action was to restrict the use of small-mesh pelagic gillnets, which were exempt from the multispecies regulations, to avoid increasing the risk of harbor porpoise entanglements, but still allow a traditional bait fishery to continue by specifying the size and method of deployment of the gear. That final rule became effective on April 2, 1997.

On April 1, 1997 (62 FR 15425), NMFS published a final rule that closed Federal waters during specified periods to vessels fishing with sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets in parts of the specified right whale critical habitats areas. The intent of the action was to restrict multispecies fishing activities which have been determined to jeopardize the continued existence of the northern right whale. That final rule became effective upon filing on March 27, 1997.

Need for the Correction

The final rules published in the **Federal Register** on March 3 and April 1, 1997, both amended §§ 648.14(a)(89) and 648.87 (a) and (b). NMFS' intent was to have the rule published on April 1 for Framework Adjustment 23 supersede portions of the measures contained in the rule published on March 3 for Framework Adjustment 16. However, due to an administrative oversight, the rule implementing the management measures contained in Framework Adjustment 23 became effective on March 27, 1997, prior to the effective date (April 2, 1997) of the final rule implementing the management measures contained in Framework Adjustment 16. Therefore, portions of the regulations implementing Framework Adjustment 16 unintentionally superseded the regulations implementing Framework Adjustment 23.

Effective April 2, 1997, this document corrects the regulatory text contained in portions of the March 3 rule (Framework Adjustment 16) to reflect the appropriate regulatory language from the April 1 rule (Framework Adjustment 23). Therefore, this document corrects §§ 648.14(a)(89) and 648.87 section heading and paragraphs (a) and (b) heading and introductory text to restore that text to that intended by NMFS.

Correction

Accordingly, publication on March 3, 1997, of the final regulations (I.D. 011697C), which was the subject of FR Doc. 97–4907, is corrected as follows:

On page 9379, in the first column, under amendatory instruction 3, in § 648.14, paragraph (a)(89) is corrected to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(89) Fail to remove, use, set, haul back, fish with, or possess on board a vessel, unless stowed in accordance with § 648.81(e)(4), sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), in the areas and for the times specified in § 648.87 (a) and (b), except as provided in §§ 648.81(f)(2)(ii) and 648.87 (a) and (b), or unless otherwise authorized in writing by the Regional Administrator.

* * * * *

On page 9379, in the second column, amendatory instruction 5 and the regulatory text are corrected to read as follows:

5. Section 648.87 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 648.87 Gillnet requirements to reduce or prevent marine mammal takes.

(a) *Areas closed to gillnet gear capable of catching multispecies to reduce harbor porpoise takes.* Sections 648.81(f) through (h) set forth closed area restrictions to reduce the take of harbor porpoise consistent with the harbor porpoise mortality reduction goals. Further, all persons owning or operating vessels in the EEZ portion of the areas and times specified in paragraphs (a) (1) and (2) of this section must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnet gear (as described in § 648.81(f)(2)(ii)) in the EEZ portion of the areas and for the times specified in paragraphs (a) (1) and (2) of this section. Also, all persons owning or operating vessels issued a limited access multispecies permit must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), from the areas and for the times specified in paragraphs (a) (1) and (2) of this section, and, may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnets or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)) in the areas and for the times specified in paragraphs (a) (1) and (2) of this section.

(1) *Mid-coast Closure Area.* (i) From March 25 through April 25 and from September 15 through December 31 of each fishing year, the restrictions and requirements specified in paragraph (a) of this section apply to the Mid-coast Closure Area, as defined under § 648.81(g)(1), except as provided in paragraph (a)(1)(ii) of this section.

(ii) Vessels subject to the restrictions and regulations specified in paragraph (a) of this section may fish in the Mid-coast Closure Area, as defined under § 648.81(g)(1), from November 1 through December 31 of each fishing year, provided that an acoustic deterrent device (''pinger'') is attached at the end of each string of nets and at the bridle of every net within a string of nets, and is maintained as operational and functioning. Each pinger, when immersed in water, must broadcast a 10kHz +/−2kHz sound at 132 dB +/−4dB re 1 micropascal at 1 m. This sound must last 300 milliseconds and repeat every 4 seconds.

(2) *Cape Cod South Closure Area.* From March 1 through March 30 of each fishing year, the restrictions and requirements specified in paragraph (a) of this section apply to the Cape Cod South Closure Area (copies of a chart depicting this area are available from the Regional Administrator upon request), which is the area bounded by straight lines connecting the following points in the order stated.

CAPE COD SOUTH CLOSURE AREA

Point	N. latitude	W. longitude
CCS1	(1)	71°45′ W
CCS2	40°40′ N	71°45′ W
CCS3	40°40′ N	70°30′ W
CCS4	(2)	70°30′ W

[1] RI Shoreline.
[2] MA Shoreline.

(b) *Areas closed to gillnet gear capable of catching multispecies to prevent right whale takes.* All persons owning or operating vessels must remove all of their sink gillnet gear and gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), from the EEZ portion of the areas and for the times specified in (b)(1) and (2) of this section, and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or gillnet gear capable of catching multispecies, with the exception of single pelagic gillnet gear (as described in § 648.81(f)(2)(ii)) in the EEZ portion of the areas and for the times specified in paragraphs (b)(1) and (2) of this section.

(1) *Cape Cod Bay Critical Habitat Closure Area.* From March 27, 1997 through May 15, 1997 and from January 1 through May 15 of each subsequent year, the restrictions and requirements specified in paragraph (b) of this section apply to the Cape Cod Bay Critical Habitat Closure Area (copies of a chart depicting this area are available from the Regional Administrator upon request), which is the area bounded by straight lines connecting the following points in the order stated.

CAPE COD BAY CRITICAL HABITAT CLOSURE AREA

Point	N. latitude	W. longitude
CCB1	42°12′ N	70°30′ W
CCB2	42°12′ N	70°15′ W
CCB3	42°08′ N	70°12.4′ W
Then westerly along the 3 NM state boundary to		
CCB4	42°08′ N	70°30′ W
Then due north to CCB1		

(2) *Great South Channel Critical Habitat Closure Area.* From April 1 through June 30 of each year, the restrictions and requirements specified in paragraph (b) of this section apply to the Great South Channel Critical Habitat Closure Area (copies of a chart depicting this area are available from the Regional Administrator upon request), which is the area bounded by straight lines connecting the following points in the order stated.

GREAT SOUTH CHANNEL CRITICAL HABITAT CLOSURE AREA

Point	N. latitude	W. longitude
GSC1	41°02.2′ N	69°02′ W
GSC2	41°43.5′ N	69°36.3′ W
GSC3	42°10′ N	68°31′ W
GSC4	41°38′ N	68°13′ W

* * * * *

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

Dated: October 1, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–26469 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346-7035-02; I.D. 100197A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Available for New Jersey

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

ACTION: Commercial quota availability.

SUMMARY: NMFS announces that summer flounder commercial quota is available to the State of New Jersey to allow a reopening of the State to landings of summer flounder. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may resume landings of summer flounder in New Jersey for the remainder of calendar year 1997, or until the remaining quota allocation is harvested.

DATES: Effective October 3, 1997 through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (978) 281-9221.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100. The initial total commercial quota for summer flounder for the 1997 calendar year was set equal to 11,111,298 lb (5,040,000 kg) (62 FR 10473, March 7, 1997). The percent allocated to vessels landing summer flounder in New Jersey is 16.72499 percent, or 1,858,363 lb (842,939 kg) in 1997. After deducting a 510,771 lb (231,682 kg) overage landed in 1996, as specified in section 648.100(d)(2), New Jersey was left with an adjusted 1997 commercial quota of 1,347,592 lb (611,257 kg) (62 FR 37741, July 15, 1997). Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. Based on dealer reports and other available information, the Regional Administrator determined that the commercial quota available to New Jersey had been harvested, and no quota was available for that State for the remainder of 1997. Thus, effective September 24, 1997 (62 FR 50525, September 26, 1997), summer flounder landings in the State of New Jersey by federally permitted vessels, and purchases by federally permitted dealers, were prohibited for the remainder of 1997. The closure of the State to landings was based on projections of landings from dealer reports. However, due to State action to control landings through trip limits, actual landings have fallen short of projections. Specifically, prior to the NMFS closure, New Jersey closed its directed fishery and landings dropped off significantly. The State now has a bycatch trip limit in place for the remainder of the year (10 percent of total fish on board, up to a maximum of 100 lb/trip (45 kg/trip) until November 1st; 200 lb/trip (91 kg/trip) after that date). Thus, available data indicate that approximately 50,000 lb (22,680 kg) remain in New Jersey's annual commercial quota of 1,347,592 lb (611,257 kg). Since summer flounder commercial quota is available to New Jersey to be harvested, and in order to allow the State to receive the full benefit of its annual allocation of quota, the closure, published on September 26, 1997, is rescinded.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12286.

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

Dated: October 2, 1997.

Gary Matlock,

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

[FR Doc. 97–26577 Filed 10–3–97; 10:48 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 100197D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Offshore Component in the Bering Sea Subarea

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment closing the season for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI) at midnight rather than noon. This adjustment is necessary to prevent the underharvest of pollock by vessels catching pollock for processing by the offshore component in the BS of the BSAI.

DATES: Effective 2400 hrs, Alaska local time (A.l.t.), October 2, 1997, until 2400 hrs, A.l.t., December 31, 1997. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 22, 1997.

ADDRESSES: Comments may be sent to Chief, Fisheries Management Division,

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 Attn. Lori Gravel, or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson 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(c)(3)(iii), the allocation of the pollock total allowable catch for vessels catching pollock for processing by the offshore component in the BS was established as 679,413 metric tons (mt) by the Final 1997 Harvest Specifications for Groundfish of the BSAI (62 FR 7168, February 18, 1997).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allocation of the pollock total allowable catch for vessels catching pollock for processing by the offshore component in the BS will soon be reached. The Regional Administrator is establishing a directed fishing allowance of 664,413 mt, and is setting aside the remaining 15,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been taken. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the BS on October 2, 1997.

Section 679.23(b) specifies that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. Current information shows the catching capacity of vessels catching pollock for processing by the offshore component is in excess of 11,400 mt per day. The Regional Administrator has determined that the directed fishing allowance for the offshore component would be underharvested if the fishery is closed at 1200 hrs, A.l.t.

In accordance with § 679.25(a)(1)(i), NMFS is adjusting the season for pollock by vessels catching pollock for processing by the offshore component in the BS subarea of the BSAI by prohibiting directed fishing at 2400 hrs, A.l.t., October 2, 1997. NMFS is taking this action to prevent the underharvest of the pollock allocation to vessels catching pollock for processing by the offshore component in the BS of the BSAI as authorized by § 679.25(a)(2)(i)(C). In accordance with § 679.25(a)(2)(iii), NMFS has determined that closing the season at 2400 hrs on October 2, 1997, is the least restrictive management adjustment to harvest the pollock allocated to vessels catching pollock for processing by the offshore component in the BS of the BSAI and will allow other fisheries to continue in noncritical areas and time periods.

Classification

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. Failure to close the season for pollock by vessels catching pollock for processing by the offshore component in the BS on October 2, 1997, would likely result in the overharvest of the pollock allocation. Without this inseason adjustment extending the closure time from noon to midnight, the pollock allocation for vessels catching pollock for processing by the offshore component in the BS of the BSAI would be underharvested, resulting in an economic loss of more than $1,500,000. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 22, 1997.

This action is required by § 679.25 and is exempt from review under E.O. 12866.

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

Dated: October 2, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26618 Filed 10–3–97; 10:33 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 194
Tuesday, October 7, 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

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1980

RIN 0575–AC17

Community Programs Guaranteed Loan Program

AGENCIES: Rural Housing Service and Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agencies are proposing to issue a new Community Programs (CP) guaranteed loan regulation (part 1980, subpart I) to replace the current regulation for the program. This action is needed to streamline and update the program. The intended effect is to simplify and clarify the regulation; shift some responsibility for loan documentation and analysis from the Government to the lenders; make the program more responsive to the needs of lenders, local community public bodies, and nonprofit corporations; and provide for smoother processing of applications.

DATES: Written comments must be received on or before December 8, 1997. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through December 8, 1997.

ADDRESSES: Submit written comments to the Chief, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, U.S. Department of Agriculture, STOP 0743, 1400 Independence Ave. SW., Washington, D.C. 20250–0743. Also, comments may be submitted via the Internet by addressing them to ''comments@rus.usda.gov'' and must contain Community Programs Guaranteed Loans in the subject line. All written comments will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mel Padgett, Community Programs Senior Loan Specialist, Rural Housing Service, U.S. Department of Agriculture, STOP 3222, 1400 Independence Ave. SW., Washington, D.C. 20250–3222, telephone: (202) 720–1495.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Programs Affected

The Catalog of Federal Domestic Assistance Programs impacted by this action are 10.766, Community Facilities loans, and 10.760, Water and Waste Disposal Systems for Rural Communities.

Intergovernmental Review

These loans are subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in the manner delineated in FmHA Instruction 1940–J.

Civil Justice Reform

The proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

Environmental Impact Statement

The action has been received in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agencies have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

Discussion of the Proposed Rule

This action replaces the CP guaranteed loan program administered under 7 CFR part 1980. Under the proposed rule, this guaranteed loan program will be more flexible and place more reliance on lenders. There are fewer specific requirements for lenders. The lender has added responsibility for analyzing credit quality; for making, securing, and servicing the loan; and for

monitoring construction. Application processing procedures will be more efficient; less burdensome for borrowers, lenders, and Rural Development staff; and will provide for more rapid decisions.

The CP loan program was authorized by the Rural Development Act of 1972. The Agencies were authorized to guarantee CP loans under Pub. L. 101–161 enacted November 21, 1989. The loans are made by private lenders to public bodies and nonprofit corporations for the purpose of improving rural living standards and for other purposes that create essential community facilities located in cities, towns, or unincorporated areas of up to 50,000 population required by the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) and water and waste disposal facilities located in cities or towns of up to 10,000 population. The previous statutory population limit for loans for essential community facilities had been 20,000.

Since 1990, more than 240 community programs projects, totaling slightly more than $210 million, have received loans which were guaranteed through the CP program.

These loans can be made for a variety of purposes including health care; public buildings and improvements; fire and rescue; easements; purchase of equipment, machinery, and supplies; repair and modernization; pollution control; transportation studies; and water and waste disposal facilities. The rate and terms of the loan are negotiated between the borrower and the lender.

The Agencies propose to replace the regulation for the CP guaranteed loan programs with a completely new regulation. This is a high-priority effort to streamline the administration and operation of the program, respond to the requests of users of the program, and assist the field staff administering the program. The revised regulation is shorter, simpler, clearer, and more logically organized. The volume of regulatory material which a lender must review to request, make, or service a CP guaranteed loan under the new regulation is significantly less than the current regulation. Clarifications of various items are also included, such as what is meant by the term ''essential community facility.''

Except for the increase in the population limit, the revisions are not required by statute. However, the President, as well as the Secretary of Agriculture, are committed to streamlining all Federal regulations. This CP regulation streamlines our application procedures, reduces loan application processing time by placing greater emphasis on State resources, allows more management flexibility and decision-making capacity at the State Office level, and expands eligible loan purposes to include recreation.

Recognizing the need to streamline the regulation, the Agencies established two task forces. One was comprised of CP Program Chiefs, CP Loan Specialists, and other field office personnel. The second was comprised of lenders, secondary market representatives, and National Office management. They examined changes that needed to be made in the program to attract additional lenders and to make the program more user friendly and customer oriented. Task force recommendations have been incorporated into this regulation.

Based on the recommendations of the task forces, the Agencies have proposed these revisions to make the program more usable by lenders and borrowers. Also, the Agencies recognize that changes are necessary to make the program more effective in creating jobs and stimulating economic activity (particularly in chronically low-income rural areas). Under the proposed new CP regulation, the material that must be submitted to, and reviewed by, the Agencies before approval of the guarantee has been streamlined. Responsibilities for credit and analysis and application processing tasks will be shifted from the Agencies' National Offices to field offices and from the Agencies to the lender, where feasible. Following is a discussion of some of the most significant policy revisions included in the proposed new regulation.

To streamline the regulation, the Agencies have combined applicable portions of the Direct Community Loan Programs (7 CFR part 1942, subpart A), Fire and Rescue (7 CFR part 1942, subpart C), General Guaranteed Regulation (7 CFR part 1980, subpart A), previously drafted Guaranteed Community Programs Regulation, and parts of forms which were not in regulations into the Guaranteed Community Programs Regulation (7 CFR part 1980, subpart I). The Agencies also divided the regulation into general, processing, and servicing sections. These actions should significantly reduce the amount of regulatory material that a lender and a borrower must peruse to determine eligibility and complete the application. This will also simplify making and servicing a CP loan.

Additionally, the necessary information contained in the preapplication package can be submitted simultaneously with the application. The threshold for requiring audited financial statements has been increased from $100,000 to $500,000 to reduce the reporting burden on small organizations. Also, we have included recreation as well as clarified telecommunications as eligible loan purposes.

Under the revised regulations, the lender is responsible for legal sufficiency. The lender will not only be able to negotiate interest rates but will also be able to negotiate interest rate incremental increases and caps for each loan. This will give the lender more flexibility to fit the CP guaranteed loan program to its lending policies and procedures. The lender does not have to be a local lender provided it can demonstrate the ability to adequately service the loan. This will permit an expansion of eligible lenders to include such organizations as State bond banks, the Rural Utilities Cooperative Finance Corporation, and Sallie Mae. All of these organizations have expressed an interest in the CP guaranteed lending program in the past.

Conclusion

The Agencies believe the streamlining of the regulation for this program will enhance the use of the program in improving the future prosperity of rural residents through targeted investments that enhance rural competitiveness, improve and diversify community services, and enable rural residents to have a better quality of life. The proposed revisions are consistent with Administration efforts to streamline Government functions, improve efficiency and the effectiveness of Government activities, and be more customer friendly. The changes proposed will enable the Agencies to deliver a larger program with fewer staff resources, simultaneously meet the objectives of the National Performance Review regarding customer service, reduce regulation, and streamline Agencies operations.

The proposed changes will provide more flexibility for both lenders and Agencies staff. Many errors will be reduced because the guidelines and requirements are much clearer and items are more easily found in a reduced and better-organized regulation. Lenders will be more interested in using the program because the procedures are simpler and more direct with significantly fewer cross references to other regulations. The ultimate benefits to be realized are increased lending activity resulting in a better-living standard for rural communities with the infrastructure to attract new businesses

and the creation of more jobs in rural areas, particularly in those areas that have experienced historical economic distress.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Agencies will seek Office of Management and Budget (OMB) approval of the reporting and recordkeeping requirements contained in this regulation. These reporting and recordkeeping requirements have been previously approved under control numbers 0575–0024 and 0575–0137. We have made the appropriate adjustments based upon the programs' 6-year history.

The loans are made by private lenders to public bodies and nonprofit corporations for the purpose of improving rural living standards and for other purposes that create employment opportunities in rural areas. Eligibility for this program includes community facilities located in cities, towns, or unincorporated areas of up to 50,000 population and water and waste disposal facilities located in cities of up to 10,000 population.

The information collected is used by the Agencies to manage, plan, evaluate, and account for Government resources. The reports are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 13.97 hours per response.

Respondents: Nonprofit corporations and public bodies.

Estimated Number of Respondents: 125.

Estimated Number of Responses per Respondent: 10.12.

Estimated Total Annual Burden on Respondents: 17,677.

Copies of this information collection can be obtained from Barbara Williams, Information Collection Coordinator, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, telephone (202) 720–9734.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized, included in the request for OMB approval, and will become a matter of public record. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Barbara Williams, Information Collection Coordinator, Regulations and Paperwork Management Branch, Support Services Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0743, 1400 Independence Avenue SW., Washington, D.C. 20250–0743. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

List of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Community facilities—Rural development assistance, Loan programs—Housing and community development.

Accordingly, part 1980, chapter XVIII, title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C 1480.

Subpart A—General

§ 1980.47 [Amended]

2. Section 1980.47(d) is removed.

§ 1980.60 [Amended]

3. Section 1980.60(a)(12) is amended by removing the words ''or Form FmHA or its successor agency under Public Law 103–354 1980–10, 'Application for Loan and Guarantee' (Community Programs),'' in the first sentence.

Subpart I—Community Programs Guaranteed Loans

4. Subpart I is revised to read as follows:

Sec.
1980.801 General.
1980.802 Definitions.
1980.803 Full faith and credit.
1980.804 Conditions of Guarantee.
1980.805—1980.807 [Reserved]
1980.808 Access to lender's records.
1980.809 Environmental requirements.
1980.810—1980.811 [Reserved]
1980.812 Inspections.
1980.813 Appeals.
1980.814—1980.816 [Reserved]
1980.817 Exception authority.
1980.818—1980.819 [Reserved]
1980.820 Eligibility.
1980.821 Priorities.
1980.822—1980.823 [Reserved]
1980.824 Eligible loan purposes.
1980.825 Ineligible loan purposes.
1980.826 [Reserved]
1980.827 Eligible Lenders.
1980.828 Transfer of lender or borrower prior to issuance of loan note guarantee.
1980.829 Fees and charges by lender.
1980.830 Loan guarantee limitations.
1980.831—1980.832 [Reserved]
1980.833 Interest rates.
1980.834 Terms of loan repayment.
1980.835—1980.836 [Reserved]
1980.837 Insurance and fidelity bonds.
1980.838—1980.839 [Reserved]
1980.840 Equal opportunity and Fair Housing Act requirements.
1980.841 [Reserved]
1980.842 Design and construction requirements.
1980.843 Other Federal, State, and local requirements.
1980.844—1980.846 [Reserved]
1980.847 Economic feasibility requirements.
1980.848 Security.
1980.849—1980.851 [Reserved]
1980.852 Processing.
1980.853 Evaluation of application.
1980.854—1980.858 [Reserved]
1980.859 Review of requirements.
1980.860—1980.862 [Reserved]
1980.863 Conditions precedent to issuance of the Loan Note Guarantee.
1980.864 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.
1980.865 Lender's sale or assignment of the guaranteed portion of loan.
1980.866—1980.868 [Reserved]
1980.869 Loan servicing.
1980.870—1980.872 [Reserved]
1980.873 Replacement of loss, theft, destruction, mutilation, or defacement of Loan Note Guarantee or Assignment Guarantee Agreement.
1980.874 [Reserved]
1980.875 Defaults by borrower.
1980.876—1980.877 [Reserved]
1980.878 Repurchase of loan.
1980.879 Transfer of lender after issuance of Loan Note Guarantee.
1980.880 Interest rate changes after loan closing.
1980.881 Liquidation.
1980.882 [Reserved]
1980.883 Protective advances.
1980.884 Additional loans or advances.
1980.885 Bankruptcy.
1980.886—1980.887 [Reserved]
1980.888 Transfers and assumptions.
1980.889 Mergers.
1980.890 Disposition of acquired property.
1980.891—1980.893 [Reserved]
1980.894 Determination and payment of loss.

1980.895 Future recovery.
1980.896 Termination of Loan Note Guarantee.
1980.897—1980.900 [Reserved]

PART 1980—GENERAL

Subpart I—Community Programs Guaranteed Loans

§ 1980.801 General.

(a) This subpart contains the regulations for Community Programs loans guaranteed by the Agency and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) The purpose of the Community Programs guaranteed loan program is to improve, develop, or finance essential community and water and waste disposal facilities in rural areas. This purpose is achieved through bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits.

§ 1980.802 Definitions.

The following general definitions are applicable to the terms used in this subpart:

Agency. The Rural Housing Service and the Rural Utility Service which are within the Rural Development mission area of the United States Department of Agriculture (USDA) or their successor agencies with authority delegated by the Secretary of Agriculture to administer the Community Facilities and Water and Waste Disposal programs. This also includes the Rural Development mission area.

Application. An Agency prescribed form to request an Agency guarantee. (Available in any Agency office.)

Arm's length transaction. The sale, release, or disposition of assets in which the title to the property passes to a ready, willing, and able third party who is not affiliated with, or related to, and has no security, monetary, or stockholder interest in the borrower or transferor at the time of the transaction.

Assignment Guarantee Agreement. The signed agreement among the Agency, the lender, and the holder setting forth the terms and conditions of an assignment of the guaranteed portion of a loan or any part thereof. (This is an Agency prescribed form available in any Agency office.)

Borrower. The entity that borrows money from the lender.

Collateral. Property pledged to secure the guaranteed loan.

Community facility (essential). The term ''facility'' as used in this subpart refers to both the physical structure financed and the resulting service provided to rural residents. An essential community facility must:

(1) Be a function customarily provided by a local unit of government;

(2) Be a public improvement needed for the orderly development of a rural community;

(3) Not include private affairs or commercial or business undertakings (except for limited authority for industrial parks);

(4) Be the area of jurisdiction or operation for the public bodies eligible to receive assistance or a similar local rural service area of a not-for-profit corporation; and

(5) Be located in a rural area.

Conditional Commitment for Guarantee. The Agency's written statement to the lender that the material submitted is approved subject to the completion of all conditions and requirements set forth in the agreement. (This is an Agency prescribed form available in any Agency office.)

Guaranteed loan. A loan made and serviced by a lender for which the Agency and lender have entered into a Lender's Agreement and for which the Agency has issued a Loan Note Guarantee.

Holder. The person or entity (other than the lender) who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. When the lender assigns parts of the guaranteed portion of the loan to an assignee, the assignee becomes a holder when the Assignment Guarantee Agreement is signed by all parties.

Immediate Family. Individuals who are closely related by blood or by marriage, such as a spouse, significant other, parent, child, brother, sister, aunt, uncle, grandparent, grandchild, niece, nephew, or first cousin.

Insurance. Fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, worker's compensation, fidelity bond, malpractice, or any similar insurance that is available and needed to protect the security, or that is required by law.

Joint financing. The situation occurring when two or more lenders (or any combination of lenders and other financial sources) make separate loans to supply the funds required by one borrower. For example, such joint financing may consist of the Agency's financial assistance with the Economic Development Administration, Department of Housing and Urban Development (HUD), or other Federal and State agencies, and private and quasi-public financial institutions.

Lender. The person or organization making and responsible for servicing the loan. The lender is also referred to in this subpart as the applicant who is requesting a guarantee during the preapplication and application stage of processing.

Lender's Agreement. The signed agreement between the Agency and the lender setting forth the lender's responsibilities when the Loan Note Guarantee is issued. (This is an Agency prescribed form available in any Agency office.)

Loan classification system. The process by which loans are examined and categorized by degree of potential for loss in the event of default.

Loan Note Guarantee. The signed commitment issued by the Agency setting forth the terms and conditions of the guarantee of an identified loan. (This is an Agency prescribed form available in any Agency office.)

Market value. The amount for which property would sell for its highest and best use at a voluntary sale in an arm's length transaction.

Note. An evidence of debt. In those instances where the Agency guarantees a bond issue, ''note'' shall also be construed to include a bond or other evidence of indebtedness, as appropriate.

Participation. Sale of an interest in a loan in which the lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

Principals of borrowers. The owners, officers, directors, entities, and others directly involved in the operation and management of the borrower.

Problem loan. A loan which is not performing according to its terms and conditions.

Protective advances. Advances made by the lender for the purpose of preserving and protecting the collateral where the debtor has failed to and will not, or cannot, meet obligations to protect or preserve collateral.

Public body. A municipality, county, or other political subdivision of a State, special purpose district, an Indian Tribe on a Federal or State reservation, or another federally recognized Indian Tribe.

Report of loss. An Agency prescribed form used by lenders when reporting a loss under an Agency guarantee. (Available in any Agency office.)

Rural and rural area. Any area defined by the latest Decennial Census of the United States except:

(1) For water and waste disposal facilities—any city or town with a population in excess of 10,000 inhabitants.

(2) For essential community facilities—any city, town, or unincorporated area with a population in excess of 50,000 inhabitants, and any urbanized area immediately adjacent to a city, town, or unincorporated area that has a population of more than 50,000 inhabitants.

Service area. The area reasonably expected to be served by the facility being financed by the guaranteed loan.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia.

State Director. The Rural Development State Director or the staff member who has been delegated authority to perform action on behalf of the State Director.

Substantive Change. Any change in the purpose of the loan or any change in the financial condition of the borrower or the collateral which would jeopardize the performance of the loan.

Transfer and assumption. The conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of the loan in return for the assuming party's binding promise to pay the outstanding debt.

Water or waste disposal facility. A facility designed to provide, enlarge, extend, or otherwise improve water, wastewater or sanitary sewer, solid waste disposal, or storm wastewater services to rural residents.

§ 1980.803 Full faith and credit.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is not contestable except for fraud or misrepresentation (including negligent misrepresentation) of which the lender or holder has actual knowledge, participates in, or condones. A note which provides for the payment of interest on interest shall not be guaranteed and any Loan Note Guarantee or Assignment Guarantee Agreement attached to, or relating to, a note which provides for payment of interest on interest is void. The guarantee and right to require purchase will be directly enforceable by the holder notwithstanding any fraud, misrepresentation, or any unenforceability of the Loan Note Guarantee. The Loan Note Guarantee will not be enforceable by the lender to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which the Agency acquires knowledge of the foregoing. Any losses occasioned will not be enforceable by the lender to the extent that loan funds are used for purposes other than those specifically approved by the Agency in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner, acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity, or until a final loss is paid. The Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder shall not cover interest accruing 90 days after the holder has demanded repurchase by the lender, nor shall the Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder cover interest accruing 90 days after the lender or Agency has requested the holder to surrender the evidence of debt for repurchase.

§ 1980.804 Conditions of Guarantee.

A loan guarantee under this part will be evidenced by a Loan Note Guarantee issued by the Agency. Each lender will also execute a Lender's Agreement. The provisions of this subpart in effect at the issuance of the Loan Note Guarantee and execution of the Lender's Agreement will control the Loan Note Guarantee or Lender's Agreement.

(a) The entire loan will be secured by the same security with equal lien priority for the guaranteed and non-guaranteed portions of the loan. The non-guaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

(b) The lender will be responsible for servicing the entire loan and will remain mortgagee or secured party of record notwithstanding the fact that another party may hold a portion of the loan.

(c) When a guaranteed portion of a loan is sold to a holder, the holder shall have all rights of the lender under the Loan Note Guarantee to the extent of the portion purchased. The lender will remain bound by all the obligations under the Loan Note Guarantee, Lender's Agreement, and Agency program regulations. A guarantee and right to require purchase will be directly enforceable by a holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the guarantee by the lender, except for fraud or misrepresentation of which the holder had actual knowledge at the time. If the Agency makes a payment to a holder, then the lender must reimburse the Agency.

(d) A lender will receive all payments of principal and interest on the account of the entire loan and will promptly remit to each holder a pro rata share, less any lender servicing fee.

(e) The lender may retain all of the unguaranteed portion of the loan or may sell part of the unguaranteed portion of the loan through participation. However, the lender is required to retain 5 percent of the loan amount from the unguaranteed portion in their portfolio.

§§ 1980.805—1980.807 [Reserved]

§ 1980.808 Access to lender's records.

Upon request by the Agency, the lender will permit representatives of the Agency (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the lender pertaining to the guaranteed loans. Such inspection and copying may be made during regular office hours of the lender or at any other time the lender and the Agency agree upon.

§ 1980.809 Environmental requirements.

Requirements for an environmental review or mitigation actions are contained in part 1940, subpart G, of this chapter. The lender must assist the Agency to ensure that the borrower complies with any mitigation measures required by the Agency's environmental review for the purpose of avoiding or reducing the adverse environmental impact of construction or operations of the facility financed with the guaranteed loan.

§§ 1980.810—1980.811 [Reserved]

§ 1980.812 Inspections.

The lender will notify the Agency of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. The Agency may attend such field inspections. Any inspections or review conducted by the Agency, including those with the lender, are for the benefit of the Agency only and not for other parties of interest. Agency inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections.

§ 1980.813 Appeals.

Only the borrower, lender, or holder can appeal an Agency decision. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse

decision may be appealed only by the lender. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with the regulations of the National Appeals Division, U.S. Department of Agriculture, published at 7 CFR part 11.

§§ 1980.814—1980.816 [Reserved]

§ 1980.817 Exception authority.

The appropriate Agency Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart provided the Administrator determines that application of the requirement, or provision, or failure to take action in the case of an omission would adversely affect the Government's financial interest. Requests for exceptions must be in writing by the State Director.

§§ 980.818—1980.819 [Reserved]

§ 1980.820 Eligibility.

(a) The Agency must determine that the borrower is unable to obtain the required credit without the loan guarantee from private, commercial, or cooperative sources at reasonable rates and terms for loans for similar purposes and period of time. This determination shall become a part of the Agency casefile. The Agency should also determine if an outstanding judgment obtained by the United States in a Federal Court (other than the U.S. Tax Court) has been entered against the borrower or if the borrower has an outstanding debt with any Federal agency that is in a delinquent status. Such judgment or delinquency shall cause the potential borrower to be ineligible to receive a loan guarantee until the judgment is paid in full or otherwise satisfied or the delinquency is cured.

(b) Legal authority and responsibility. (1) Each borrower must have, or will obtain, the legal authority necessary to construct, operate, and maintain the proposed facility and services. They must also must have legal authority for obtaining security and repaying the proposed loan.

(2) The borrower shall be responsible for operating, maintaining, managing the facility and services, and providing for the continued availability and use of the facility and services at reasonable rates and terms.

(i) These responsibilities must be exercised by the borrower even though the facility may be operated, maintained, or managed by a third party under contract, management agreement, or written lease.

(ii) Leases may only be used when this is the only feasible way to provide the service, is the customary practice to provide such service in the State, and must provide for the borrower's management control of the facility.

(iii) Contracts, management agreements, or leases must not contain options or other provisions for transfer of ownership.

(3) The lender is responsible for reviewing any contracts, management agreements, or leases to determine that they will not adversely impact the borrower's repayment ability or the security value of the guaranteed loan.

(c) Borrower. (1) A public body such as a municipality, county, district, authority, or other political subdivision of a State located in a rural area.

(2) An organization operated on a not-for-profit basis such as an association, cooperative, or private corporation. Borrowers organized under the general profit corporation laws may be eligible if they actually will be operated on a not-for-profit basis under their charter. Single member corporations or corporations owned or substantially controlled by other corporations or associations are not eligible organizations. Before a loan is made to a borrower other than a public body, the articles of incorporation or the loan agreement will include a condition similar to the following:

> If the corporation dissolves or ceases to perform the community facility objectives and functions, the board of directors shall distribute all business property and assets to one or more nonprofit corporations or public bodies. This distribution must be approved by 75 percent of the users or members and must serve the public welfare of the community. The assets may not be distributed to any members, directors, stockholders, or others having financial or managerial interest in the corporation. Nothing herein shall prohibit the corporation from paying its debts.

(3) A non-public body essential community facility borrower (other than utility-type) must have significant ties with the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve rural areas. Ties may be evidenced by items such as:

(i) Association with, or controlled by, a local public body or bodies or broadly based ownership and controlled by members of the community.

(ii) Substantial public funding through taxes, revenue bonds, or other local government sources, or substantial voluntary community funding such as would be obtained through a community-wide funding campaign.

(4) Indian tribes on Federal and State reservations and other federally recognized Indian tribes.

(d) Facilities must be located in rural areas, except:

(1) For utility-type services such as water, sewer, natural gas, or hydroelectric serving both rural and non-rural areas. In such cases, Agency funds may be used to finance only that portion serving rural areas, regardless of facility location.

(2) Telecommunication projects. The part of the facility located in a non-rural area must be necessary to provide the essential services to rural areas.

(e) All facilities financed under the provisions of this subpart shall be for public use.

(1) Facilities will be installed to serve any user within the service area who desires service and can be feasibly and legally served.

(2) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, religion, sex, marital status, age, handicap, or national origin. This does not preclude:

(i) Financing or constructing projects in phases when it is not practical to finance or construct the entire project at one time, and

(ii) Financing or constructing facilities where it is not economically feasible to serve the entire area, provided economic feasibility is determined on the basis of the entire system or facilities and not by considering the cost of separate extensions to, or parts thereof. Additionally, the borrower must publicly announce a plan for extending service to areas not initially receiving service. Also, the borrower must provide written notice to potential users located in the areas not to be initially served.

(3) The lender will determine that, when feasible and legally possible, inequities within the proposed project's service area for the same type service proposed (*i.e.*, water or waste disposal) will be remedied by the owner on, or before, completion of the project. Inequities are defined as unjustified variations in availability, adequacy, or quality of service. User rate schedules for portions of existing systems or facilities that were developed under different financing rates, terms, or conditions do not necessarily constitute inequities.

§ 1980.821 Priorities.

The Agency will publish a project selection guide for administrative use. This guide will include items and conditions which must be considered in selecting preapplications for further development. Copies of this project selection guide will be available in any Agency office. When ranking eligible preapplications for consideration for limited funds, Agency officials must consider the priority items met by each preapplication and the degree to which those priorities are met. The project selection guide may change from time to time but preapplication and application will be evaluated in accordance with the project selection guide in existence at the time the preapplication is submitted.

(a) The preapplication (and supporting information submitted with it) will be used to determine the proposed project's priority for available funds.

(b) Those lenders with eligible lower-scoring preapplications which cannot be funded within the foreseeable future should be notified that funds are not available and asked if they wish to have their preapplication maintained in an active file for future consideration. Lenders whose preapplications are found to be ineligible will be advised.

(c) After completing the review, the Agency will normally select the preapplications with the highest scores for further processing. The Agency may select a lower-scoring preapplication for processing when an eligible, high-scoring preapplication:

(1) Requires more than 25 percent of the State allocation, or

(2) Exceeds the remaining State allocation for the fiscal year, or

(3) Is incomplete in that the lender has not met the administrative requirements to develop the loan. However the higher-scoring preapplication must be notified and given an opportunity to revise and resubmit their proposal. A written justification must be prepared and placed in the project file when an eligible higher-rating preapplication is not selected for further processing.

(d) The Agency will notify the lender if an application should be developed. Applications should be developed expeditiously following good management practices. Applications that are not developed in a reasonable period of time may be removed from the State's active file. Lenders will be advised when such action is taken.

(e) A cost overrun will receive consideration for funding before others.

§§ 980.822—1980.823 [Reserved]

§ 1980.824 Eligible loan purposes.

(a) Funds may be used to construct, enlarge, extend, or otherwise improve water or waste disposal and other essential community facilities providing essential service primarily to rural residents and rural businesses.

(1) Water or waste disposal facilities include water, sanitary sewerage, solid waste disposal, and storm wastewater facilities.

(2) Essential community facilities include but are not limited to:

(i) Fire, rescue, and public safety,

(ii) Health services,

(iii) Community, social, or cultural services,

(iv) Transportation facilities such as streets, roads, and bridges,

(v) Telecommunication equipment,

(vi) Hydroelectric generating facilities and related connecting systems and appurtenances only when not eligible for financing under the authorities of the Rural Utilities Service. Funds may not be used to finance other types of electrical generating or transmitting facilities,

(vii) Supplemental and supporting structures for other rural electrification or telephone systems (including facilities such as headquarters and office buildings, storage facilities, and maintenance shops) only when not eligible for financing under the authorities of the Rural Utilities Service,

(viii) Natural gas distribution systems,

(ix) Industrial park sites (but only to the extent of land acquisition and necessary site preparation) including access ways and utility extensions to and throughout the site. Funds may not be used in connection with industrial parks to finance on-site utility systems or business and industrial buildings, and

(x) Recreational facilities.

(3) Otherwise improve includes, but is not limited to, the following:

(i) The purchase of major equipment (such as solid waste collection trucks, telecommunication equipment, and X-ray machines) which will in themselves provide an essential service to rural residents;

(ii) The purchase of existing facilities, when necessary, either to improve or to prevent a loss of service; and

(iii) Payment of tap fees and other utility connection charges as provided in utility purchase contracts.

(b) Funds also may be used:

(1) To construct or relocate public buildings, roads, bridges, fences, or utilities and to make other public improvements necessary to the successful operation or protection of facilities authorized in paragraphs (a)(1) and (a)(2) of this section.

(2) To relocate private buildings, roads, bridges, fences, or utilities, and other private improvements necessary to the successful operation or protection of facilities authorized in paragraph (a) of this section.

(3) To pay the following expenses (but only when such expenses are a necessary part of a loan to finance facilities authorized in paragraphs (a), (b)(1), and (b)(2) of this section):

(i) Reasonable fees and costs such as origination fee, loan guarantee fee, legal, engineering, architectural, fiscal advisory, recording, environmental impact analyses, archaeological surveys, possible salvage or other mitigation measures, planning and establishing or acquiring rights.

(ii) Interest on loans until the facility is self-supporting, but not for more than 2 years unless a longer period is approved by the Agency; interest on loans secured by general obligation bonds until tax revenues are available for payment, but not for more than 2 years unless a longer period is approved by the National Office; and interest on interim financing.

(iii) Costs of acquiring interest in land; rights such as water rights, leases, permits, rights-of-way; and other evidence of land or water control necessary for development of the facility.

(iv) Purchasing or renting equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(v) Initial operating expenses for a period ordinarily not exceeding 1 year when the borrower is unable to pay such expenses.

(vi) Refinancing debts incurred by, or on behalf of, a community when all of the following conditions exist:

(A) The debts being refinanced are less than 50 percent of the total loan,

(B) The debts were incurred for the facility or service being financed or any part thereof (such as interim financing, construction expenses, etc.), and

(C) Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan.

(4) To pay obligations for construction incurred prior to filing a preapplication and application with the Agency. Construction work should not be started (and obligations for such work or materials should not be incurred) before the Conditional Commitment for Guarantee is issued. However, if there are compelling reasons for proceeding with construction before the Conditional Commitment for Guarantee is issued, lenders may request Agency

approval to pay such obligations. Such request must comply with the following:

(i) Provide conclusive evidence that the contract was entered into without intent to circumvent the requirements of Agency regulations.

(ii) Modify the outstanding contract to conform with the provisions of this subpart. Where this is not possible, modifications will be made to the extent practicable and, as a minimum, the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the Agency financing. When construction is complete and it is impracticable to modify the contracts, the borrower and lender must provide the certification required by paragraph (b)(5)(iii) of this section.

(iii) Provide a certification by an engineer or architect that any construction performed complies fully with the plans and specifications.

(iv) The borrower and the contractor must have complied with all statutory and executive order requirements related to Agency financing for construction already performed even though the requirements may not have been included in the contract documents.

§ 1980.825 Ineligible loan purposes.

Loan funds may not be used to finance:

(a) Properties to be used for commercial rental when the borrower has no control over tenants and services offered except for industrial-site development,

(b) Facilities primarily for the purpose of housing Federal or State agencies,

(c) Community antenna television services or facilities,

(d) Telephone systems,

(e) Facilities which are not modest in size, design, and cost,

(f) Finder's and packager's fees,

(g) Projects located within the Coastal Barriers Resource System that do not qualify for an exception as defined in section 6 of the Coastal Barriers Resource Act, Pub. L. 97–348 (available in any Agency office),

(h) New combined sanitary and storm water sewer facilities,

(i) Projects located in a special flood or mudslide hazard area (as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development) when it is not part of an approved floodplain area management plan or flood insurance is not available.

§ 1980.826 [Reserved]

§ 1980.827 Eligible lenders.

(a) Eligible lenders (as defined in this section) may participate in the loan guarantee program. These lenders must be subject to credit examination and supervision by either an agency of the United States or a State. A lender must have the capability to adequately service loans for which a guarantee is requested. Eligible lenders are:

(1) Any Federal or State chartered:

(i) Bank, or

(ii) Savings and loan association.

(2) Any mortgage company that is a part of a bank holding company,

(3) Bank for Cooperatives, National Rural Utilities Cooperative Finance Corporation, Farm Credit Bank of the Federal Land Bank, or other Farm Credit System institution with direct lending authority authorized to make loans of the type guaranteed by this subpart,

(4) An insurance company regulated by a State or National insurance regulatory agency,

(5) State Bond Banks and State Bond Pools, and

(6) Other lenders that possess the legal powers necessary and incidental to making and servicing guaranteed loans involving community development-type projects. These lenders must also be subject to credit examination and supervision by either an agency of the United States or a State and provide documentation acceptable to the Agency that they have the ability to service the loan. Lenders under this category must be approved by the National Office prior to the issuance of the loan guarantee.

(b) When the lender's officers, stockholders, directors, or partners (including their immediate families) or the borrower, its officers, stockholders, directors, or partners (including their immediate families) own, or have management responsibilities in each other, the lender must disclose such business or ownership relationships. The Agency shall determine if such relationships are likely to result in a conflict of interest. This does not preclude lender officials from being on the borrower's board of directors.

§ 1980.828 Transfer of lenders or borrowers (prior to issuance of Loan Note Guarantee)

(a) Prior to issuance of the loan guarantee, the Agency may approve the transfer of an outstanding Conditional Commitment for Guarantee from the present lender to a new eligible lender, provided there are:

(1) A letter from the former lender stating why they do not wish to continue to be the lender for this project,

(2) No substantive changes in ownership or control of the borrower,

(3) No substantive changes in the borrower's written plan, scope of work, or changes in the purpose or intent of the project,

(4) No substantive changes in the loan agreement or Conditional Commitment for Guarantee,

(b) The substitute lender must execute a new application for loan and guarantee (available in any Agency office).

(c) If approved, the Agency will issue a letter of amendment to the original Conditional Commitment for Guarantee reflecting the new lender who will acknowledge acceptance of the offer in writing.

(d) Once the Conditional Commitment for Guarantee is issued, the Agency will not approve any substitution of borrowers including changes in the form of the legal entity. Exceptions to a change in the legal entity may be requested by Agency staff from the Agency's National Office when the original borrower is replaced with substantially the same individuals or officers with the same interest as originally approved.

§ 1980.829 Fees and charges by lender.

(a) The lender may establish the charges and fees for the loan, provided they do not exceed those charged other borrowers for similar types of transactions. ''Similar types of transactions'' mean those transactions involving the same type of loan which a non-guaranteed loan borrower would be assessed charges and fees.

(b) Late payment charges will not be covered by the Loan Note Guarantee. Such charges may not be added to the principal and interest due under any guaranteed note. Late payment charges may be made only if:

(1) They are routinely made by the lender in all types of loan transactions.

(2) Payment has not been received within the customary timeframe allowed by the lender.

(3) The lender agrees with the borrower, in writing, that the rate or method of calculating the late payment charges will not be changed to increase charges while the Loan Note Guarantee is in effect.

(c) The guaranteed loan fee will be the applicable guarantee fee rate multiplied by the principal loan amount multiplied by the percent of guarantee. The one-time guarantee fee is paid when the Loan Note Guarantee is issued.

(1) The fee will be paid to the Agency by the lender and is nonreturnable. The lender may pass the fee to the borrower.

(2) The guarantee fee rates are available in any Agency office.

§ 1980.830 Loan guarantee limitations.

The percentage of guarantee, up to the maximum allowed by this section, is a matter for negotiation between the lender and the Agency.

(a) The maximum allowable guarantee will be 90 percent.

(b) The lender will retain a minimum of 5 percent of the total guaranteed loan amount. The retained amount must be from the unguaranteed portion of the loan and cannot be participated to another lender.

§§ 1980.831–1980.832 [Reserved]

§ 1980.833 Interest rates.

(a) Rates will be negotiated between the lender and the borrower. They may be either fixed or variable rates. Interest rates will be those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to Agency review and approval.

(b) A variable interest rate must be tied to a base rate published periodically in a recognized national or regional financial publication specifically agreed to by the lender and borrower. Such an agreement must be documented in the borrower or lender loan agreement.

(1) Interest rate caps and incremental adjustment limitations will also be negotiated between the lender and the borrower. Notice of any interest rate change proposed by the lender should allow a sufficient time period for the borrower to obtain any required State or other regulatory approval and to implement any user rate adjustments necessary as a result of the interest rate change. The intervals between interest rate adjustments will be specified in the loan agreement (but not more often than quarterly).

(2) The lender must incorporate within the variable rate note, the provision for adjustment of payments coincident with an interest rate adjustment. This will ensure the outstanding principal balance is properly amortized within the prescribed loan maturity and eliminate the possibility of a balloon payment at the end of the loan.

(c) Any change in the interest rate between the date of issuance of the Conditional Commitment for Guarantee and before the issuance of the Loan Note Guarantee must be approved by the Agency. Approval of such change will be shown on an amendment to the Conditional Commitment for Guarantee.

(d) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree, and:

(1) The rate on the unguaranteed portion does not exceed that currently being charged on loans for similar purposes to borrowers under similar circumstances; and,

(2) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion.

(e) When multi-rates are used, the lender will provide the Agency with the overall effective interest rate for the entire loan. Multi-rate loans may be either fixed, variable, or a combination of fixed and variable. When a combination of fixed and variable interest rates are used, the interest rate for the unguaranteed portion will not be lower than the guaranteed portion of the loan.

§ 1980.834 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the note except, any interest accrued as the result of the borrower's default on the guaranteed loan over and above that which would have accrued at the note rate on the guaranteed loan will not be guaranteed by the Agency. The lender will structure repayments as established in the loan agreement between the lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the lender and borrower on terms that reasonably ensure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income. Such installment must be due and payable within 3 years from the date of the note and at least annually thereafter. Interest will be due at least annually from the date of the note. Monthly payments will be required except for borrowers with income limited to less frequent intervals.

(b) The maximum time allowable for final maturity for a guaranteed CP loan will be limited to the useful life of the facility, not to exceed 40 years.

(c) The principal balance should be properly amortized within the prescribed loan maturity. Balloon payments at the end of the loan are prohibited.

§§ 1980.835–1980.836 [Reserved]

§ 1980.837 Insurance and fidelity bonds.

The lender must provide evidence that the borrower has adequate insurance and fidelity bond coverage by loan closing or start of construction, whichever occurs first. Adequate coverage must be maintained for the life of the loan and is subject to Agency review and approval.

§§ 1980.838–1980.839 [Reserved]

§ 1980.840 Equal opportunity and Fair Housing Act requirements.

(a) The lender will comply with the requirements of title V of the Equal Credit Opportunity Act (Pub. L. 93–495). See the Federal Reserve Board Regulation, 12 CFR part 202.

(b) Certain housing-related projects such as nursing homes, group homes, or assisted-living facilities must comply with the requirements of the Fair Housing Amendment Act of 1988 (Pub. L. 100–430). This includes completion of an Affirmative Fair Housing Marketing Plan and compliance with the Housing and Urban Development accessibility guidelines except for areas open to the public which are covered by the Americans with Disabilities Act (Pub. L. 101–336). The lender will determine that the borrower has a valid plan in effect at all times.

§ 1980.841 [Reserved]

§ 1980.842 Design and construction requirements.

The lender will provide the Agency with a written certification at the end of construction that all funds were utilized for authorized purposes. The borrower and the lender will authorize designs and plans based upon the preliminary architectural and engineering reports approved by the lender and concurred in by the Agency. The borrower will take into consideration any lender or Agency comments when the facility is being designed.

(a) All project facilities must be designed utilizing accepted architectural and engineering practices and must conform to applicable Federal, State, and local codes and requirements. The lender must ensure that the planned project will be completed within the available funds and, once completed, will be suitable for the borrower's needs.

(b) The lender will monitor the progress of construction and undertake the reviews and inspections necessary to ensure that construction proceeds in accordance with the approved plans, specifications, and contract documents and that funds are used for eligible project costs. The lender must expeditiously report any problems in project development to the Agency.

(c) For all construction contracts in excess of $10,000, the contractor must comply with Executive Order 11246 entitled ''Equal Employment Opportunity'' as amended by Executive Order 11375, and as supplemented by

applicable Department of Labor regulations (41 CFR part 60). The borrower and lender are responsible for ensuring that the contractor complies with these requirements.

(d) Community Facilities loans which involve the construction of, or addition to, facilities that accommodate the public and commercial facilities as defined by the Americans with Disabilities Act (Pub. L. 101–336) must comply with this Act. The lender and borrower are responsible for compliance.

§ 1980.843 Other Federal, State, and local requirements.

In addition to the specific requirements of this subpart and beginning on the date of issuance of the Loan Note Guarantee, proposals for facilities financed in whole or in part with a loan guaranteed by the Agency will be coordinated with all appropriate Federal, State, and local agencies. Borrowers and lenders will be required to comply with any Federal, State, or local laws or regulatory commission rules which are in existence and which affect the project including, but not limited to:

(a) Organization and authority to design, construct, develop, operate, and maintain the proposed facilities;

(b) Borrowing money, giving security, and raising revenues for repayment;

(c) Land use zoning;

(d) Health, safety, and sanitation standards; and

(e) Protection of the environment and consumer affairs.

§§ 1980.844–1980.846 [Reserved]

§ 1980.847 Economic feasibility requirements.

All projects financed under the provisions of this section must be based on taxes, assessments, revenues, fees, or other sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. Other sources of revenue or guarantors are particularly important in considering the feasibility of recreation-type loans. The lender is responsible for determining the credit quality and economic feasibility of the proposed loan and must address all elements of the credit quality in a written financial feasibility analysis which includes adequacy of equity, cash flow, security, history, and management capabilities. Financial feasibility reports must take into consideration any interest rate adjustment which may be instituted under the terms of the note.

(a) The borrower may prepare the financial feasibility analysis (suggested financial feasibility guidelines are available in any Agency office) in the following instances:

(1) Facilities primarily used for fire and rescue services;

(2) Facilities that are not dependent on facility revenues for debt payment;

(3) Loans of less than $500,000; or

(4) Projects in which the borrower has operated similar facilities on a financially successful basis.

(b) The borrower's consulting engineer may complete the financial feasibility analysis for utility systems.

(c) Financial feasibility reports for all other facilities must be prepared by a qualified entity not having a direct interest in the management of the facility. The lender may prepare the feasibility study if qualified staff is available.

(d) The Agency loan approval official may exempt the lender from the requirement for an independent financial feasibility report (when requested by the borrower and the lender) provided the approval official determines that the financial feasibility analysis prepared by the borrower fairly represents the financial feasibility of the facility and the financial feasibility analysis contains an accurate projection of the usage, revenues, and expenses of the facility.

(e) When the lender or Agency has insufficient information to determine the borrower's repayment ability, an independent feasibility analysis will be required.

§ 1980.848 Security.

(a) The lender is responsible for obtaining and maintaining proper and adequate security to protect the interest of the lender, the holder, and the Government.

(b) Security must be of such a nature that repayment of the loan is reasonably ensured when considered with the integrity and ability of project management, soundness of the project, and the borrower's prospective earnings. The security may include, but is not limited to, the following: General obligation bonds, revenue bonds, pledge of taxes or assessments, assignment of facility revenue, land, easements, rights-of-way, water rights, buildings, machinery, equipment, accounts receivable, contracts, cash, or other accounts or assignments of leases or leasehold interest.

(c) All security must secure the entire loan. The lender will not take separate security to secure only the unguaranteed portion of the loan. The lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan.

(d) For projects utilizing joint financing with the same security to be shared, the Agency guaranteed loan will be secured by at least a parity (equal) lien position.

§§ 1980.849—1980.851 [Reserved]

§ 1980.852 Processing.

(a) *Preapplications.* (1) The preapplication package may be submitted alone or simultaneously with the application. The preapplication package will contain:

(i) An application for Federal assistance (available in any Agency office).

(ii) State intergovernmental or other type review comments and recommendations for the borrower's project (clearinghouse comments, if applicable).

(iii) Supporting documentation necessary to make an eligibility determination such as financial statements, audits, copies of organizational documents, existing debt instruments, etc. The Agency will advise lenders and borrowers on what documents are necessary. Borrowers should not expend significant amounts of money or time developing supporting documentation at the preapplication stage.

(iv) Documentation of lender eligibility in accordance with § 1980.828.

(2) The Agency will review each application for Federal assistance along with other information that is deemed necessary to determine eligibility and whether financing from commercial sources at reasonable rates and terms is available without a guarantee.

(3) If the project appears to be eligible, has sufficient priority, is economically feasible, and loan guarantee authority is expected to be available, the Agency will inform the lender and borrower, in writing, and request a complete application. An environmental review will be necessary, and no major commitment should be made by the lender or borrower that could affect the consideration of alternatives.

(b) *Applications.* Contents of application package.

(1) Application for loan and guarantee (available in any Agency office),

(2) Proposed loan agreement,

(3) Request for environmental information (available in any Agency office),

(4) Preliminary architectural or engineering report,

(5) Cost estimates,

(6) Appraisal reports (as appropriate),

(7) Credit reports,

(8) Financial feasibility analysis and report, and

(9) Any additional information required.

§ 1980.853 3Evaluation of application.

The Agency will evaluate the application and determine whether the borrower is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, sufficient collateral and equity exists, the proposed loan complies with all applicable statutes and regulations, and adequate funds are available. If approved, the Agency will provide the lender and the borrower with the Conditional Commitment for Guarantee, listing all conditions for the guarantee. Applicable requirements will include the following:

(a) Approved use of guaranteed loan funds (source and use of funds),

(b) Rates and terms of the loan,

(c) Scheduling of payments,

(d) Number of customers,

(e) Security and lien priority requirements,

(f) Appraisal requirements,

(g) Insurance and bonding requirements,

(h) Financial reporting requirements,

(i) Equal opportunity and nondiscrimination requirements,

(j) Environment or mitigation requirements,

(k) Americans with Disabilities Act requirements,

(l) By-laws and articles of incorporation change requirements, and

(m) Other requirements necessary to protect the Government.

§§1980.854—1980.858 [Reserved]

§1980.859 Review of requirements.

(a) Immediately after reviewing the Agency's conditions and requirements in the Conditional Commitment for Guarantee, the lender and borrower must complete and sign the Acceptance of Conditions and return a copy to the Agency. Notwithstanding the preceding sentence, if certain conditions cannot be met, the lender and borrower may propose alternate conditions for Agency consideration.

(b) If the lender indicates in the Acceptance of Conditions that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a Conditional Commitment for Guarantee that it no longer wants a guarantee, the lender must immediately advise the Agency.

§§ 1980.860—1980.862 [Reserved]

§ 1980.863 Conditions precedent to issuance of the Loan Note Guarantee.

The Loan Note Guarantee will not be issued until:

(a) The lender certifies that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee except those approved in the interim by the Agency in writing.

(2) All planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. All costs have not exceeded the amounts approved by the lender and the Agency.

(3) Required insurance is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and Fair Housing Plan requirements have been met.

(6) The loan has been properly closed and the required security instruments have been obtained on any after-acquired property that cannot be covered initially under State statutory provisions.

(7) The borrower has marketable title to the collateral then owned by the borrower, subject to the instrument securing the loan to be guaranteed and subject to any other exceptions approved, in writing, by the Agency.

(8) When required, the entire amount of the loan for working capital has been disbursed except in cases where the Agency has approved disbursement over an extended time.

(9) All other requirements of the Conditional Commitment for Guarantee have been met.

(10) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee.

(11) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee and as specified on the application for the guaranteed loan. A copy of a detailed statement by the lender detailing the use of loan funds will be attached to support this certification.

(12) There has been no substantive adverse change in the borrower's financial condition nor any other adverse change in the borrower during the period of time from the Agency's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee. The lender's certification must address all adverse changes of the borrower and the guarantors. For purposes of this paragraph, the term borrower includes any parent, affiliate, or subsidiary of the borrower.

(13) All Federal, State, and local design and construction requirements have been met.

(14) The lender understands and will meet the requirements of chapter 37 of title 31 of the United States Code.

(15) The lender would not make the loan without an Agency guarantee.

(b) The lender has executed and delivered the Lender's Agreement and closing report for the guaranteed loan along with the appropriate guarantee fee.

(c) The lender has advised the Agency of plans to sell or assign any part of the loan as provided in the Lender's Agreement.

(d) The lender agrees that once the Conditional Commitment for Guarantee is issued and accepted by the lender and borrower, it shall not be modified as to the scope of the project, overall facility concept, project purpose, use of proceeds, or terms and conditions. Only minor changes will be considered unless otherwise provided for in this subpart.

(e) Where applicable, the lender must certify that the borrower has obtained:

(1) A legal opinion relative to the title to rights-of-way and easements. Lenders are responsible for ensuring that borrowers have obtained valid, continuous, and adequate rights-of-way and easements needed for the construction, operation, and maintenance of a facility.

(2) A title report showing ownership of the land and all mortgages or other lien defects, restrictions, or encumbrances, if any. It is the responsibility of the lender to ensure that the borrower has obtained and recorded such releases, consents, or subordinations to such property rights from holders of outstanding liens or other instruments as may be necessary for the construction, operation, and maintenance of the facility and to provide the required security. For example, when a site is for major structures for utility-type facilities (such as a reservoir or pumping station) and the lender and borrower are able to obtain only a right-of-way or easement on such a site rather than a fee simple title, such a title report should be requested.

(f) For loans exceeding $150,000, the lender has certified its compliance with Public Law 101–121 (Anti-lobbying Act). Also, if any funds have been, or will be, paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or

employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to guarantee a loan, the lender shall completely disclose such lobbying activities in accordance with 31 U.S.C. 1352.

(g) If the Loan Note Guarantee cannot be issued before the Conditional Commitment expires, the lender must submit a written request for an extension of the expiration date. The lender must document and certify to paragraph (a)(1), (a)(12), and (e) of this section specifically identifying any modifications.

(h) Coincident with, or immediately after, loan closing, the lender will contact the Agency and provide those documents and certifications required in this section. For loans to public bodies, lenders may require an opinion from recognized bond counsel regarding the adequacy of the preparation and issuance of the debt instruments. Only when the Agency is satisfied that all conditions for the guarantee have been met will the Loan Note Guarantee be executed.

§ 1980.864 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.

(a) If the Agency finds that all requirements have been met, the lender and the Agency will execute the Lender's Agreement. The original will be retained by the Agency and a signed duplicate original will be retained by the lender. A Lender's Agreement must be executed for all loans to be guaranteed by the Agency.

(b) *Loan Note Guarantee*. (1) Upon receipt of the executed Lender's Agreement and after all requirements have been met, the Agency will execute the Loan Note Guarantee. All originals of the Loan Note Guarantee will be provided to the lender and attached to the note.

(2) If the lender has selected the multi-note system, a Loan Note Guarantee will be prepared and attached to each note the borrower issues. All the notes will be listed on the Loan Note Guarantee. Not more than ten notes will be issued for the guaranteed portion (unless the Agency and borrower agree otherwise) and one note issued for the unguaranteed portion.

(c) In the event the lender assigns the guaranteed portion of the loan to a holder, the lender, holder, and Agency will execute an Agency prescribed Assignment Guarantee Agreement. The original of the agreement will be provided to the holder with conformed copies to the lender and the Agency. If the lender desires to assign a part of the guaranteed loan to a holder, an Agency prescribed Assignment Guarantee Agreement will be executed for each assigned portion.

(d) If requested by the lender, the Agency will provide a Certificate of Incumbency and signature and title of the Agency official who executes the Agency prescribed Loan Note Guarantee, Lender's Agreement, and Assignment Guarantee Agreement.

(e) If the Agency determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, the lender will have a reasonable period within which to satisfy the objections. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(f) The lender will prepare and deliver a guaranteed loan closing report for each loan to be guaranteed and guarantee fee to the Agency which concurrently will deliver the Loan Note Guarantee.

§ 1980.865 Lender's sale or assignment of guaranteed portion of loan.

The lender may retain all of the guaranteed loan. The lender must not sell or participate any amount of the guaranteed or non-guaranteed portion of the loan to the borrower or to members of the borrower's immediate families, the borrower's officers, directors, stockholders, other owners, or a subsidiary or affiliate. Disposition of the guaranteed portion of a loan may not be made prior to full disbursement, completion of construction, and acquisition without the prior written approval of the Agency. If the lender desires to market all or part of the guaranteed portion of the loan at, or subsequent to, loan closing, such loan must not be in default.

(a) *Assignment*. Any sale or assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in the Lender's Agreement. Should the lender know at the time the loan application is prepared that it plans to sell or assign any part of the guaranteed portion, the lender will provide this information with the application.

(b) *Participation*. The lender may obtain participation in the loan under its normal operating procedures.

(c) *Minimum retention*. The lender is required to hold in its own portfolio or retain a minimum of 5 percent of the total guaranteed loan amount. This amount must be of the non-guaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the non-guaranteed portion of the loan only through participation.

§§ 1980.866—1980.868 [Reserved]

§ 1980.869 Loan servicing.

(a) The lender is responsible for servicing the entire loan in accordance with the lender's loan agreement. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan. The lender is responsible for taking all servicing actions that a prudent lender would perform in servicing their portfolio of loans that are not guaranteed. This responsibility includes, but is not limited to, the collection of payments; obtaining compliance with the covenants and provisions in the note, loan agreement, security instrument, or any supplemental agreements; obtaining and analyzing financial statements; verifying the payment of taxes and insurance premiums; and maintaining liens on collateral. The lender will notify the Agency of any violations of the loan agreement with the borrower.

(b) The lender will require, at a minimum, annual audited financial statements which will be reviewed by the lender and a copy forwarded to the Agency with a summary evaluation by the lender. The lender will service delinquent loans in accordance with the lender's agreement The Agency may waive the audit requirement for financial statements for borrowers with gross annual income of less than $500,000.

(c) The lender must report the outstanding principal and interest balance on each guaranteed loan semi-annually.

(d) The lender will inspect the collateral as often as necessary to properly service the loan.

§§ 1980.870–1980.872 [Reserved]

§ 1980.873 Replacement of loss, theft, destruction, mutilation, or defacement of Loan Note Guarantee or Assignment Guarantee Agreement.

(a) The Agency may issue a replacement Loan Note Guarantee or Assignment Guarantee Agreement which may have been lost, stolen, destroyed, mutilated, or defaced to the lender or holder upon receipt of an acceptable certificate of loss and an indemnity bond.

(b) When a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the Agency for processing. The

requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of either the lender or the holder who is requesting the replacement forms,

(ii) Legal name and address of the lender of record,

(iii) Capacity of person certifying,

(iv) Full identification of the Loan Note Guarantee or Assignment Guarantee agreement including the name of the borrower, Agency case number, date of the Loan Note Guarantee, Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan, percentages of guarantee and, if Assignment Guarantee Agreement, the original named holder and the percentage of the guaranteed portion of the loan assigned to that holder. Any existing parts of the document to be replaced must be attached to the certificate,

(v) A full statement of circumstances of the loss, theft, or destruction of the Loan Note Guarantee or Assignment Guarantee Agreement, and

(vi) The holder shall present evidence demonstrating current ownership of the Loan Note Guarantee and Note or Assignment Guarantee Agreement. If the present holder is not the same as the original holder, a copy of the endorsement of each successive holder in the chain of transfer from the initial holder to present holder must be included. If copies of the endorsement cannot be obtained, best available records of transfer must be presented to the Agency (*e.g.*, order confirmation, canceled checks, etc.).

(2) An indemnity bond acceptable to the Agency shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government corporation, a State or Territory, or the District of Columbia.

(3) All indemnity bonds must be issued and payable to the United States of America. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall hold the Government harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

§ 1980.874 [Reserved]

§ 1980.875 Defaults by borrower.

(a) The lender must notify the Agency when a borrower is 30 days past due on a payment, has not met its responsibilities of providing the required financial statements, or is otherwise in default. The lender will continue to keep the Agency informed on a bimonthly basis until such time as the loan is no longer in default. If a monetary default exceeds 60 days, the lender will arrange a meeting with the borrower to resolve the default. The lender must advise the Agency of the meeting in the event an Agency representative wishes to attend. The lender will provide a summary of the meeting and any decisions or actions agreed upon.

(b) In considering servicing options, the prospects for providing a permanent cure without adversely affecting the risks to the Agency and the lender must be the paramount objective. Temporary curative actions (such as payment deferments or collateral subordination) must strengthen the loan and be in the best financial interest of the lender and the Agency. Some of these actions may require concurrence of the holder.

(c) If the loan was closed with the multi-note option, the lender may need to possess all notes to take some servicing actions. In those situations when the Agency is holder of some of the notes, the Agency may endorse the notes back to the lender, provided a proper receipt is received from the lender which defines the reason for the transfer. Under no circumstances will the Agency endorse the original Loan Note Guarantee to the lender.

§§ 1980.876–1980.877 [Reserved]

§ 1980.878 Repurchase of loan.

(a) The lender has the option to repurchase the loan from a holder within 30 days of written demand from the holder when the borrower is in default not less than 60 days on principal or interest. The repurchase will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest less the lender's servicing fee. The guarantee does not cover the note interest to the holder on the guaranteed loan accruing after 90 days from the date of the demand letter to the lender. The holder will concurrently send a copy of the demand to the Agency. The lender will accept an assignment without recourse from the holder upon repurchase. The lender is encouraged to repurchase the loan to facilitate the accounting of funds, resolve the problem, and permit the borrower to cure the default, where reasonable. The lender will notify the holder and the Agency of their decision within 30 days of receipt of demand from the holder.

(b) *Agency repurchase.* (1) If the lender does not repurchase as provided in paragraph (a) of this section, the Agency will purchase from the holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase (less the lender's servicing fee) within 30 days after written demand to the Agency. The guarantee will not cover the note interest to the holder on the guaranteed loan accruing after 90 days from the date of the original demand letter. The lender shall not charge the Agency any servicing fees nor are any such fees collectible from the Agency.

(2) The holder's demand to the Agency must include a copy of the written demand made upon the lender. The holder or duly authorized agent must also include evidence of the right to require payment from the Agency. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to the Agency or the original of the Assignment Guarantee Agreement properly assigned to the Agency without recourse including all rights, title, and interest in the loan. The Agency will be subrogated to all rights of the holder. The holder must include in the demand the amount due including unpaid principal, unpaid interest to date of demand, and interest subsequently accruing from the date of demand to the proposed payment date. Unless otherwise agreed to by the Agency, such proposed payment will not be later than 30 days from the date of demand.

(3) The lender must promptly provide the Agency with the information necessary for the Agency's determination of the appropriate amount due the holder upon the Agency's notification to the lender of the holder's demand for payment. This information must be certified by an authorized officer of the lender. Any discrepancy between the amount claimed by the holder and the information submitted by the lender must be resolved before payment will be approved. The Agency will notify both parties and such conflict will suspend the running of the 30-day payment requirement.

(4) Any purchase by the Agency does not change, alter, or modify any of the lender's obligations to the Agency arising from the loan or guarantee nor does it waive any of the Agency's rights against the lender. The Agency may set off against the lender all rights inuring to the Agency as the holder of the instrument against the Agency's obligation to the lender under the Loan Note Guarantee.

(c) When the lender determines that repurchase of the guaranteed portion of the loan is necessary to service the loan, the holder must sell the guaranteed portion to the lender for the unpaid principal and interest balance (less the lender's servicing fee). The guarantee does not cover interest accruing after 90 days from the date the lender's or Agency's letter requesting the holder to tender its guaranteed portion. The lender must not repurchase from the holder for arbitrage purposes to further its own financial gain. Any repurchase must be made only after the lender obtains the Agency written approval. If the lender does not repurchase the portion from the holder, the Agency may, at its option, purchase such guaranteed portion for servicing purposes.

§ 1980.879 Transfer of lender after issuance of Loan Note Guarantee.

Subsequent to issuance of the Loan Note Guarantee, the Agency may, under extraordinary circumstances, approve the transfer of an outstanding Loan Note Guarantee from the present lender to another eligible lender, provided the new lender agrees to assume all original loan requirements including liabilities, servicing responsibilities, and acquiring legal title to the unguaranteed portion of the loan.

§1980.880 Interest rate changes after loan closing.

(a) The borrower, lender, and holder (if any) may collectively effect a permanent reduction in the interest rate on the guaranteed loan at any time during the life of the loan on written agreement by these parties. After such a permanent reduction, the Loan Note Guarantee will only cover losses in interest at the reduced interest rate. The Agency must be notified by the lender, in writing, within 10 calendar days of the change. When the Agency is a holder, it will concur only when it is demonstrated that the change is more viable than liquidation and that the Government's financial interests are not adversely affected. Factors which will be considered in making such determination are the Government's cost of borrowing money and the project's enhancement of rural development. The monetary recovery must be greater than the liquidation recovery, and a financial feasibility analysis must show the project's continued viability.

(1) Fixed rates cannot be changed to variable rates to reduce the interest rate to the borrower unless the variable rate has a ceiling which is less than the original fixed rate.

(2) Variable rates can be changed to a lower fixed rate. In a final loss settlement when qualifying rate changes are made with the required written agreements and notification, the interest will be calculated for the periods the given rates were in effect. The lender must maintain records which adequately document the accrued interest claimed.

(3) The lender is responsible for the legal documentation of interest rate changes. However, the lender may not issue a new note.

(b) No increases in interest rates will be permitted under the loan guarantee except the normal fluctuations in approved variable interest rate loans.

§1980.881 Liquidation.

Liquidation will occur when the lender concludes that liquidation of the guaranteed loan is necessary because of one or more defaults or third party actions that the borrower cannot, or will not, cure or eliminate within a reasonable period of time and the Agency concurs with the lender; or the Agency, at any time, independently concludes that liquidation is necessary. The lender, or the Agency (if it liquidates) will proceed as expeditiously as possible, including giving any notices or taking any legal actions required by the security instruments.

(a) If a lender has made a loan guaranteed by the Agency under regulations in this subpart in effect prior to [the effective date of the final rule] [1], the lender has the option to liquidate the loan under the provisions of this subpart in effect on [the effective date of the final rule] or under the provisions in effect previous to that date. The lender will notify the Agency in writing within 10 days after its decision to liquidate, which regulatory provisions they choose to use. The lender may not choose some provisions in effect on one date and other provisions in effect on another date.

(b) If a lender acquires title to property, the Agency may elect to permit the lender the option of calculating the final loss settlement using the net proceeds received at the time of the ultimate disposition of such property. The lender must submit a written request within 15 days of acquiring title for this option to the Agency, and the Agency must agree, in writing, prior to the lender submitting any request for estimated loss payment.

(c) The lender will (within 30 days after a decision to liquidate) submit to the Agency, in writing, a proposed, detailed liquidation plan. Upon approval by the Agency of the liquidation plan, the lender will commence liquidation. When the Agency liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral. The lender's liquidation plan must include, but is not limited to, the following:

(1) Such proof as the Agency requires to establish the lender's ownership of the guaranteed loan notes and related security instruments, a copy of the payment ledger or other documentation which reflects the outstanding loan balance and accrued interest to date, and the method of computing the interest;

(2) A complete list of all collateral;

(3) The recommended liquidation methods for making the maximum collection possible on the indebtedness and the justification for such methods, including the recommended action for acquiring and disposing of all collateral;

(4) Necessary steps for preservation of the collateral;

(5) Copies of the borrower's latest available financial statements;

(6) An itemized list of estimated liquidation expenses expected to be incurred and justification for each expense;

(7) A schedule to periodically report to the Agency on the progress of the liquidation;

(8) Estimated protective advance amounts with justification;

(9) Proposed protective bid amounts on collateral to be sold at auction and a breakdown on how the amounts were determined;

(10) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt;

(11) Legal opinions, as needed; and

(12) If the outstanding balance of principal and interest is less than $200,000, the lender will obtain an estimate of fair market and potential liquidation value of the collateral. If the outstanding balance of principal and interest is $200,000 or more, the lender will obtain an independent appraisal report on all collateral securing the loan which will reflect the fair market value and potential liquidation value. The independent appraiser's fee will be shared equally by the Agency and the lender.

(d) If actions are necessary to immediately preserve and protect the collateral, a partial liquidation plan may be submitted and when approved, must

[1] See 7 CFR part 180, subpart I, contained in the 7 CFR, parts 1950 to 1999, edition revised as of January 1, 1997 and amended at [Federal Register cites and dates to be inserted in final rule].

be followed by a complete liquidation plan prepared by the lender.

(e) Disposition of collateral acquired by the lender must be approved by the Agency.

(1) There may be instances when the lender acquires the collateral of a borrower where the cost of liquidation exceeds the potential recovery value of the security. Whenever this occurs, the lender, with the concurrence of the National Office, may abandon the collateral in lieu of liquidation.

(2) Sale of acquired collateral to the borrower, borrower's stockholders or officers, or the lender or lender's stockholders or officers requires the written concurrence of the Agency.

(f) The Agency will exercise the option to liquidate only when there is reason to believe the lender is not likely to initiate liquidation efforts that will result in maximum recovery. When the Agency liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral.

(g) Final loss payments will be made within the 60 days required but only after all collateral has been properly accounted for and liquidation expenses are determined to be reasonable and within approved limits. Any estimated loss payments made to the lender will be credited against the final loss on the guaranteed loan. The amount of an estimated loss payment must be credited as a deduction from the principal balance of the loan.

§1980.882 [Reserved]

§1980.883 Protective advances.

Protective advances constitute an indebtedness of the borrower to the lender and must be secured by collateral to the same extent as principal and interest. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent hazard, or flood insurance premiums affecting the collateral (including any other expenses necessary to protect the collateral). Attorney fees are not a protective advance.

(a) The Agency must approve, in writing, all protective advances on loans within their loan approval authority which exceed a total cumulative advance amount of $500 to the same borrower. Protective advances must be reasonable when associated with the value of the collateral being preserved.

(b) When considering protective advances, sound judgment must be exercised in determining that the additional funds advanced will actually preserve collateral interests and recovery is actually enhanced by making the advance.

§1980.884 Additional loans or advances.

The lender will not make additional expenditures or new loans to the borrower without first obtaining the written approval of the Agency even though such expenditures or loans will not be guaranteed.

§1980.885 Bankruptcy.

(a) An Agency Report of Loss form will be used for calculating estimated and final loss determinations.

(b) Lender's are responsible to protect the guaranteed loan debt and all the collateral securing it in bankruptcy proceedings. These responsibilities include, but are not limited to, the following:

(1) Filing a proof of claim, where necessary, and all necessary papers and pleadings,

(2) Attending and, where necessary, participating in meetings of the creditors and all court proceedings,

(3) Immediately seeking adequate protection of the collateral if its collateral is subject to being used by the trustee in bankruptcy or the debtor in possession.

(4) Where appropriate, seeking involuntary conversion of a pending Chapter 11 case to a liquidation proceeding or seeking dismissal of the proceedings, and

(5) Keeping the Agency adequately and regularly informed, in writing, of all aspects of the proceedings.

(c) In a Chapter 9 or Chapter 11 reorganization, obtaining an independent appraisal of the collateral if the Agency believes an independent appraisal is necessary, the Agency and the lender will share the appraisal fee equally.

(d) Only expenses of Chapter 11 reorganizations, or Chapter 11 or Chapter 7 liquidations (unless the liquidation is by the lender) authorized by the court may be deducted from the collateral proceeds.

(e) The Agency or the lender, with the approval of the Agency, may initiate the repurchase of the unpaid guaranteed portion of the loan from the holder. If the lender is the holder, an estimated loss payment may be filed at the initiation of a Chapter 7 proceeding or after a Chapter 11 proceeding becomes a liquidation proceeding. On loans in bankruptcy, any loss payment must be approved by the Agency.

(f) The Agency must approve, in advance and in writing, the lender's estimated liquidation expenses of collateral in liquidation bankruptcy. These expenses must be reasonable and customary and not include in-house expenses of the lender.

§§ 1980.886–1980.887 [Reserved]

§ 1980.888 Transfers and assumptions.

(a) The Agency will approve in writing transfers and assumptions of loans to transferees who will continue the original purpose of the guaranteed loan.

(1) When the transaction is to a member of the borrower's organization, it will be at a price which will not result in a loss to the lender.

(2) Transfers to eligible borrowers will receive preference over transfers to ineligible borrowers if recovery to the lender from the sale price is not less than it would be if the transfer was to an ineligible borrower.

(3) The present borrower is unable or unwilling to accomplish the objectives of the guaranteed loan, and the transfer will be to the lender's and Agency's advantage.

(4) The transferee will assume an amount at least equal to either the present market value or the debt, whichever is less. The percentage of the Agency's guarantee will be based on the amount assumed.

(5) The lender concurs in the plans for disposition of funds in the transferor's debt service, reserve, and operation and maintenance account.

(b) Transfers to eligible borrower.

(1) The total indebtedness may be transferred to an eligible borrower on the same terms.

(2) The total indebtedness may be transferred to another eligible borrower on different terms not to exceed those terms for which an initial guaranteed loan can be made.

(3) Less than the total indebtedness may be transferred to another eligible borrower on the same or different terms.

(4) A guaranteed loan for which the transferee is eligible may be made in connection with a transfer subject to the policies and procedures governing the kind of loan being made.

(5) If the transferor is to receive a payment for the equity, the total debt must be assumed.

(c) Transfers to ineligible borrowers are considered only when needed as a method for servicing problem cases when an eligible transferee is not available. Transfers should not be considered as a means by which members can obtain equity or as a method of providing a source of easy credit for purchasers. Transfers are as follows:

(1) All transfers to ineligible borrowers will include a one-time nonrefundable transfer fee. Transfer fees will be collected, and payments applied, in accordance with paragraph (d) of this section.

(2) For all loans covered by this subpart, the Agency may approve a transfer of indebtedness to, and assumption of, a loan by a transferee who does not meet the eligibility requirements for the kind of loan being assumed when the ineligible borrower will:

(i) Make a significant downpayment, and

(ii) Agree to pay the remaining balance within not more than 15 years. Installments will be at least equal to the amount amortized over a period not greater than the remaining life of the debt being transferred, and the balance will be due the fifteenth year.

(3) Interest rates to ineligible transferees will be the rate specified in the note of the transferor or the rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to Agency review and approval. The rates may be either fixed or variable.

(i) Transferees must have the ability to repay the debt according to the Assumption Agreement and must have the legal authority to enter into the contract. The transferee will submit a current balance sheet. The lender will obtain and analyze the credit history of the transferee. In all transfers, consideration will be given to obtaining individual liability agreements from members of the transferee organization.

(ii) The transferor may receive equity payments when the full amount of the debt is assumed. However, equity payments will not be made on more favorable terms than those on which the balance of the debt will be paid.

(d) Transfer fees are a one-time nonrefundable cost to be collected by the lender at the time of application or proposal.

(1) The transfer fees will be a standard fee plus the cost of the appraisal.

(2) The lender will collect and submit the fee to the Agency.

(3) The Agency's National Office may waive the transfer fee if it determines that such waiver is in the best interest of the Agency.

(e) *Processing transfers and assumptions.* (1) In any transfer and assumption case, the transferor (including any guarantors) may be released from liability by the lender only with prior Agency written concurrence and only when the value of the collateral being transferred is at least equal to the amount of the loan, or part of the loan, being assumed. If the transfer is for less than the entire debt:

(i) The Agency must determine that the transferor and any guarantors have no reasonable debt-paying ability considering their assets and income at the time of transfer, and

(ii) The lender must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this subpart to the best of the borrower's ability.

(2) The lender will make, in all cases, a complete credit analysis to determine viability of the project (subject to the Agency review and approval) including any requirement for deposits in an escrow account as security to meet the determined equity requirements for the project.

(3) The lender will issue a statement that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded as appropriate and legally permissible.

(4) The assumption will be made on the lender's form of Assumption Agreement and will contain the Agency case number of the transferor and transferee.

(5) Loan terms cannot be changed by the Assumption Agreement unless previously approved in writing by the Agency with the concurrence of any holder and the transferor (including guarantors) if they have not been released from personal liability. Any new loan terms cannot exceed those authorized in this subpart. The lender's request will be supported by:

(i) An explanation of the reasons for the proposed change in the loan terms.

(ii) Certification that the lien position securing the guaranteed loan will be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(6) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfers and assumptions will be noted on all originals of the Loan Note Guarantee. The lender will provide the Agency a copy of the Transfer and Assumption Agreement.

(7) If a loss should occur upon a complete transfer of assets and assumption for less than the full amount of the debt and the transferor-debtor (including personal guarantor) is released from personal liability (as provided in paragraph (e) of this section), the lender (if holding the guaranteed portion) may file an estimated Report of Loss to recover their pro rata share of the actual loss at that time. Approved protective advances and accrued interest made during the arrangement of a transfer and assumption, if not assumed by the transferee, will be entered on the estimated Report of Loss.

§ 1980.889 Mergers.

(a) The Agency may approve mergers or consolidations (referred to in this section as ''mergers'') when the resulting organization will be eligible for an Agency guaranteed loan and assumes all the liabilities and acquires all the assets of the merged borrower. Mergers may be approved when:

(1) The merger is in the best interest of the Government and the merging borrower.

(2) The resulting borrower can meet all required conditions as set forth in specific loan note agreements.

(3) All property can be legally transferred to the resulting borrower.

(b) Distinguishing mergers from transfers and assumptions. Mergers occur when one corporation combines with another corporation in such a way that the first corporation ceases to exist as a separate entity while the other continues. In a consolidation, two or more corporations combine to form a new, consolidated corporation with the original corporations ceasing to exist. Such transactions must be distinguished from transfers and assumptions in which a transferor will not necessarily go out of existence, and the transferee will not always take all the transferor's assets, nor assume all the transferor's liabilities.

§ 1980.890 Disposition of acquired property.

(a) When the lender acquires title to the collateral and the final loss claim is not paid until final disposition, the lender must proceed as quickly as possible to develop a plan to fully protect the collateral and the lender must dispose of the collateral without delay.

(b) Any collateral accepted by the lender must not be titled in the Agency's name in whole or in part. The Agency's position is that of a guarantor, relating to losses.

(c) After acquiring the collateral the lender must protect the collateral from deterioration (weather, vandalism, etc.). Hazard insurance in an amount necessary to cover the fair market value of the collateral must be maintained.

(d) The lender will prepare and submit to the Agency a plan on the best method of sale, keeping in mind any prospective purchasers. Concurrence or non-concurrence of the plan will be made in writing to the lender. If an existing liquidation plan addressed the disposition of acquired property, no further review is required unless modification of the plan is needed.

(e) Methods of liquidation.

(1) Direct sale by lender.

(2) Use of commercial broker.

(3) Public auction.

(f) *Abandonment of the collateral.* (1) The primary purpose of collateral is to afford a net return on the loan balance. However, there will be times when converting the collateral to cash would result in a loss.

(2) Anytime there is a case when the conversion of collateral to cash can reasonably be expected to result in a negative net recovery amount, abandonment of the collateral should be considered.

§§ 1980.891–1980.893 [Reserved]

§ 1980.894 Determination and payment of loss.

In all liquidation cases, final settlement will be made with the lender after the collateral is liquidated. The Agency will have the right to recover losses paid under the guarantee from any party liable.

(a) If the lender takes title to collateral any loss will be based on the collateral value at the time the lender obtains title.

(b) The Report of Loss form will be used for calculations of all estimated and final loss determinations. Estimated loss payments may only be approved after the lender has submitted a liquidation plan approved by the Agency.

(c) When the lender is conducting the liquidation and owns any of the guaranteed portion of the loan, it may request an estimated loss payment by submitting an estimate of loss that will occur in connection with liquidation of the loan. An estimated loss payment may be approved after the Agency has approved the liquidation plan.

(1) The estimate will be prepared and submitted by the lender on the Report of Loss form using the basic formula as provided on the report except that appraisal value will be used in lieu of amount received from sale of collateral.

(2) The estimated loss payment shall be applied as of the date of such payment. The total amount of the loss payment remitted by the Agency will be applied by the lender on the guaranteed portion of the loan debt. Such application does not release the borrower from liability. At the time of final loss settlement, the lender may notify the borrower that the loss payment has been so applied.

(3) After liquidation has been completed, a final Report of Loss will be submitted by the lender to the Agency.

(d) In all cases, a final Report of Loss must be submitted to the Agency. Before Agency approval of any final loss report, the lender must account for all funds obtained, disposition of the collateral, all costs incurred, and any other information necessary for the successful completion of liquidation. Upon receipt of the final accounting and Report of Loss, the Agency may audit, and will determine the final loss. The lender will make its records available to, and otherwise assist, the Agency in making any audit it requires of the Report of Loss. The documentation accompanying the Report of Loss must support the loss claimed.

(1) The lender must document and show that all of the collateral has been accounted for and properly liquidated and that liquidation proceeds have been properly accounted for and applied correctly on the loan. The Agency must be satisfied that the lender has accomplished this in the manner set out in this subpart and that the lender has maximized the collections in conducting the liquidation.

(2) The lender must show a breakdown on any protective advance amount as to the payee, purpose of the expenditure, date paid, evidence that the amount expended was proper, and that the amount was actually paid.

(3) The lender must show a breakdown of liquidation expenses as to the payee, purpose of the expenditure, date paid, evidence that the amount expended was proper, and that the amount was actually paid.

(4) Accrued interest should be supported by attachments showing how the amount was accrued by the lender. A copy of the promissory note and ledger will be attached. If the interest rate was a variable rate, the lender must include documentation of changes in the selected base rate and when the changes in the loan rate became effective.

(e) Any net rental or other income that has been received by the lender from the collateral will be applied on the guaranteed loan debt.

(f) Certain reasonable liquidation costs will be allowed during the liquidation process. The liquidation costs will be submitted as a part of the liquidation plan. Such costs will be deducted from gross proceeds received from the disposition of collateral unless the costs have been previously determined by the lender (with Agency concurrence) to be protective advances. If changed circumstances after submission of the liquidation plan require a revision of liquidation costs, the lender will procure the Agency's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the lender will be allowed. In-house expenses include, but are not limited to, employees' salaries, staff lawyers, travel, and overhead.

(g) In those instances where the lender made authorized protective advances, the lender may claim recovery for the guaranteed portion of any loss of monies advanced as well as interest resulting from such protective advances. These claims shall be included in the final Report of Loss.

(h) After the final Report of Loss has been tentatively approved:

(1) If the actual loss is greater than any estimated loss payment, such loss will be paid by the Agency.

(2) If the Agency conducted the liquidation, it will provide an accounting to the lender and will pay the lender in accordance with the Loan Note Guarantee.

(i) The amount payable by the Agency to the lender cannot exceed the limits contained in the Loan Note Guarantee. If the Agency conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date the Agency accepts this responsibility. When the liquidation is conducted by the lender, loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement provided the lender proceeds expeditiously with the liquidation plan approved by the Agency.

§ 1980.895 Future recovery.

After a loan has been liquidated and a final loss has been paid by the Agency, any future funds which may be recovered by the lender will be pro-rated between the Agency and the lender in accordance with the guaranteed percentage even if the Loan Note Guarantee has been terminated.

§1980.896 Termination of Loan Note Guarantee.

The Loan Note Guarantee under this subpart will terminate automatically:

(a) Upon full payment of the guaranteed loan; or

(b) Upon full payment of any loss obligation or negotiated loss settlement except for future recovery provisions; or

(c) Upon written request from the lender to the Agency, provided that the lender holds all of the guaranteed portion and the original Loan Note Guarantee is returned to the Agency.

§§ 1980.897–1980.900 [Reserved]

Dated: September 24, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–26363 Filed 10–6–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–61–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–23, PA–30, PA–31, PA–34, and PA–42 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document makes a correction to a proposed Airworthiness Directive (AD); notice of proposed rulemaking (NPRM); Docket No. 97–CE–61–AD, which was published in the **Federal Register** on September 16, 1997 (62 FR 48546), and is applicable to The New Piper Aircraft, Inc. (Piper) PA–23, PA–30, PA–31, PA–34, and PA–42 series airplanes. This NPRM incorrectly shows the proposed applicability in Section 39.13 of the proposed AD as Raytheon Aircraft Company (Raytheon) Models E55, E55A, 58, 58A, 58P, 58PA, 58TC, 58TCA airplanes and 60, 65–B80, 65–B90, 90, F90, 100, 300, and B300 series airplanes. The NPRM currently proposes airplane flight manual (AFM) limitations for recognizing and exiting severe icing conditions. This action corrects the applicability in Section 39.13 of Docket No. 97–CE–61–AD.

DATES: Comments must be received on or before October 14, 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–61–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.

This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106, telephone (816) 426–6932, facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

On September 9, 1997, the FAA issued NPRM, Docket 97–CE–61–AD, (62 FR 48546, September 16, 1997), which applies to Piper Models PA–23, PA–23–160, PA–23–235, PA–23–250, PA–E23–250, PA–30, PA–39, PA–40, PA–31, PA–31–300, PA–31–325, PA–31–350, PA–34–200, PA–34–200T, PA–34–220T, PA–42, PA–42–720, and PA–42–1000 airplanes. This NPRM incorrectly references the applicability in Section 39.13 of the proposed AD as Raytheon Models E55, E55A, 58, 58A, 58P, 58PA, 58TC, 58TCA airplanes and 60, 65–B80, 65–B90, 90, F90, 100, 300, and B300 series airplanes.

Need for the Correction

This NPRM Docket No. 97–CE–61–AD, currently has the wrong applicability in Section 39.13 of the proposed AD. If the applicability is not changed, owners/operators of Piper and Raytheon model airplanes will not know which airplanes are effected by the NPRM.

Correction of Publication

Accordingly, the publication of September 16, 1997 (62 FR 48546), which was the subject of FR Doc. 97–24493, is corrected as follows: On page 48548, in the third column, starting on the 30th line in Section 39.13, correct:

''**Raytheon Aircraft Company:** Docket No. 97–CE–61–AD.

Applicability: Models E55, E55A, 58, 58A, 58P, 58PA, 58TC, 58TCA Airplanes and 60, 65–B80, 65–B90, 90, F90, 100, 300, and B300 Series Airplanes, certificated in any category.'' to read:

''**The New Piper Aircraft, Inc.:** Docket No. 97–CE–61–AD.

Applicability: Models PA–23, PA–23–160, PA–23–235, PA–23–250, PA–E23–250, PA–30, PA–39, PA–40, PA–31, PA–31–300, PA–31–325, PA–31–350, PA–34–200, PA–34–200T, PA–34–220T, PA–42, PA–42–720, and PA–42–1000 airplanes, certificated in any category.

Issued in Kansas City, Missouri on October 1, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–26526 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1309, 1310

[DEA Number 163P]

RIN 1117–AA44

Implementation of the Comprehensive Methamphetamine Control Act of 1996; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products and Reports of Certain Transactions to Nonregulated Persons

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Proposed rule.

SUMMARY: DEA is proposing amending its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) with respect to the regulation of pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals and the reporting of certain transactions involving pseudoephedrine, phenylpropanolamine, and ephedrine.

The MCA removed the previous exemption from regulation as List I chemicals which had applied to pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products.

This action makes persons who distribute the products subject to the registration requirement. Also, distributions, importations, and exportations of the products became subject to the existing chemical controls relating to regulated transactions, except in certain circumstances specified in the MCA. The MCA also requires that reports be submitted for certain distributions involving ephedrine, pseudoephedrine, and phenylpropanolamine (including drug products containing those chemicals) by Postal Service or private or commercial carrier to nonregulated persons. This proposed rule amends the regulations to make them consistent with the language of the MCA and to establish the specific procedures to be followed to satisfy the new reporting requirement.

DATES: Written comments or objections should be submitted by no later than December 8, 1997.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Introduction

The Chemical Diversion and Trafficking Act of 1988 (CDTA) provided the framework for DEA's programs to control the diversion of the chemicals that are used in the illegal manufacture of controlled substances. The chemical control activities under the CDTA focused primarily on two areas: (1) the export of certain chemicals, mainly solvents, that are used in the illegal manufacture of cocaine and heroin, and (2) the domestic distribution of certain chemicals, principally precursors, that are used in the illegal manufacture of other dangerous drugs, such as methamphetamine, LSD, PCP, etc.

While the controls under the CDTA were successful in denying the cocaine traffickers access to U.S. sources of chemicals, a loophole was exploited by the methamphetamine traffickers. The CDTA contained a provision that ''. . .any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act. . .'' was not subject to the controls of the CDTA. Thus, while the traffickers found their access to supplies of bulk ephedrine, pseudoephedrine, and other chemicals restricted by the new chemical controls, they were able to circumvent the controls and obtain the necessary source material for manufacturing methamphetamine through the purchase of ephedrine in drug product form, which remained exempt from the chemical controls.

Since passage of the CDTA, the principal focus of Federal and State legislative/regulatory activities with respect to domestic chemical control has been on closing the ''drug product'' loophole that clandestine methamphetamine manufacturers and traffickers have exploited.

As noted earlier, with the establishment of controls over transactions involving bulk pseudoephedrine, ephedrine, and other chemicals, the methamphetamine traffickers turned to single-entity ephedrine drug products for their source material. In the years following the implementation of the CDTA, ephedrine, in drug product form, became the principal source of methamphetamine precursor material. By 1993, domestic clandestine laboratory seizure data showed that 79 percent of the laboratories seized were using ephedrine. During the same period, the use of phenyl-2-propanone (P2P), also a popular source material in early laboratories, declined from a high of 31 percent in 1990 to 16 percent in 1993, and the use of pseudoephedrine as a precursor was virtually non-existent.

The primary source of supply of ephedrine for the traffickers was from mail order and wholesale distributions of single-entity ephedrine tablets. One manufacturer of a popular brand of single-entity ephedrine drug products indicated in interviews with DEA personnel that from January 1991 through September 1992, the company purchased 35 metric tons of ephedrine for the manufacture of its drug products. The company reported that it was producing 40 million 25mg ephedrine tablets per ton of ephedrine. Based on that figure, the company could manufacture 1.4 billion 25mg ephedrine tablets from the 35 tons of ephedrine purchased between the beginning of 1991 and September 1992. During the same period, a rival company purchased 27.5 metric tons of ephedrine, also for the manufacture of ephedrine tablets. The enormous volume of product and the lack of controls over its distribution provided the traffickers with a convenient source of supply.

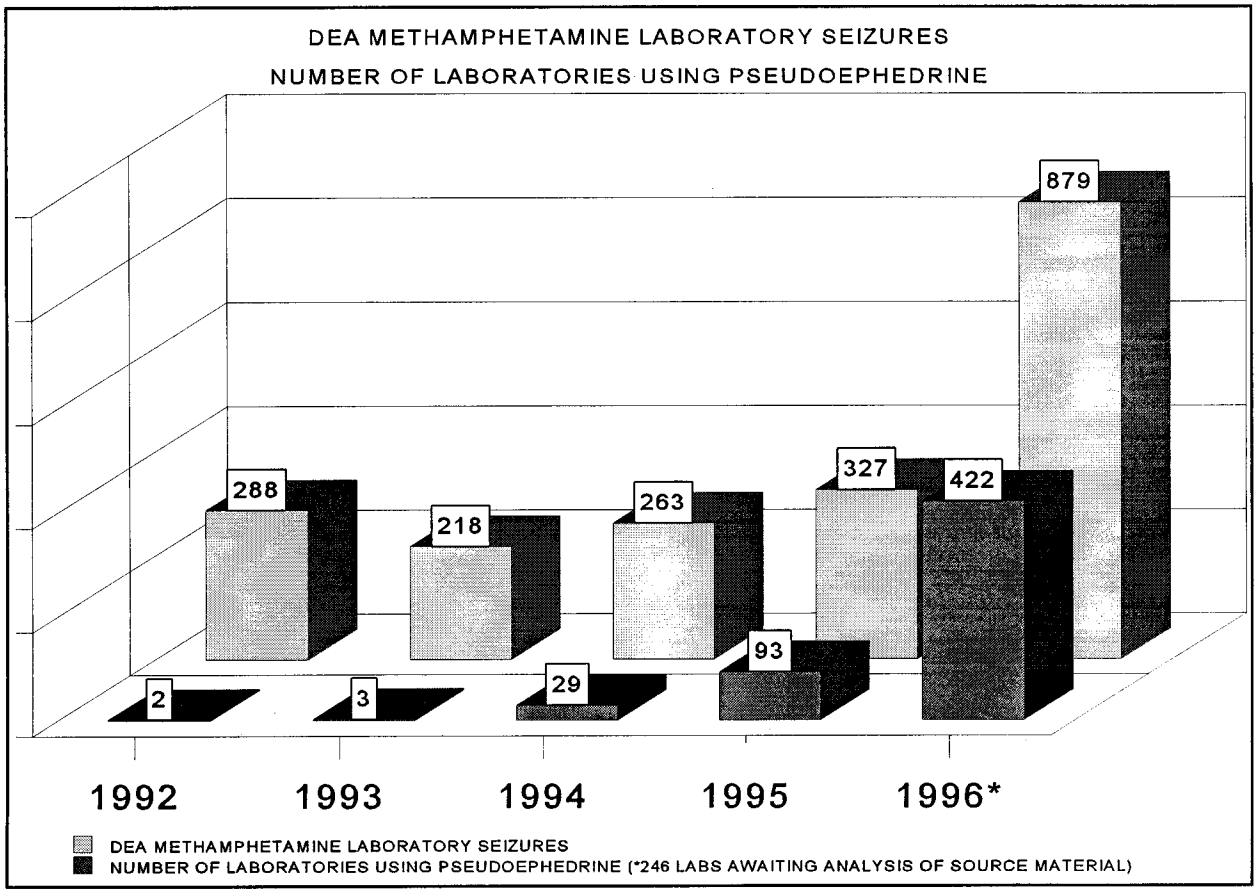
DEA's initial domestic chemical control efforts focused on stemming the flow of material from the wholesale/mail order industry to the traffickers. While some investigations ultimately resulted in conviction of some of the more eregious violators of the law, DEA and State efforts were hampered by the exemption from regulation granted to the drug products, the lack of other controls under the CDTA, such as registration, and the increasing knowledge of the traffickers and their suppliers in how to shelter themselves from the criminal sanctions of the CDTA.

The Domestic Chemical Diversion Control Act of 1993 (DCDCA) was enacted, in part, to address these shortcomings in the CDTA. Two major elements in the DCDCA were the removal of the exemption from List I controls for single-entity ephedrine drug products and establishment of the registration requirement for distributors, importers, and exporters of List I chemicals. The DCDCA did establish control of the diversion of single-entity ephedrine drug products to clandestine laboratories (combination ephedrine products remained exempt); however, the traffickers switched to pseudoephedrine drug products, which remained exempt from chemical controls and are directly interchangeable with ephedrine drug products in the manufacture of methamphetamine. Companies that had previously been identified as distributors of large volumes of single-entity ephedrine drug products became distributors of large volumes of pseudoephedrine drug products, which has become the primary source material of choice in clandestine laboratories.

In 1993, the year the DCDCA was passed, ephedrine was identified as the source material in 79 percent of the methamphetamine laboratories seized and pseudoephedrine was identified as the source material in less than 2 percent of the seized laboratories. As is shown in the following chart, both the number of clandestine laboratories seized and number of laboratories using pseudoephedrine increased significantly between 1993 and 1996. In 1996, DEA seized 879 methamphetamine laboratories, of which 422 were positively identified as using pseudoephedrine. Of the remainder, there are 246 laboratories for which analysis of the source material has not yet been received, however it is anticipated that most, if not all, were using pseudoephedrine. In all of the identified cases, pseudoephedrine drug products were the source material.

For 1997, 392 clandestine methamphetamine laboratories have been seized as of April 30th, as compared to the 327 laboratories that were seized in all of 1995. At that rate, the total seizures for 1997 could exceed 1300 methamphetamine laboratories. The dramatic increase in seizures is due, in part, to the expansion of the methamphetamine laboratories into the Midwest.

BILLING CODE 4410–09–M



METHAMPHETAMINE LABORATORY SEIZURES IN WHICH DEA PARTICIPATED

(DOES NOT INCLUDE STATE/LOCAL SEIZURES IN WHICH DEA DID NOT PARTICIPATE)

BILLING CODE 4410–09–C

Pseudoephedrine Regulations

By 1995, it had become clear that action would have to be taken to stem the flow of pseudoephedrine drug products to the clandestine laboratories. DEA proposed regulations to control certain types of pseudoephedrine drug products on October 31, 1995 (60 FR 55348), including reduction of the threshold for pseudoephedrine from 1 kilogram to 24 grams and removal of the exemption from the chemical controls for certain drug products containing pseudoephedrine. DEA's proposal limited the controls to those products which could be readily used for the clandestine manufacture of methamphetamine. The exemption remained in place for gel capsules, liquids, and solid dosage form products containing pseudoephedrine in combination with acetaminophen, aspirin, or ibuprofen in therapeutically significant quantities. Further, DEA proposed to exempt retail distributors from the registration requirement if their activities were restricted to sub-threshold (24 grams) sales of pseudoephedrine drug products. Following comment, DEA published a Final Rule in the **Federal Register** on August 7, 1996 (61 FR 40981). In response to comments, the threshold for pseudoephedrine was raised from the proposed 24 grams to 48 grams and, for retail distributors, application of the cumulative transaction provision was lifted.

The Final Rule was scheduled to become effective on October 7, 1996, however, as discussed below, the rule did not go into effect and was superseded by the provisions of the MCA.

Comprehensive Methamphetamine Control Act of 1996

Paralleling DEA's rulemaking process, the United States Congress, also concerned with the illicit traffic in methamphetamine, introduced legislation to control the diversion of chemicals to clandestine laboratories. The result was the Comprehensive Methamphetamine Control Act of 1996 (Pub. L. 104–237) (MCA), which was enacted on October 3, 1996. The MCA superseded DEA's Final Rule, discussed above, declaring that the regulations were "* * * null and void, and of no force and effect." (MCA, Section 210.)

The MCA legislatively replaced DEA's proposed rulemaking action with a more comprehensive system of controls relating to the distribution, importation, and exportation of pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products, along with other strong tools to attack the illicit traffic. The MCA retained the existing Controlled Substances Act (CSA) requirements for distributors of List I chemicals and added the following changes to the CSA with respect to regulation of drug products containing these three chemicals:

Removal of Certain Drug Product Exemptions

The definition of "regulated transaction" (21 U.S.C. 802(39)) is amended in paragraph (A)(iv)(I)(aa) to provide that the exemption for drug products that contain ephedrine, pseudoephedrine, or phenylporpanolamine is removed. The new definition also provides that the sale of "ordinary over-the-counter

pseudoephedrine or phenylproanolamine'' products by ''retail distributors'' shall not be a regulated transaction. The definition is also amended in paragraph (A)(iv)(II) to provide that the threshold for the sale of pseudoephedrine or phenylpropanolamine products by a retail distributor or a distributor required to submit reports by section 310(b)(3) of the CSA (21 U.S.C. 830(b)(3)) shall be 24 grams of pseudoephedrine base or 24 grams of phenylporpanolamine base in a single transaction. This threshold does not affect the reports required to be filed under 21 U.S.C. 830(b)(3) and 21 CFR 1310.03(c), 1310.05(e), and 1310.06(i), as amended herein.

Creation of a New Category of Distributor and Category of Product To Which Certain Exceptions Apply

Two new definitions are added under section 102 of the CSA (21 U.S.C. 802), as follows:

The term *ordinary over-the-counter pseudoephedrine* or *phenylpropanolamine product* is defined in section 102(45) of the Act (21 U.S.C. 802(45)) as a product containing pseudoephedrine or phenylpropanolamine that is regulated pursuant to the CSA and, except for liquids, packaged with not more than 3 grams of pseudoephedirne or phenylpropanolamine base per package, contained in blister packs, with not more than two dosage units per blister, or where the use of blister packs is not technically feasible, packaged in unit dose packets or pouches. For liquids, the product is sold in package sizes of not more than 3 grams of pseudoephedrine or phenylpropanolamine base. In the context of sales by retail distributors, this has been referred to as the ''safe harbor'' provision, because of the exemption from the definition of ''regulated transaction'' in section 102(39) of the Act (21 U.S.C. 802(39)).

The term *retail distributor* is defined in section 102(46) of the Act (21 U.S.C. 802(46)) as a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephefrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. *Sale for personal use* is defined by the MCA as the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use. Further, certain entities are defined by reference to the following Standard Industrial Classification (SIC) codes: a grocery store is an entity within SIC code 5411, a general merchandise store is an entity within SIC codes 5300 through 5399 and 5499, and a drug store is an entity within SIC code 5912.

It is worth noting at this point that while the definition of ''retail distributor'' specifically references general merchandise stores, grocery stores, and drug stores and their respective SIC codes, it also refers to ''* * * or other entity or person * * *'' who engages in the described activities. As a result, a retail distributor is any person (not just a general merchandise store, grocery store, or drug store) whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

Expands the Opportunities for Product Specific Exemptions

The MCA amends the CSA to provide that the exemption with respect to a particular ephedrine, pseudoephedrine or phenylpropanolamine drug product shall be reinstated if it is determined that the drug product is manufactured and distributed in a manner that prevents diversion.

Defines Specific Controls for ''Combination Ephedrine Products''

The MCA defines *combination ephedrine product* as a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient; and establishes a 24-gram single transaction limit, notwithstanding the form in which the product is packaged, for sales by retail distributors and by distributors required to submit a report under section 310(b)(3) of the CSA (21 U.S.C. 830(b)(3)), and a 1-kilogram threshold for transactions by other distributors, importers and exporters.

Requires Reporting of Certain Distributions by Mail or Carrier

The MCA amends section 310 of the CSA (21 U.S.C. 830) to add a new paragraph (b)(3), which requires that each regulated person who engages in a transaction with a nonregulated person (that is, someone who does not further distribute the product) which involves ephedrine, pseudoephedrine or phenylpropanolamine, including drug products, and uses or attempts to use the Postal Service or any private or commercial carrier shall submit a report of all such transactions each month. The reports shall reflect the name of the purchaser, the quantity and form of the ephedrine, pseudoephedrine or phenylpropanolamine purchased, the address to which the chemicals were shipped, and such other information as is established by regulation.

Effective Dates

The MCA provides that the requirements with respect to the regulation of combination ephedrine products and the reporting requirement became effective on October 3, 1996. The requirements with respect to pseudoephedrine and phenylpropanolamine products become effective on October 3, 1997.

Regulatory Changes To Implement the MCA

Many of the legislative details of the MCA are provided in sufficient detail to be self-implementing without additional regulation. Thus, many of the regulatory amendments to implement the MCA are conforming amendments by which the definitions of ''regulated transaction'' and ''retail distributor'' are updated to parallel the new language in the MCA and the definitions of 1 ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product'' and ''combination ephedrine product'' are inserted in the regulations; 21 CFR 1310.04 is updated to reflect the new record retention period of two years for List I chemical transactions and the thresholds for transactions involving regulated drug products; and 21 CFR 1310.04–06 are updated to reflect the new reporting requirement. Finally, 21 CFR 1309.71 is being amended to reflect that in retail settings open to the public only ephedrine drug products, in both single-entity and combination form, just be stored behind a counter where only employees will have access; pseudoephedrine and phenylpropanolamine products are not required to be kept behind the counter.

In addition to the above amendments, DEA is proposing to amend 21 CFR Part 1309 to consolidate the various exemptions from the registration requirement into one section, expand the current exemption for retail distributors of combination ephedrine products to include retail distributors of pseudoephedrine and phenylpropanolamine products, and to add a temporary exemption from the registration requirement for persons who distribute, import, or export pseudoephedrine or phenylpropanolamine drug products, provided that they submit an

application for registration on or before December 3, 1997. Any person who engages in such activities and is not subject to an existing or proposed exemption from the registration requirement should submit an application for registration at the earliest possible time, to ensure that they may continue to distribute these products pending issuance of their registration.

Effect of the MCA

While the regulatory changes necessary to implement the MCA are primarily conforming regulations, the scope of the effect of the MCA's requirements is quite broad. The removal of the exemption for pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products makes any person who distributes, imports, or exports them subject to the established chemical registration, recordkeeping, and reporting requirements already in effect for List I chemical handlers, as set out in 21 CFR parts 1309, 1310, and 1313. The MCA, however, created an exemption from the existing chemical controls for sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products by retail distributors. Additionally, following the MCA's creation within the law of the category of ''retail distributor'', DEA has provided an exemption from registration for retail distributors whose activities are limited to the activities provided for by the MCA.

With respect to no-retail distributors, various segments of the affected distribution industry have offered varying interpretations of the law, proposing that distributors that only engage in sub-threshold transactions, or distributors that only supply corporately owned retail outlets are not subject to registration and concomitant controls. The CSA requires a registration for activities as a distributor. These two issues are addressed in the final rulemaking entitled ''Comprehensive Methamphetamine Control Act of 1996; Possession of List I Chemicals, Definitions, Record Retention, and Temporary Exemption From Chemical Registration for Distributors of Combination Ephedrine Products'', which will by published in the **Federal Register** on or about October 3, 1997. Interest persons are encouraged to obtain a copy of the final rule, which contains a detailed discussion of the issues.

Within this framework, importers, exporters, and distributors (other than retail distributors) of pseudoephedrine and phenylpropanolamine drug products (including ordinary over-the-counter pseudoephedrine and phenylpropanolamine products) become subject to the registration requirement of the MCA on October 3, 1997, and also the recordkeeping requirements for those transactions that either singly or cumulatively meet the threshold requirements in a calendar month. However, the allow for implementation of these regulations and issuance of the registrations, DEA is providing a temporary exemption from the registration requirement for persons who submit their applications on or before December 3, 1997. For combination ephedrine products, the requirements became effective on October 3, 1996.

Retail distributors of ordinary over-the-counter products are not subject to the registration, recordkeeping and reporting requirements.

For retail distributors whose sales of other pseudoephedrine and phenylpropanolamine products, or combination ephedrine products remain exclusively below the single transaction limit, DEA has established an exemption from the registration requirement in 21 CFR 1309.29. However, retail distributors are subject to the registration, recordkeeping, and reporting requirements to the extent that their transactions equal or exceed the single transaction limit of 24 grams. Additionally, the existing provision that any person who is registered with DEA to distribute or dispense controlled substances is not required to obtain a separate chemical registration applies to distributions of pseudoephedrine, phenylpropanolamine, or combination ephedrine products, as set forth in 21 CFR 1309.25.

They are, however, still subject to the recordkeeping requirements.

Reports of 'Mail Order' Transactions

The MCA requires that a regulated person must report, on a monthly basis, all transactions with non-regulated persons (those persons who do not redistribute the product) that involve ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products that contain these chemicals), and who use or attempt to use the Postal Service or any private or commercial carrier. Each report must contain the name of the purchaser, the quantity and form of the material purchased, and the address to which the material was sent, as well as such other data as may be established by regulation. MCA, Section 401, 21 U.S.C. 830(b)(3). The language of the requirement clearly establishes that all persons engaging in any such transactions must report them. There is no statutory provision for exclusion of any class of person or transaction from the requirement.

DEA is proposing to amend 21 CFR 1310.03, 1310.05, and 1310.06 to incorporate the new reporting requirement. Section 1310.03 reflects who must file, Section 1310.05 reflects when and where the reports shall be filed, and Section 1310.06 reflects the information the report must contain.

The MCA requires monthly reports. DEA is proposing that the reports shall be submitted on or before the 15th day of the month following the month in which the reportable transaction took place; shall be submitted to the Drug Enforcement Administration, Office of Diversion Control, Chemical Operations Section, Washington, D.C. 20537; and shall contain the following information.

1. Supplier's Name and Registration Number
2. Purchaser's Name and Address
3. Name/Address Shipped To (if different from purchaser's name/address)
4. Name of the Chemical Shipped
5. Product Name
6. Dosage Form (if any)
7. Dosage Strength (if any)
8. Number of Dosage Units (if applicable)
9. Package Type
10. Package Quantity
11. Lot Number (for drug products)
12. Date of Shipment

As noted earlier, the MCA requires the name of the purchaser (item 2), the quantity and form of the material (items 4–10), and the address to which the material was shipped (item 3). In addition to the required information, DEA is proposing to include the supplier name and registration number (item 1), to identify the person making the report and their authority to distribute the material; the address of the purchaser (item 2), to assist in identifying the party; the name of the person to which the material is shipped (item 3), if different from the purchaser, to identify the actual recipient of the material in instances where drop-shipment is requested; the lot number of the product (item 11), if a drug product, to assist DEA in tracking products that are diverted; and, the date of the shipment (item 12) to identify when the specific transaction occurred.

While submission of a hard copy report will be adequate to satisfy the requirement, DEA is proposing that electronic reporting, initially via computer disk, also be allowed. Electronic reporting would minimize the burden by eliminating the time and expense necessary to print, package, and mail hard copy reports and would allow for more efficient processing of the data reported. DEA is proposing that persons interested in submitting reports by

electronic means contact the Chemical Operations Section, Office of Diversion Control, DEA at (202) 307–7204 to arrange for submission of electronic reports.

It is important to keep in mind that the reporting requirement applies only to distributions of ephedrine, pseudoephedrine, and phenylpropanolamine via the postal service or private or commercial carrier to nonregulated persons. A distributor does not have to report distributions to regulated persons. In this regard, it is critical that distributors take the appropriate steps to ascertain whether their customers are regulated or nonregulated persons. The failure of a distributor to report a transaction based on a customer's mere representation that they are a regulated person, without further inquiry to confirm that status, may be grounds for administrative, civil, or criminal action. Therefore, the distributor should take appropriate steps to confirm the customer's status as a regulated person. Steps may include verification of the customer's DEA registration status or, if they are not a registrant, inquiry as to whether the products are being obtained solely for use by the customer or whether they will be distributed to others.

Clarification of MCA and CSA Chemical Control Requirements

The MCA's removal of the exemption for pseudoephedrine, phenylpropanolamine, and combination ephedrine products makes a new segment of industry, which is not familiar with DEA's programs and requirements, subject to the chemical controls under the CSA. DEA has received numerous contacts from, and engaged in substantial discussions with, both individual companies and associations regarding the requirements of the MCA and of the chemical controls under the CSA with respect to combination ephedrine products. The upcoming control of pseudoephedrine and phenylpropanolamine products on October 3, 1997, will probably result in further questions and need for clarification of the requirements. DEA remains, as always, available to affected persons to clarify the requirements of the MCA and of the existing chemical controls. Inquiries should be addressed to DEA in writing to the attention of: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

Small Business Impact and Regulatory Flexibility Concerns

The MCA mandates a system of controls (including registration, recordkeeping, and reporting) over the distribution, importation, and exportation of pseudoephedrine, phenylpropanolamine, and combination ephedrine products. Within this system of controls, the MCA does provide an exemption for retail sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products; however, wholesale distributions, importations, and exportations of these products are subject to the controls.

The specific mandates of the MCA, if applied as written, would have a far-reaching and significant impact. Pseudoephedrine and phenylpropanolamine over-the-counter products are a common part of every-day life, available in most supermarkets, drug stores, convenience stores, and other retail outlets. Combination ephedrine products are somewhat less common, due to their limited use as a bronchodilator for the treatment of asthma.

DEA consulted with industry organizations associated with over-the-counter drug manufacture and marketing in an effort to determine the potential size of the impacted industry. According to industry sources there are approximately 750,000 retail distributors of pseudoephedrine, phenylpropanolamine, and combination ephedrine products. Accurate identification of the number of wholesale distributors has been somewhat more difficult; however, following consultations with representatives of the food marketing, drug wholesale, and retail supplier industries, DEA estimates that there are approximately 3,000 to 3,500 wholesale locations distributing the products.

In considering the implementation of the MCA, DEA considered the impact of applying various levels of controls, from no application through full application of the requirements of the law, from the perspective of their impact on the industry, on the public health and safety,and on the ability of both industry and the government to administer the controls.

Of the available options, it is readily apparent that imposition of either no controls or the full level of controls would be unrealistic. With respect to no controls, the simple fact that the legislation was deemed necessary is recognition enough of the threat to the public health and safety that the diversion of pseudoephedrine, phenylpropanolamine, and combination ephedrine products to the illicit manufacture of methamphetamine represents and the intent to impose restrictions and monitoring controls on the distribution. At the same time, full application of the controls of the MCA would result in monetary and administrative burdens on the industry and DEA that would be out of proportion with the benefits to be derived and may unnecessarily interfere with legitimate public access to the products. Therefore, alternatives that avoided unnecessary burdens while still accomplishing the mandate of the MCA were explored.

Exploring the alternatives and exceptions required consideration of the scope of commerce, business practices, and capabilities of the different segments of the industry; the scope of diversion from each segment of industry; the activities of the traffickers; and the relative impact of different controls, both on the industry and DEA.

The MCA recognizes two distinct segments within industry: retail distributors, who, by definition, sell small amounts of product in face-to-face transactions to individuals for their personal use; and manufacturers/wholesalers (including importers/exporters), who introduce generally larger quantities of the products into commerce and distribute to other commercial concerns for further distribution, and some of whom also distribute larger quantities to non-commercial concerns without regard or consideration of the intended use.

Collectively, retail distributors are responsible for as great a scope of distribution as manufacturers/wholesalers, serving as they do as the principal source of supply for the individual consumers of the products. Individually, however, their scope of commerce, by definition, is very small, due to the fact that their activities are restricted to sales to individuals of small, personal use quantities of the products. Despite the collective volume of commerce at the retail level, the new controls of the MCA should, as a practical matter, significantly reduce the potential for major diversion from this level (provided retailers comply with the law and are alert to attempts to circumvent the controls). Because to the limited amount of product permitted to be distributed in an individual transaction, attempts to divert the products by the retail distributors should be noticeable, given that the volume of material required is out of proportion with any reasonable amount that might be purchased for personal use. However, traffickers have, on occasion, succeeded in obtaining tens of

thousands of dosage units of products by preying upon unsophisticated or negligent owners or employees of retail establishments who are not aware of, or are unconcerned with, the illicit use to which the products can be put. In addition, there are those unscrupulous individuals who will always be eager to profit from a transaction, capitalizing on the fact that, even with a 24 gram threshold for retail distributors, many of the smaller clandestine laboratories which DEA and state and local authorities are encountering could adequately satisfy their needs for precursor material be obtaining legal drug products at the retail level. This is a situation in which voluntary industry programs to prevent diversion at the retail level will be an important factor in achieving the goals of the MCA.

While far fewer in number (est. 3,000–3,500) and engaging in a lesser number of transactions, manufacturer/wholesalers account for as great a part of the distributions as retail distributors through the volume of products moved in each transaction. The significantly larger transaction sizes, which would be cause for concern at the retail level but are commonplace at the wholesale level, coupled with the relative anonymity of the transaction, have resulted in this segment of industry becoming the source of choice for the traffickers. Through conspiracy and deception, as well as carelessness on the part of some wholesalers, traffickers have been able to obtain large volumes of product without having their transactions stand out against the normal commerce.

Against this backdrop, and in recognition of the effectiveness of the new controls provided by the MCA, chemical controls for the consumer drug products should be focused on the wholesale level, and the retail level should be granted additional exemption as long as they operate within the new limits of the MCA. However, given the opportunistic nature of the traffickers and their preference for an unregulated source of supply, there exists the potential that, with the control of the wholesale distributors, traffickers may intensely focus on the retail level as a source of supply. Therefore, the exemption from the registration requirement applies to retail distributors that limit their activities exclusively to sales below the 24 gram threshold established by the MCA for those products. Retail distributors that engage in the distribution of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products are also exempt from the registration requirement. Thus, it is likely that most, if not all, of the estimated 750,000 retail distributor will qualify and be exempt from registration.

The final element to be addressed was the impact that the controls would have on the industry and DEA. The determining factor in this assessment proved to be the types of transactions conducted and the business practices in the different segments of the industry.

The principal controls required under the MCA are recordkeeping and registration. The recordkeeping requirement applies to any person who engages in a regulated transaction involving a pseudoephedrine, phenylpropanolamine, or combination ephedrine product, other than a retail distribution of an ordinary over-the-counter pseudoephedrine or phenylpropanolamine product. The registration requirement applies to any person who distributes imports, or exports a pseudophedrine, phenylpropanolamine, or combination ephedrine product, except for the exemptions previously discussed.

The recordkeeping requirement would represent a minimal burden for both segments of industry. While retail distributors do not keep records of their sales to individuals as a matter of business practice, their sales are almost exclusively sub-threshold; therefore, the recordkeeping requirement would not apply for their distributions. Wholesale distributors, on the other hand, often engage in transactions that would be subject to the recordkeeping requirement. However, such distributors generally do keep detailed records of their transactions as a matter of good business practice. Such records can be made readily retrievable through the marking of the transactions involving regulated products with an asterisk or other unique code. Further, under the MCA, the record retention period for List I records has been reduced from four years to two years, thus reducing the regulatory burden of List I chemical controls. Additionally, recordkeeping at the wholesale level is further mitigated by a threshold of one kilogram for ephedrine combination and pseudoephedrine products, and 2.5 kilograms for phenylpropanolamine products. Transactions below these thresholds do not require records.

The registration requirement, on the other hand, would have a significant financial impact if applied across the board. The cost of initial registration (at $255.00 each) for 750,000 retail distributors would be over $190 million; annual reregistration (at $116.00 each) would cost approximately $87 million. For the estimated 3,500 manufacturers/wholesalers the cost for initial registration (at $595.00 each) would be slightly more than $2 million; annual reregistration (at $477.00 each) would cost approximately $1.7 million. The respective annual paperwork burdens associated with filing the applications for registration would be 150,000 hours for all retail distributors and 700 hours for all manufacturers/wholesalers. Further, the administrative burden for DEA of having to receive and process over 750,000 applications per year would be enormous.

The cost and administrative burden of requiring registration at the retail level, which is predominantly small business, would be significant, while the potential of large scale diversion at the retail level following implementation of the MCA is greatly reduced given the limited amounts of products being distributed in face-to-face sales to individuals.

Therefore, to best achieve the intended results of the MCA, while minimizing the burden on industry, DEA has determined to propose that: (a) the registration and recordkeeping provisions will apply at the manufacturer/wholesale level, and (b) the exemptions will apply to retail distributors who operate exclusively within the retail quantity limits established by the MCA, irrespective of whether the form of packaging meets the definition of ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product'' under Section 102(45) of the Act (21 U.S.C. 802(45)). The large volumes of products per transaction at wholesale, the opportunity for relatively anonymous transactions, and the existing history of diversion point to the need for adequate registration and recordkeeping at this level of industry. As noted earlier, the cost of imposing the full controls of the MCA on this segment of the industry will consist of slightly more than $2 million for initial registration, approximately $1.7 million for annual reregistration, and an estimated 700 burden hours per year. The recordkeeping requirement will not result in substantial additional burden due to the fact that the information required can be found in the normal business records (provided they are marked in such a way as to make them readily retrievable) that would be maintained as part of good business practice.

With respect to retail distributors, the determination was made to provide a waiver from the registration, and, thus, recordkeeping, requirement due to the small size and face-to-face nature of the transactions and the limited future potential of diversion from this segment of the industry. The waiver of the registration applies, regardless of the

form of packaging of the drug product, only to those retail distributors whose activities are restricted to below threshold transactions, to ensure that this segment of industry does not become the source of supply for the traffickers. If a retail distributor intends to engage in above-threshold transactions in the course of business, then a registration should be obtained. However, it is understood that unintentional sales which exceed the threshold are possible. In that regard, DEA wishes to note that the chemical control program is focused on preventing the diversion of chemicals to clandestine laboratories and not on identification of an action against the rare, inadvertent, non-egregious above-threshold sale of drug products by a checkout clerk or similar employee of an unregistered retail distributor in the normal course of legitimate business. Firms should, however, to protect their registration exemption, maintain programs to guard against such inadvertent sales.

In total, the proposed regulations, coupled with the existing exemption from chemical registration for controlled substances registrants and the exception from the regulations provided for distributors of prescription drug products that contain List I chemicals, provide a system of controls that minimize the financial and administrative burden on the industry while still allowing effective enforcement of the requirements of the MCA.

The Acting Deputy Administrator hereby certifies that this proposed rulemaking has been drafted in a manner consistent with the principles of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). As discussed in the preceding section regarding Small Business Impact And Regulatory Flexibility Concerns, consideration was given to the potential impact of varying levels of regulation, the population that would be impacted, and the nature of the problem to be addressed by the regulations. These proposed regulations will provide a system of controls to prevent the diversion of the drug products to clandestine laboratories that is consistent with the intent of the MCA, while providing regulatory relief for the approximately 750,000 retail distributors, most of whom are small businesses. For the remaining 3,000 to 4,000 wholesale distributors, importers, and exporters that will be subject to regulation, the primary impact will be the requirement that they obtain an annual registration from DEA and make occasional reports. A copy of this proposed rulemaking has been provided to the Chief Counsel for Advocacy at the Small Business Administration.

This proposed rulemaking has been drafted and reviewed in accordance with Executive Order 12866. This proposed rulemaking has been determined to be a significant action because the requirements of the MCA affect a broad spectrum of businesses distributing widely used products to the public. This proposed rule would establish specific exemptions to significantly reduce that impact. Therefore, this proposed rulemaking has been reviewed and approved by the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

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

List of Subjects

21 CFR Part 1300

Definitions, Drug traffic control.

21 CFR Part 1309

Administrative practice and procedure, Drug traffic control, List I and II chemicals, Security measures. 21 CFR Part 1310

Drug traffic control, List I and II chemicals, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR Parts 1300, 1309, and 1310 are proposed to be amended as follows:

PART 1300—[AMENDED]

1. The authority citation for Part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 871(b), 951, 958(f).

2. Section 1300.02 is proposed to be amended by revising paragraphs 1300.2(b)(28)(i)(D)(*1*) and (*2*) and by adding new paragraphs 1300.02(b) (31) and (32) to read as follows:

§ 1300.02 Definitions relating to listed chemicals.

* * * * *

(b) * * *

(28) * * *

(i) * * *

(D) * * *

(1)(i) The drug contains ephedrine or its salts, optical isomers, or salts of optical isomers, pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise exempted under § 1310.11 of this chapter, except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction; or

(ii) The Administrator has determined pursuant to the criteria in § 1310.10 of this chapter that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(2) The quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical, except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine by retail distributors or by distributors required to submit reports by § 1310.03(c) shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction.

* * * * *

(31) The term *ordinary over-the-counter pseudoephedrine or phenylpropanolamine product* means any product containing pseudoephedrine or phenylpropanolamine that is—

(i) Regulated pursuant to the Act; and

(ii)(A) Except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, and that is packaged in blister packs, each blister containing no more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches, and

(B) For liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

(32) The term *combinaiton ephedrine product* means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers, and therapeutically significant quantities of another active medicinal ingredient.

PART 1309—[AMENDED]

1. The authority citation for part 1309 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 830, 871(b), 875, 877, 958.

2. Section 1309.22 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1309.22 Separate registration for independent activities.

* * * * *

(b) Every person who engages in more than one group of independent activities shall obtain a separate registration for each group of activities, unless otherwise exempted by the Act or §§ 1309.24 through 1309.26, except that a person registered to import any List I chemical shall be authorized to distribute that List I chemical after importation, but no other chemical that the person is not registered to import.

3. Section 1309.24 is proposed to be revised to read as follows:

§ 1309.24 Waiver of registration requirement for certain activities.

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his or her business or employment.

(b) The requirement of registration is waived for any person who distributes a product containing a List I chemical that is regulated pursuant to § 1300.02(b)(28)(i)(D), if that person is registered with the Administration to manufacture, distribute or dispense a controlled substance.

(c) The requirement of registration is waived for any person who imports or exports a product containing a List I chemical that is regulated pursuant to § 1300.02(b)(28)(i)(D), if that person is registered with the Administration to engage in the same activity with a controlled substance.

(d) The requirement of registration is waived for any person who distributes a prescription drug product containing a List I chemical that is regulated pursuant to § 1300.02(b)(28)(i)(D) of this chapter.

(e) The requirement of registration is waived for any retail distributor whose activities with respect to List I chemicals are limited to the distribution of below-threshold quantities of a pseudoephedrine, phenylpropanolamine, or combination ephedrine product that is regulated pursuant to § 1300.02(b)(28)(i)(D) of this chapter, in a single transaction to an individual for legitimate medical use, irrespective of whether the form of packaging of the product meets the definition of ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product'' under § 1300.02(b)(31) of this chapter. The threshold for a distribution of a product in a single transaction to an individual for legitimate medical use is 24 grams of pseudoephedrine, phenylpropanolamine, or ephedrine base.

(f) The requirement of registration is waived for any manufacturer of a List I chemical, if that chemical is produced solely for internal consumption by the manufacturer and there is no subsequent distribution or exportation of the List I chemical.

(g) If any person exempted under paragraph (b), (c), (d), or (e) of this section also engages in the distribution, importation or exportation of a List I chemical, other than as described in such paragraph, the person shall obtain a registration for such activities, as required by § 1309.21.

(h) The Administrator may, upon finding that continuation of the waiver would not be in the public interest, suspend or revoke a waiver granted under paragraph (b), (c), (d), or (e) of this section pursuant to the procedures set forth in §§ 1309.43 through 1309.46 and 1309.51 through 1309.57. In considering the revocation or suspension of a person's waiver granted pursuant to paragraph (b) or (c) of this section, the Administrator shall also consider whether action to revoke or suspend the person's controlled substance registration pursuant to 21 U.S.C. 824 is warranted.

(i) Any person exempted from the registration requirement under this section shall comply with the security requirements set forth in §§ 1309.71 through 1309.73 and the recordkeeping and reporting requirements set forth under parts 1310 and 1313 of this chapter.

4. Section 1309.25 is proposed to be revised to read as follows:

§ 1309. Temporary exemption from registration for chemical registration applicants.

(a) Each person required by section 302 of the Act (21 U.S.C. 822) to obtain a registration to distribute, import, or export a combination ephedrine product is temporarily exempted from the registration requirement, provided that the person submits a proper application for registration on or before July 12, 1997. The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in parts 1309, 1310, and 1313 of this chapter remain in full force and effect.

(b) Each person required by section 302 of the Act (21 U.S.C. 822) to obtain a registration to distribute, import, or export a pseudoephedrine or phenylpropanolamine drug product is temporarily exempted from the registration requirement, provided that the person submits a proper application for registration on or before December 3, 1997. The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in parts 1309, 1310, and 1313 of this chapter remain in full force and effect.

5. Sections 1309.27, 1309.28 and 1309.29 are proposed to be removed.

6. Section 1309.71 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 1309.71 General security requirements.

(a)* * *

(2) In retail settings open to the public where drug products containing ephedrine or its salts, optical isomers, or salts of optical isomers are distributed, such drugs will be stocked behind the counter where only employees have access.

* * * * *

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.03 is proposed to be amended by adding a new paragraph (c) to read as follows:

§ 1310.03 Persons required to keep records and file reports.

* * * * *

(c) Each regulated person who engages in a transaction with a

nonregulated person which involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals), and uses or attempts to use the Postal Service or any private or commercial carrier shall file monthly reports of each such transaction as specified in § 1310.05.

3. Section 1310.04 is proposed to be amended by removing paragraph (g) and revising paragraph (f)(1) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(f) * * *

(1) List I chemicals:

(i) Except as provided in paragraph (f)(1)(ii) of this section, the following thresholds have been established for List I chemicals:

Chemical	Threshold by base weight
(A) Anthranilic acid, its esters, and its salts	30 kilograms.
(B) Benzyl cyanide	1 kilogram.
(C) Ephedrine, its salts, optical insomers, and salts of optical isomers	No threshold-All transactions Regulated.
(D) Ergonovine and its salts	10 grams.
(E) Ergotamine and its salts	20 grams.
(F) N-Acetylanthranilic acid, its esters, and its salts	40 kilograms.
(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers	2.5 kilograms.
(H) Phenylacetic acid, its esters, and its salts	1 kilogram.
(I) Phenlpropanolamine, its salts, optical isomers, and salts of optical isomers	2.5 kilograms.
(J) Piperidine and its salts	500 grams.
(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers	1 kilogram.
(L) 3, 4-Methylenedioxyphenyl-2-propanone	4 kilograms.
(M) Methylamine and its salts	1 kilogram.
(N) Ethylamine and its salts	1 kilogram.
(O) Propionic anhydride	1 gram.
(P) Isosafrole	4 kilograms.
(Q) Safrole	4 kilograms.
(R) Piperonal	4 kilograms.
(S) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers (N-Methylephedrine	1 kilogram.
(T) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers	1 kilogram.
(U) Hydriodic Acid	1.7 kilogrmas (or 1 liter by volume.
(V) Benzaldehyde	4 kilograms.
(W) Nitroethane	2.5 kilograms.

(ii) Notwithstanding the thresholds established in paragraph (f)(1)(i), the following thresholds will apply for the following List I chemicals that are contained in drug products that are regulated pursuant to § 1300.02(b)(28)(i)(D) (Retail distribution thresholds are for a single transaction; the cumulative threshold provision does not apply. All other distributions are subject to the cumulative threshold provision.):

Chemical	Threshold by base weight
(A) Ephedrine, its salts, optical isomers, and salts of optical isomers as the sole therapeutically significant medicinal ingredient.	No threshold-All transactions Regulated.
(B) Ephedrine, its salts, optical isomers, and salts of optical isomers in combination with therapeutically significant amounts of another medicinal ingredient:	
(1) Distributions by retail distributors	24 grams.
(2) Distributions by person required to report under § 1310.03(c)	24 grams.
(3) All other domestic distributions (other than (B) (1) and (2))	1 kilogram.
(4) Imports and Exports	1 kilogram.
(C) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers (other than ordinary over-the-counter products):	
(1) Distributions by retail distributors	24 grams.
(2) Distributions by person required to report under § 1310.03(c)	24 grams.
(3) All other domestic distributions (other than (C) (1) and (2))	1 kilogram.
(4) Imports and Exports	1 kilogram.
(D) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers (Ordinary over-the-counter products):	
(1) Distributions by retail distributors	Exempt.
(2) Distributions by person required to report under § 1310.03(c)	24 grams.
(3) All other domestic distributions (other than (D) (1) and (2))	1 kilogram.
(4) Imports and Exports	1 kilogram.
(E) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers (other than ordinary over-the-counter products):	
(1) Distributions by retail distributors	24 grams.
(2) Distributions by person required to report under § 1310.03(c)	24 grams.
(3) All other domestic distributions (other than (E) (1) and (2))	2.5 kilograms.
(4) Imports and Exports	2.5 kilograms.
(F) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers (Ordinary over-the-counter products):	
(1) Distributions by retail distributors	Exempt.

Chemical	Threshold by base weight
(2) Distributions by person required to report under § 1310.03(c)	24 grams.
(3) All other domestic distributions (other than (F) (1) and (2))	2.5 kilograms.
(4) Imports and Exports	2.5 kilograms.

4. Section 1310.05 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 1310.05 Reports.

* * * * *

(e) Each regulated person required to report pursuant to § 1310.03(c) shall either:

(1) Submit a written report, containing the information set forth in § 1310.06(i), on or before the 15th day of each month following the month in which the distributions took place. The report shall be submitted under company letterhead, signed by the person authorized to sign the registration application forms on behalf of the registrant, to the Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537; or

(2) Upon request to and approval by the Administration, submit the report in electronic form, either via computer disk or direct electronic data transmission, in such form as the Administration shall direct. Requests to submit reports in electronic form should be submitted to the Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, ATTN: Electronic Reporting.

5. Section 1310.06 is proposed to be amended by adding a new paragraph (i) to read as follows:

§ 13.10.06 Content of records and reports.

* * * * *

(i) Each monthly report required by § 1310.05(e) shall provide the following information for each distribution:

(1) Supplier's name and registration number;

(2) Purchaser's name and address;

(3) Name/address shipped to (if different from purchaser's name/address);

(4) Name of the Chemical and total amount shipped;

(5) Date of shipment;

(6) Product name (if drug product);

(7) Dosage form (if drug product);

(8) Dosage strength (if drug product);

(9) Number of dosage units (if drug product);

(10) Package type (if drug product);

(11) Package quantity (if drug product);

(12) Lot number (if drug product).

6. Section 1310.10 is proposed to be amended by revising paragraph (d) introductory text to read as follows:

§ 1310.10 Removal of the exemption of drugs distributed under the Food, Drug, and Cosmetic Act.

* * * * *

(d) Any manufacturer seeking reinstatement of a particular drug product that has been removed from an exemption may apply to the Administrator for reinstatement of the exemption for that particular drug product on the grounds that the particular drug product is manufactured and distributed in a manner that prevents diversion. In determining whether the exemption should be reinstated the Administrator shall consider:

* * * * *

Dated: September 26, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–26150 Filed 10–6–97; 8:45 am]

BILLING CODE 4410–09–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AC73

National Flood Insurance Program (NFIP); Standard Flood Insurance Policy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the amount of the deductible under the Standard Flood Insurance Policy—from $750 to $1,000—for structures with subsidized coverage.

DATES: All comments received on or before November 7, 1997 will be considered before final action is taken on the proposed rule.

ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, S.W., room 840, Washington, DC 20472, (facsimile) 202–646–4536.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, (202) 646–3422, (facsimile) (202) 646–4327.

SUPPLEMENTARY INFORMATION: This proposal is the result of an ongoing review and reappraisal of the National Flood Insurance Program (NFIP) to achieve greater administrative and fiscal effectiveness in the NFIP's operations. The proposed amendment is also intended to help the NFIP increase its capability to build reserves for catastrophic loss years. This can be handled either by rate increases, or by other means such as imposing coverage limitations or increasing deductibles, or by both.

Section 1308(b)(2) of the National Flood Insurance Act of 1968, as amended, charges the Director of FEMA with the responsibility of establishing ''chargeable premium rates'' which are ''* * * adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance * * *''.

Since there have been three premium increases in the last three years—two in the subsidized premium rates and a premium surcharge mandated by § 555 of the National Flood Insurance Reform Act of 1994, for the addition of increased cost of compliance coverage, FEMA believes that the better approach to enhancing fiscal soundness would be by adjustment to the deductible provisions for policies which are issued using subsidized rates. Therefore, this proposed rule would increase the standard deductible for structures covered by insurance at subsidized premium rates from $750 to $1,000. Concurrent with this proposed change, insureds would be provided the option to pay a higher premium at full-risk rates to ''buy back'' a reduced deductible under their Standard Flood Insurance Policy (SFIP).

New or renewed flood insurance policies issued on and after May 1, 1998, for buildings and contents in Emergency Program communities as well as those policies issued for buildings and/or contents in Regular Program communities in Zones A, AO, AH, A1–A30, AE, VO, V1–V30, VE, or V, which are rated using subsidized rates, would be subject to the higher deductible of $1,000. These are buildings which, because they were built before the degree of flood risk had been ascertained and depicted on a Flood Insurance Rate Map (FIRM), are subject to a greater exposure to flood loss.

This proposed change to the deductibles would provide a greater flexibility to the Program and to the goal of designing the Program with an eye toward ''* * * minimizing costs and distributing burdens equitably among those who will be protected by flood insurance and the general public'' (Section 1302(d) of the 1968 Act).

In summary, this proposal is intended to balance the need for providing reasonable rates to the public for flood insurance as an incentive to purchase insurance against the requirement that the NFIP be flexible, minimize costs, and distribute burdens among those who will be protected by flood insurance and the general public. Loss cost savings, in a year equivalent to the historical average, are projected to be $6.3 million as a result of implementing this proposed rule.

National Environmental Policy Act

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4371 *et seq.*, and the implementing regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, FEMA is conducting an environmental assessment of this proposed rule. If the assessment concludes that there will be a significant impact on the human environment as a result of the issuance of the proposed rule, then an Environmental Impact Statement will be prepared. Copies of the environmental assessment, when developed, will be available for inspection through the Rules Docket Clerk, Federal Emergency Management Agency, room 840, 500 C St. SW., Washington, DC 20472.

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The final rule has been reviewed by the Office of Management and Budget under E.O. 1266.

Paperwork Reduction Act

This proposed rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under E.O. 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of § 2(b)(2) of E.O. 12778.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, 44 CFR Part 61 is proposed to be amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

Authority: —42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367,3 CFR 1979 Comp., p. 376.

2. Paragraph C. of Article 7 of Appendix A (l) is proposed to be revised follows:

* * * * *

C. For any flood insurance policy issued or renewed for property located in an Emergency Program community or for any property located in a Regular Program community in Zones A, AO, AH, A1–A30, AE, VO, V1–V30, VE, or V where the rates available for buildings built before the effective date of the initial Flood insurance Rate Map or December 31, 1994, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds $1,000, or the amount of any other deductible which you selected when you applied for this policy or subsequently by endorsement.

* * * * *

2. Paragraph C. of Article 7 of Appendix A (2) is proposed to be revised as follows:

* * * * *

C. For any flood insurance policy issued or renewed for a property located in an Emergency Program community or for any property located in a Regular Program community in Zones A, AO, AH, A1–A30, AE, VO, V1–V30, VE, or V where the rates available for buildings built before the effective date of the initial Flood Insurance Rate Map or December 31, 1994, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds $1,000, or the amount of any other deductible which you selected when you applied for this *policy* or subsequently by endorsement.

* * * * *

2. Paragraph C. of Article 7 of Appendix A(2) is proposed to be revised as follows:

* * * * *

C. For any flood insurance policy issued or renewed for a property located in an Emergency Program community or for any property located in a Regular Program community in Zones A, AO, AH, A1–A30, AE, VO, V1–V30, VE, or V where the rates available for buildings built before the effective date of the initial Flood Insurance Rate Map or December 31, 1994, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds $1,000, or the amount of any other deductible which the Insured selected when it applied for this policy or subsequently by endorsement.

* * * * *

2. Paragraph C. of Article 7 of Appendix A (3) is proposed to be revised as follows:

* * * * *

C. For any flood insurance policy issued or renewed for any property located in Zones A, AO, AH, A1–A30, AE, VO, V1–V30, VE, or V where the rates available for buildings built before the effective date of the initial Flood Insurance Rate Map or December 31, 1994, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds $1,000, or the amount of any other deductible which the Insured selected when it applied for this policy or subsequently by endorsement.

* * * * *

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance''; No. 83.516, ''Disaster Assistance'')

Dated: September 26, 1997.

Edward T. Pasterick,

Acting Executive Administrator, Federal Insurance Administration.

[FR Doc. 97–26527 Filed 10–6–97; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Child Support Enforcement

45 CFR Part 303

RIN 0970–AB67

Child Support Enforcement Program Quarterly Wage and Unemployment Compensations Claims Reporting to the National Directory of New Hires

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement section 453A(g)(2)(B) of the Social Security Act (the Act), as added by section 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and amended by section 5533 of Public Law 105–33, section 303(h) of the Act, in part, as amended by section 316(g) of PRWORA, and section 3304(a)(16) of the Internal Revenue Code of 1986, as amended by section 316(g) of PRWORA. These provisions require certain State entities to furnish quarterly wage and unemployment compensation data to the National Directory of New Hires or to the Secretary of Health and Human Services.

DATES: Consideration will be given to comments received by December 8, 1997.

ADDRESSES: Send comments to Director, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., 4th floor, Washington, D.C. 20447. Attention: Director, Policy and Planning Division, Mail Stop: OCSE/DPP. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. on the 4th floor of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Anne Benson, Policy Branch, OCSE (202) 401–1467, e-mail: abenson@acf.dhhs.gov. Deaf and hearing-impaired individuals may call the federal Dual Party Relay Service at 1–800–877–8339 between 8:00 a.m. and 7:00 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This proposed regulation is published under the authority of section 453A(g)(2)(B) of the Social Security Act (the Act), 42 U.S.C. 653A(g)(2)(B), as added by section 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193 and amended by section 5533 of Public Law 105–33, section 303(h) of the Act, in part, 42 U.S.C. 503(h), as amended by section 316(g) of PRWORA, and section 3304(a)(16) of the Internal Revenue Code of 1986, 26 U.S.C. 3304(a)(16), as amended by section 316(g) of PRWORA.

This regulation is also proposed under the authority granted to the Secretary of Health and Human Services (Secretary) by section 1102 of the Act, 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

Section 453A(g)(2)(B) of the Act requires the State Directory of New Hires to furnish, on a quarterly basis, data concerning the wages and unemployment compensation paid to individuals to the National Directory of New Hires. Pursuant to section 453A(g)(2)(B) of the Act, the Secretary of the Department of Health and Human Services is required to publish regulations to identify the dates, format, and data elements necessary for the State Directory of New Hires to furnish the quarterly wage and unemployment compensation data to the National Directory of New Hires.

Section 3304(a)(16) of the Internal Revenue Code of 1986 contains requirements that must be included in State Unemployment Compensation laws for employers in the State to receive Federal Unemployment Tax credits. Section 316(g) of Public Law 104–193 amended section 3304(a)(16) of the Internal Revenue Code of 1986 to provide that the wage and unemployment compensation information contained in the records of the State agency administering that program shall be furnished to the Secretary of Health and Human Services, in accordance with regulations promulgated by the Secretary, as may be necessary for the purposes of the National Directory of New Hires under section 453(i)(1) of the Act. The Secretary intends to maintain the quarterly wage and unemployment compensation data reported pursuant to section 3304(a)(16) in the National Directory of New Hires (NDNH), which is being established pursuant to section 453 of the Act.

Section 303(h)(1)(A) of the Act, as amended by section 316(g) of Public Law 104–193, requires the State agency charged with the administration of the unemployment compensation program, on a reimbursable basis, to disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 453(i)(1) of the Act, that is contained in the records of such agency. As is the case with information reported pursuant to section 3304(a)(16) of the Internal Revenue Code of 1986, the Secretary intends to maintain any quarterly wage and unemployment compensation data reported pursuant to section 303(h) of the Act in the NDNH. Section 303(h)(3)(A) of the Act defines ''wage information'' as ''information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual.'' Section 303(h)(3)(B) defines ''claim information'' as ''information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.'' Title III of the Act, Grants to States for Unemployment Compensation Administration, is directly administered by the Department of Labor. We are referencing section 303(h)(1)(A) of the Act because this provision references information required pursuant to section 453(i)(1) of the Act. Section 453(i)(1) is administered by the Department of Health and Human Services, and the information that is required pursuant to that section (which in turn references information supplied pursuant to section 453A(g)(2)) is being established in this proposed rule. The Secretary also adopted the definitions included in section 303(h) in the proposed rule in order to enable the implementation of the provisions in an integrated and complementary manner.

Background

The Federal Parent Locator Service (FPLS) is a computerized network established pursuant to section 453 of the Act, 42 U.S.C. 653, through which States may request information from Federal and State agencies to find noncustodial parents and/or their employers for purposes of establishing paternity and securing support. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires the Secretary to develop an expanded FPLS to improve States' ability to locate child support obligors and to establish and enforce child support orders, as well as for other specified purposes in Title IV-D of the Act. The Office of Child Support

Enforcement (OCSE), within the Administration for Children and Families (ACF), is charged with the task of developing, implementing, and maintaining the expanded FPLS. The Secretary will house the expanded FPLS in the Social Security Administration's National Computer Center, because locating the expanded FPLS there will provide the most efficient and cost-effective mechanism for developing the expanded FPLS, as well as ensuring state-of-the-art standards for system security and confidentiality of the data.

The expanded FPLS will include the National Directory of New Hires (operational no later than October 1, 1997) and a Federal Case Registry (operational no later than October 1, 1998), and will maintain the capability to seek information from existing FPLS data sources, including, but not limited to, the Internal Revenue Service, Social Security Administration, Department of Defense, and Department of Veterans Affairs. The expanded FPLS will perform regular cross matches between the National Directory of New Hires and the Federal Case Registry. With these new FPLS resources, the interstate matching of child support obligors and employment, earnings, and benefits data will flow more efficiently and quickly between States.

The NDNH will contain three types of information. First, the NDNH will maintain employment data on newly-hired employees (new hire reporting) submitted by State Directories of New Hires pursuant to section 453A(g)(2)(A) of the Act, and by federal agencies pursuant to section 453A(b)(1)(C) of the Act. Second, the NDNH will maintain quarterly wage information on individual employees received pursuant to sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986, as well as quarterly wage information on federal employees received pursuant to 453(n) of the Act. Third, the NDNH will maintain unemployment compensation claims data received pursuant to sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986. States will be required to transmit new hire, quarterly wage and unemployment compensation claims data electronically to the NDNH. This proposed rule addresses specifically quarterly wage and unemployment compensation claims reporting to the National Directory of New Hires. Policy guidance and program instructions on new hire reporting will be forthcoming (see also OCSE Action Transmittal 97–04, March 12, 1997).

The purpose of the NDNH is to develop a repository of information on newly-hired employees, and on the earnings and unemployment compensation claims data of employees. The purpose of including quarterly wage and unemployment compensation claims data in the NDNH is to provide States with the ability to quickly locate information on the address of, employment of, and unemployment compensation being paid to, parents with child support obligations who are residing or working in other States. States will be seeking to locate these parents and their employers to either establish or enforce a child support order. Quarterly wage and unemployment compensation claims data will provide information on continuously employed and unemployed individuals who would not be located solely by new hire reporting.

Most States have been matching their quarterly wage and unemployment compensation claims data against their respective State child support caseloads since the 1980's. In addition, since 1990 the Federal Parent Locator Service has conducted cross-matches between State child support locate requests and State Employment Security Agencies, although such matches are currently limited to 250,000 cases per State per bi-weekly cross-match. The information generated from cross-matches between quarterly wage, claims and child support data, both at the State level and in the more limited FPLS context, has proven extremely beneficial for the location of child support obligors and their wages. The inclusion of quarterly wage and unemployment compensations claims data in the NDNH will allow for a substantially higher volume of interstate cross-matching than is currently possible.

The Federal Case Registry will be a national registry of individuals involved in child support cases, constructed from abstracts of child support case and order information that State Case Registries will transmit to the Federal Case Registry. The expanded FPLS, through a matching process between NDNH and the Federal Case Registry, will be able to automatically provide States with information on address, employment, and unemployment compensation claims data on parents owing child support. The expanded FPLS will also alert States to other States that have registered the same individual.

In an effort to be responsive to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector, OCSE formed an FPLS workgroup which held three meetings between September, 1996 and March, 1997. The purpose of the FPLS workgroup is to provide consultation regarding the design, development, and regulatory requirements for the expanded FPLS. This group is comprised of representatives from State Child Support Agencies, State Employment Security Agencies, the Federal Office of Child Support Enforcement, the U.S. Department of Labor, the Social Security Administration, the Interstate Conference of State Employment Security Agencies, employer groups, payroll associations, and other interested individuals. The workgroup members provided information regarding quarterly wage and unemployment compensation claims reporting which was considered in developing these proposed regulations.

Description of Regulatory Provisions

We are proposing to implement the three new statutory reporting requirements by adding a new section, 45 CFR 303.108, ''Quarterly Wage and Unemployment Compensations Claims Reporting to the National Directory of New Hires,'' to existing rules governing the child support enforcement program under Title IV–D of the Act. Although there are three separate reporting provisions, the information required to be reported is substantially the same for all three. Therefore, OCSE proposes to address the Secretary's responsibilities under all three provisions by a single regulation which will permit the data required to be furnished under the three provisions to be supplied in a single, quarterly submission. Further, OCSE will consider the reporting requirements to have been satisfied if any one of the required reporting entities submits the information in accordance with the provisions of the regulation. OCSE intends to leave the decision as to which entity will report up to the individual States. Accordingly, the regulation refers to the ''State'' as the entity that must transmit data to the NDNH. However, if data is not reported as required under the proposed regulation, OCSE intends to hold the State Title IV–D agency accountable for the failure of the State Directory of New Hires to report as required under section 453A(g)(2)(B). Section 454(28) of the Act, as added by section 313(a) of PRWORA, added a new State plan requirement for Title IV–D agencies to operate a State Directory of New Hires in accordance with section 453A of the

Act. The failure to report as required pursuant to section 303(h) of the Act or section 3304(a)(16) of the Internal Revenue Code of 1986 may also result in actions being taken by the Secretary of Labor.

The proposed 45 CFR 303.108(a) contains definitions designed to clarify quarterly wage and unemployment compensation claims reporting. Paragraph (a)(1) defines ''Reporting period'' as the time elapsed during a calendar quarter, e.g. January–March, April–June, July–September, October–December. ''Wage information'' is defined in paragraph (a)(2) as: (1) the name of the employee; (2) the employee's social security number; (3) aggregate wages of the employee during the reporting period; and (4) the name and address (and optionally, any second address for wage withholding purposes) and Federal employer identification number of the employer reporting wages. In the event that an individual is working more than one job, the State must transmit separate quarterly records containing the ''wage information'' for each job an individual has held. The information being included as wage information is the minimal amount of data needed to meet the purposes of the NDNH. OCSE is requesting data on the names of employees in order to meet the requirements of section 453(j)(1) of the Act, 42 U.S.C. 653(j)(1). Section 453(j)(1) requires the Secretary of Health and Human Services to transmit the information in the NDNH to the Social Security Administration to verify the accuracy of the name, social security number, and birth date of each individual. ''Unemployment compensation or claim information'' is defined in paragraph (a)(3) as: (1) Whether an individual is receiving, has received or has applied for unemployment compensation; (2) the individual's name and current (or most recent) home address; (3) the individual's social security number; and 4) the aggregate gross amount of compensation the claimant received during the reporting quarter.

The proposed paragraph (b) of 45 CFR 303.108 contains the requirements for quarterly wage and unemployment compensation claims reporting. Under proposed paragraph (b), the State would be required to disclose quarterly, to the National Directory of New Hires, wage and claim information, as defined in paragraph (a), that is collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act. OCSE does not propose to require the collection or reporting of any additional wage information for purposes of the NDNH beyond that which is currently being collected. Wage and unemployment claim information is currently reported to agencies administering unemployment compensation laws under title III of the Act or to other agencies pursuant to section 1137(a) of the Act as part of the income and eligibility verification program, so proposed paragraph (b) will not impose an additional information requirement. OCSE is also aware that some States' compensation records either do not include employee names or record only a partial set of the letters in the employee's name. Similarly, OCSE is aware that State unemployment compensation laws do not require all employers to report information. In the proposed regulation, the State is only required to supply wage information which is already contained in the records of the State. Therefore, in the case of employee names or wages, a State is required to send us as much information on employee names or wages as exists in the unemployment compensation records, or in the records maintained for purposes of section 1137 of the Act if the information is maintained by another agency. The reference to section 1137 has been included to cover those situations where States have alternate data collection systems to make it clear that the data in such alternate systems would be covered by the regulation.

Similarly, the State is only required to supply claim information which is already contained in the records of the State agency administering the unemployment compensation program or the records maintained for purposes of section 1137 of the Act. There is no requirement being imposed to collect additional claim information for purposes of the NDNH. In addition, the State is only being required to furnish the NDNH with claim information that is processed electronically. OCSE believes that it is neither feasible nor cost effective to require that States transmit claims data for those relatively few benefit programs which are processed manually. State Employment Security Agencies and the Department of Labor have indicated that manually processed claims comprise a very small portion of total claims. We understand that the unemployment compensation programs being administered by States cover any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law) and extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, and disaster unemployment assistance. We invite comment regarding the regulatory language and whether it appropriately covers these benefits.

The proposed 45 CFR 303.108(c) sets the time frames for quarterly wage and claims reporting. The State would be required to report wage information for the reporting period no later than the end of the fourth month following the reporting period. For the reporting period of July-September, 1997, the first period for which wage reporting would be required, the State would be required to furnish wage information to the Secretary no later than January 31, 1998. Currently, State laws generally allow employers one month following the reporting period to report quarterly wages to the State agency administering the unemployment compensation program. We believe that the time frame for States to report wage information to the Secretary for the purposes of the NDNH will ensure that States have adequate time to enter, edit, and transmit wage information to the Secretary. Given the necessity and importance of maintaining accurate wage data in the NDNH, the proposed schedule for reporting allows States ample time to work with employers to correct inaccurate wage reports and to submit complete and comprehensive wage information on employees within a State.

The State would be required to report claim information for the reporting period no later than the end of the first month following the end of the reporting period. The State would be required to begin the reporting of claim information for the reporting period of October-December, 1997. We believe that a shorter time frame for submitting claim information, as opposed to wage information, is appropriate because the State agency charged with administering the unemployment compensation program maintains this data on an ongoing basis. Also, as noted above, the collection of wage information lags behind the collection of claim information because of the time required to ensure that wage information submitted is accurate.

In order to ensure the effective implementation of the NDNH, the Secretary is planning a staggered schedule for initial data submissions to the NDNH. The reporting of new hire data will begin on October 1, 1997, followed by initial quarterly wage and claims information submissions on January 31, 1998. For this reason, the Secretary will require that claims

information be submitted for the period beginning October–December, 1997, rather than July–September, 1997.

The proposed 45 CFR 303.108(d) provides that the Secretary will establish standardized formats for reporting quarterly wage and claim information and that the States will be required to adhere to such formats for reporting purposes. The formats identify the data elements, descriptions and tape specifications for reporting quarterly wage and claim information. These formats were published in the **Federal Register** for comment on July 25, 1997 (62 FR 40092).

Paperwork Reduction Act of 1995

Sections 453A(g)(2)(B) and 303(h) of the Act and section 3304(a)(16) of the Internal Revenue Code of 1986 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

As discussed earlier, sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986, require various State entities to furnish to the Secretary of Health and Human Services or the National Directory of New Hires, on a quarterly basis, data concerning the wages and unemployment compensation paid to individuals. The Secretary of the Department of Health and Human Services is required to publish regulations to identify the dates, format, and data elements necessary for States to furnish this data. The purpose of these requirements is to develop a repository of information on the earnings and unemployment compensation claims data on all employees to provide the necessary information to locate individuals for child support purposes, as well as for other specified purposes in Title IV–D of the Act. This data will be combined with new hire data to be reported to the NDNH pursuant to section 453A of the Act. Quarterly wage and unemployment compensation claims data will provide for the location of continuously employed and unemployed individuals who would not be located by new hire reporting.

All 50 States, as well as the District of Columbia, the Virgin Islands, and Puerto Rico, will be required to report quarterly wage and unemployment compensation claims data to the NDNH. The proposed regulation requires the State to disclose quarterly, to the NDNH, wage and claim information that is currently being collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act. Wage information is defined to include: (1) the name of the employee; (2) the employee's social security number; (3) aggregate wages of the employee during the reported period; and, (4) the name, address (and optionally, any second address for wage withholding purposes), and Federal employer identification number of the employer reporting wages under a State unemployment compensation law. Claim information is defined as: (1) The status of an individual's claim for unemployment compensation (i.e., is receiving, has received, or has made application for benefits); (2) The individual's name and current (or most recent) home address; (3) the individual's social security number; and, (4) the aggregate gross amount of compensation the claimant received during the reporting quarter. To ensure that public comments have maximum effect in developing the final regulations, ACF urges that each commenter clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

Because all quarterly wage and unemployment compensation claims data will be reported from the State to the NDNH electronically and will be limited to data already being collected, the burden on the States will be minimal. The average burden per response is estimated to be 2 minutes (.03 hours). States may also have a one-time initial start-up burden of two weeks (80 hours) for reprogramming their systems to comply with Federal reporting requirements. The total annual reporting and recordkeeping burden that will result from the collection of information is estimated to be 7.13 hours.

The Administration for Children and Families will consider comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;
- Evaluating the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting non-electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB 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: Ms. Wendy Taylor.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. The proposed rule implements the statutory provisions by specifying the wage and unemployment compensation claims information that must be reported to the Secretary of Health and Human Services.

Unfunded Mandates Act

The Department has determined that this proposed rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: July 8, 1997.

Olivia A. Golden,

Principal Deputy Assistant, Secretary for Children and Families.

Approved: August 14, 1997.

Donna E. Shalala,

Secretary, Department of Health Human Services.

For the reasons discussed above, we propose to amend title 45 CFR Chapter III of the Code of Federal Regulations as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. A new 303.108 is added to read as follows:

§ 303.108 Quarterly wage and unemployment compensation claims reporting to the national directory of new hires.

(a) *What definitions apply to quarterly wage and unemployment compensation claims reporting?* When used in this section:

(1) *Reporting period* means time elapsed during a calendar quarter, e.g. January–March, April–June, July–September, October–December.

(2) *Wage information* means:

(i) The name of the employee;

(ii) The social security number of the employee;

(iii) The aggregate wages of the employee during the reporting period; and

(iv) The name, address (and optionally, any second address for wage withholding purposes), and Federal employer identification number of an employer reporting wages.

(3) *Unemployment compensation or claim information* means:

(i) Whether an individual is receiving, has received or has applied for unemployment compensation;

(ii) The individual's name and current (or most recent) home address;

(iii) The individual's social security number; and

(iv) The aggregate gross amount of compensation the claimant received during the reporting quarter.

(b) *What data must be transmitted to the National Directory of New Hires?* The State shall disclose quarterly, to the National Directory of New Hires, wage and claim information as defined in paragraph (a) that is collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act.

(c) *What time frames apply for reporting quarterly wage and unemployment compensation claims data?* The State shall report wage information for the reporting period no later than the end of the fourth month following the reporting period. The State shall report claim information for the reporting period no later than the end of the first month following the reporting period.

(d) *What reporting formats will be used for reporting data?* The State must use standardized formats established by the Secretary of Health and Human Services for reporting wage and claim information.

[FR Doc. 97–26538 Filed 10–6–97; 8:45 am]

BILLING CODE 4184–01–U

Notices

Federal Register
Vol. 62, No. 194
Tuesday, October 7, 1997

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–072–2]

Supplemental Environmental Impact Statement for the Importation of Logs, Lumber, and Other Unmanufactured Wood Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our notice announcing that we intend to prepare a supplement to the environmental impact statement, issued in July 1994, for the rulemaking proceeding entitled ''Importation of Logs, Lumber, and Other Unmanufactured Wood Articles.'' This reopening and extension will provide interested groups and individuals with additional time to prepare comments on the request for information.

DATES: Consideration will be given only to comments on Docket No. 97–072–1 that are received on or before October 24, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–072–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–072–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Orr, Entomologist, Risk Analysis Systems, PPD, APHIS, 4700 River Road Unit 117, Riverdale, MD 20737–1238, (301) 734–8939, or Jack Edmundson, Project Leader, Environmental Analysis and Documentation, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1238, (301) 734–8565.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1997, we published in the **Federal Register** (62 FR 45217, Docket No. 97–072–1) a notice advising the public that the Animal and Plant Health Inspection Service would prepare a supplement to the environmental impact statement, issued in July 1994, for the rulemaking proceeding entitled ''Importation of Logs, Lumber, and Other Unmanufactured Wood Articles.'' Comments on that notice were invited and a comment due date of September 25, 1997, was established. We are now advising the public that an extension of the comment due date, to October 24, 1997, has been granted in response to several requests for such an extension. This action will allow interested groups and individuals additional time to prepare and submit comments.

Done in Washington, DC, this 1st day of October 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–26511 Filed 10–6–97; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for a currently approved information collection in support of the USDA's Export Sales Reporting Program.

DATES: Comments on this notice must be received by December 8, 1997 assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Thomas B McDonald, Jr., Chief, Export Sales Reporting, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250–1025, (202) 720–3273, FAX (202) 690–3275.

SUPPLEMENTARY INFORMATION:

Title: Export Sales of U.S. Agricultural Commodities.

OMB Number: 0551–0007.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Trade Act of 1978 requires mandatory reporting by all export sellers of selected U.S. produced agricultural commodities. The published data is an ''early warning'' of sales activity and provides basis for more informed decisions by producers, exporters, futures markets participants, consumers, and government. The respondents include any person or company who sells a reportable commodity to a foreign buyer.

USDA's export sales reporting system has its roots in the unexpected purchase of large amounts of U.S. wheat and corn by the Soviet Union in 1972. To make sure that all parties involved in the production and export of U.S. grain have access to up-to-date export information, the U.S. Congress mandated an export sales reporting requirement in 1973. Prior to the establishment of the export reporting system, it was impossible for the public to obtain information on export sales activity until the actual shipments had taken place. This frequently resulted in considerable delay in the availability of information.

Under the export sales reporting system, U.S. exporters are required to report all large sales of certain designated commodities by 3 p.m. (Eastern time) on the next business day after the sale is made. The designated commodities for these daily reports are wheat (by class), barley, corn, grain sorghum, oats, soybeans, soybean cake and meal, and soybean oil. Large sales

for all reportable commodities except soybean oil are defined as 100,000 metric tons or more of one commodity in one day to a single destination or 200,000 tons or more of one commodity during the weekly reporting period. Large sales for soybean oil are 20,000 tons and 40,000 tons, respectively.

Weekly reports are also required, regardless of the size of the sales transaction, for all of these commodities, as well as wheat products, rye, flaxseed, linseed oil, sunflowerseed oil, cotton (by staple length), cottonseed, cottonseed cake and meal, cottonseed oil, rice (by class), and cattle hides and skins (cattle, calf, and kip). The reporting week for the export sales reporting system is Friday–Thursday. The Secretary of Agriculture has the authority to add other commodities to this list.

Sunflowerseed oil was added to the program in April, 1997. Nine exporters have reported sales totaling 271 thousand metric tons resulting in exports of 244 thousand tons through the period ending September 11, 1997.

U.S. exporters provide information on the quantity of their sales transactions, the type and class of commodity, the marketing year of shipment, and the destination. They also report any changes in previously reported information, such as cancellations and changes in destinations.

Estimate of Burden: Public reporting burden for collecting information under this proposed rule is estimated to average 32.4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Business and other for-profit.

Estimated Number of Respondents: 299.

Estimated number of annual Responses per Respondent: 140.

Estimated total annual burden on Respondents: 22,604 hours.

Copies of this information collection can be obtained from Valerie Countiss, the Agency Information Collection Coordinator, at (202) 720–6713.

Request for Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas B. McDonald, Jr., Chief, Export Sales Reporting, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 1025, Washington DC 20250–1025, or FAX (202) 690–3275.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, October 1, 1997.

Christopher E. Goldthwait,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 97–26524 Filed 10–6–97; 8:45 am]

BILLING CODE 3410–10–M

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, and Additional Releases

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on September 17, 1997, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: Kevin G. Tiernan, Assassination Records Review Board, Second Floor, Washington, DC 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On September 17, 1997, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives.

Notice of Formal Determinations

For each document, the number of postponements sustained immediately follows the record identification number, followed, where appropriate, by the date the document is scheduled to be released or re-reviewed.

FBI Documents: Postponed in Part

124–10196–10472; 4; 10/2017
124–10200–10264; 22; 10/2017
124–10201–10464; 3; 10/2017
124–10201–10485; 5; 10/2017
124–10203–10292; 2; 10/2017
124–10203–10293; 318; 10/2017
124–10205–10380; 12; 10/2017
124–10205–10403; 4; 10/2017
124–10205–10409; 9; 10/2017
124–10205–10413; 1; 10/2017
124–10205–10415; 1; 10/2017
124–10205–10428; 2; 10/2017
124–10205–10436; 2; 10/2017
124–10205–10468; 3; 10/2017
124–10205–10476; 3; 10/2017
124–10205–10483; 1; 10/2017
124–10205–10496; 2; 10/2017
124–10206–10283; 3; 10/2017
124–10206–10289; 1; 10/2017
124–10206–10295; 10; 10/2017
124–10206–10296; 4; 10/2017
124–10206–10297; 4; 10/2017
124–10206–10305; 24; 10/2017
124–10206–10310; 23; 10/2017
124–10206–10313; 1; 10/2017
124–10206–10356; 11; 10/2017
124–10206–10357; 17; 10/2017
124–10206–10360; 11; 10/2017
124–10206–10362; 11; 10/2017
124–10206–10373; 9; 10/2017
124–10207–10495; 8; 10/2017
124–10207–10496; 6; 10/2017
124–10208–10466; 1; 10/2017
124–10210–10281; 1; 10/2017
124–10210–10290; 4; 10/2017
124–10210–10291; 5; 10/2017
124–10210–10300; 6; 10/2017
124–10210–10305; 6; 10/2017
124–10210–10306; 9; 10/2017
124–10210–10308; 1; 10/2017
124–10210–10310; 5; 10/2017
124–10210–10312; 19; 10/2017
124–10210–10320; 1; 10/2017
124–10210–10334; 19; 10/2017
124–10210–10337; 7; 10/2017
124–10210–10341; 8; 10/2017
124–10210–10346; 37; 10/2017
124–10210–10348; 9; 10/2017
124–10210–10486; 29; 10/2017
124–10210–10488; 18; 10/2017
124–10210–10490; 10; 10/2017
124–10210–10496; 1; 10/2017
124–10210–10499; 2; 10/2017
124–10212–10106; 5; 10/2017
124–10212–10109; 2; 10/2017
124–10212–10111; 1; 10/2017
124–10212–10177; 4; 10/2017
124–10213–10336; 1; 10/2017
124–10213–10337; 1; 10/2017
124–10213–10357; 1; 10/2017

124–10214–10261; 1; 10/2017
124–10214–10263; 0; 10/2017
124–10214–10267; 0; 10/2017
124–10214–10269; 0; 10/2017
124–10214–10270; 0; 10/2017
124–10214–10282; 4; 10/2017
124–10214–10283; 4; 10/2017
124–10215–10069; 4; 10/2017
124–10215–10070; 7; 10/2017
124–10215–10071; 1; 10/2017
124–10215–10073; 2; 10/2017
124–10215–10074; 2; 10/2017
124–10215–10075; 16; 10/2017
124–10215–10077; 1; 10/2017
124–10215–10082; 1; 10/2017
124–10215–10083; 1; 10/2017
124–10215–10087; 15; 10/2017
124–10215–10090; 2; 10/2017
124–10215–10091; 5; 10/2017
124–10215–10095; 10; 10/2017
124–10215–10096; 12; 10/2017
124–10215–10097; 10; 10/2017
124–10215–10099; 36; 10/2017
124–10215–10103; 5; 10/2017
124–10215–10400; 18; 10/2017
124–10215–10401; 13; 10/2017
124–10216–10151; 4; 10/2017
124–10216–10156; 1; 10/2017
124–10216–10161; 1; 10/2017
124–10216–10191; 2; 10/2017
124–10216–10200; 3; 10/2017
124–10216–10219; 4; 10/2017
124–10216–10370; 11; 10/2017
124–10216–10371; 5; 10/2017
124–10216–10372; 4; 10/2017
124–10216–10380; 4; 10/2017
124–10216–10381; 2; 10/2017
124–10216–10382; 5; 10/2017
124–10216–10383; 2; 10/2017
124–10216–10386; 2; 10/2017
124–10216–10389; 6; 10/2017
124–10216–10390; 6; 10/2017
124–10217–10079; 1; 10/2017
124–10217–10080; 9; 10/2017
124–10217–10084; 3; 10/2017
124–10217–10087; 29; 10/2017
124–10217–10474; 11; 10/2017
124–10217–10477; 1; 10/2017
124–10217–10479; 4; 10/2017
124–10217–10480; 1; 10/2017
124–10217–10482; 0; 10/2017
124–10217–10485; 2; 10/2017
124–10217–10488; 6; 10/2017
124–10217–10490; 0; 10/2017
124–10217–10491; 3; 10/2017
124–10217–10497; 4; 10/2017
124–10218–10386; 1; 10/2017
124–10218–10393; 4; 10/2017
124–10218–10420; 4; 10/2017
124–10218–10425; 1; 10/2017
124–10218–10431; 3; 10/2017
124–10218–10438; 3; 10/2017
124–10218–10439; 9; 10/2017
124–10218–10441; 12; 10/2017
124–10218–10449; 3; 10/2017
124–10218–10450; 2; 10/2017
124–10219–10180; 17; 10/2017
124–10220–10338; 1; 10/2017
124–10220–10339; 1; 10/2017
124–10220–10342; 6; 10/2017
124–10220–10348; 13; 10/2017
124–10220–10350; 32; 10/2017
124–10220–10351; 1; 10/2017
124–10220–10353; 13; 10/2017
124–10220–10359; 3; 10/2017
124–10220–10360; 14; 10/2017
124–10220–10373; 3; 10/2017
124–10220–10375; 6; 10/2017
124–10220–10375; 6; 10/2017
124–10220–10403; 3; 10/2017
124–10220–10405; 4; 10/2017
124–10220–10418; 15; 10/2017
124–10220–10425; 2; 10/2017
124–10220–10426; 3; 10/2017
124–10220–10429; 5; 10/2017
124–10221–10358; 22; 10/2017
124–10221–10362; 1; 10/2017
124–10221–10363; 8; 10/2017
124–10221–10364; 3; 10/2017
124–10221–10368; 2; 10/2017
124–10221–10371; 3; 10/2017
124–10221–10374; 6; 10/2017
124–10221–10397; 3; 10/2017
124–10221–10410; 5; 10/2017
124–10221–10413; 9; 10/2017
124–10223–10093; 6; 10/2017
124–10223–10094; 3; 10/2017
124–10223–10095; 6; 10/2017
124–10223–10097; 8; 10/2017
124–10223–10110; 17; 10/2017
124–10223–10111; 12; 10/2017
124–10223–10114; 4; 10/2017
124–10223–10116; 0; 10/2017
124–10223–10126; 0; 10/2017
124–10223–10133; 2; 10/2017
124–10223–10137; 13; 10/2017
124–10223–10142; 2; 10/2017
124–10223–10143; 3; 10/2017
124–10223–10148; 9; 10/2017
124–10223–10150; 30; 10/2017
124–10223–10151; 12; 10/2017
124–10223–20106; 22; 10/2017
124–10224–10003; 3; 10/2017
124–10224–10004; 7; 10/2017
124–10225–10008; 9; 10/2017
124–10225–10010; 3; 10/2017
124–10225–10012; 48; 10/2017
124–10225–10026; 18; 10/2017
124–10225–10089; 23; 10/2017
124–10225–10089; 23; 10/2017
124–10225–10106; 3; 10/2017
124–10225–10124; 5; 10/2017
124–10225–10125; 63; 10/2017
124–10225–10149; 6; 10/2017
124–10225–10153; 13; 10/2017
124–10225–10163; 2; 10/2017
124–10225–10181; 2; 10/2017
124–10225–10185; 5; 10/2017
124–10225–10189; 4; 10/2017
124–10225–10190; 9; 10/2017
124–10225–10199; 4; 10/2017
124–10225–10203; 2; 10/2017
124–10225–10205; 10; 10/2017
124–10225–10315; 2; 10/2017
124–10225–10316; 2; 10/2017
124–10226–10077; 6; 10/2017
124–10226–10078; 12; 10/2017
124–10226–10079; 7; 10/2017
124–10226–10080; 11; 10/2017
124–10277–10413; 2; 10/2017
124–10277–10449; 8; 10/2017
124–10278–10387; 38; 10/2017
124–10278–10388; 5; 10/2017
124–10278–10402; 22; 10/2017
124–10278–10405; 66; 10/2017
124–10278–10407; 8; 10/2017
124–10278–10418; 1; 10/2017
124–10278–10419; 0; 10/2017
124–10278–10420; 7; 10/2017
124–10278–10422; 54; 10/2017
124–10278–10425; 58; 10/2017
124–10278–10427; 83; 10/2017
124–10278–10430; 31; 10/2017
124–10278–10489; 4; 10/2017
124–10279–10123; 1; 10/2017
124–10279–10128; 45; 10/2017
124–10279–10129; 18; 10/2017
124–10283–10101; 24; 10/2017
124–10283–10103; 13; 10/2017
124–10283–10111; 3; 10/2017
124–10283–10112; 4; 10/2017
124–10283–10113; 4; 10/2017
124–10283–10114; 6; 10/2017
124–10283–10117; 2; 10/2017
124–10283–10120; 6; 10/2017
124–10283–10123; 8; 10/2017
124–10283–10126; 3; 10/2017
124–10283–10134; 6; 10/2017
124–10283–10135; 4; 10/2017
124–10283–10248; 21; 10/2017
124–10283–10250; 4; 10/2017
124–10283–10253; 11; 10/2017
124–10283–10254; 2; 10/2017
124–10283–10255; 14; 10/2017
124–10283–10259; 3; 10/2017
124–10286–10055; 11; 10/2017
124–10286–10059; 5; 10/2017
124–10287–10337; 1; 10/2017
124–10287–10398; 96; 10/2017
124–10287–10399; 13; 10/2017
124–10287–10400; 26; 10/2017
124–10287–10401; 5; 10/2017
124–10287–10402; 20; 10/2017
124–10287–10422; 5; 10/2017
124–10287–10424; 0; 10/2017
124–10287–10430; 0; 10/2017
124–10287–10439; 5; 10/2017
124–10287–10440; 2; 10/2017
124–10287–10444; 1; 10/2017
124–10287–10448; 5; 10/2017
124–10287–10449; 0; 10/2017
124–10287–10450; 1; 10/2017
124–10287–10451; 1; 10/2017
124–10287–10453; 3; 10/2017
124–10287–10459; 5; 10/2017
124–10287–10460; 3; 10/2017
124–10287–10461; 3; 10/2017
124–10287–10462; 15; 10/2017
124–10287–10467; 1; 10/2017
124–10287–10468; 2; 10/2017
124–10287–10470; 47; 10/2017
124–10287–10471; 12; 10/2017
124–10287–10472; 0; 10/2017
124–10287–10481; 15; 10/2017
124–10287–10482; 0; 10/2017
124–10289–10004; 5; 10/2017
124–10290–10132; 10; 10/2017
124–10290–10164; 14; 10/2017
124–10292–10270; 1; 10/2017
124–10292–10274; 2; 10/2017
124–10293–10061; 3; 10/2017
124–10293–10065; 0; 10/2017
124–10293–10066; 0; 10/2017
124–10293–10067; 1; 10/2017
124–10293–10458; 1; 10/2017
124–10294–10344; 1; 10/2017
124–10294–10347; 1; 10/2017
124–10294–10351; 2; 10/2017
124–10294–10357; 8; 10/2017
124–10294–10361; 2; 10/2017
124–10294–10363; 4; 10/2017
124–10294–10365; 1; 10/2017
124–10298–10241; 5; 10/2017
124–10298–10253; 5; 10/2017
124–10298–10265; 10; 10/2017
124–10298–10278; 2; 10/2017
124–10298–10282; 1; 10/2017
124–10298–10293; 1; 10/2017

124–10298–10298; 0; 10/2017
124–10298–10300; 0; 10/2017
124–10298–10301; 0; 10/2017
124–10298–10302; 0; 10/2017
124–10298–10306; 0; 10/2017
124–10298–10312; 1; 10/2017
124–10302–10300; 5; 10/2017
124–10302–10301; 2; 10/2017
124–10302–10311; 7; 10/2017
124–10302–10319; 9; 10/2017
124–10302–10323; 11; 10/2017
124–10302–10327; 2; 10/2017
124–10303–10026; 6; 10/2017
124–90005–10013; 2; 10/2017
124–90005–10018; 2; 10/2017
124–90005–10019; 3; 10/2017
124–90005–10023; 2; 10/2017
124–90005–10027; 29; 10/2017
124–90005–10036; 38; 10/2017
124–90005–10038; 9; 10/2017

CIA Documents: Postponed in Part

104–10075–10002; 1; 10/2017
104–10075–10125; 2; 10/2017
104–10079–10134; 1; 10/2017
104–10086–10217; 1; 10/2017
104–10092–10018; 4; 10/2017
104–10092–10024; 6; 10/2017
104–10092–10069; 6; 10/2017
104–10092–10086; 7; 10/2017
104–10092–10090; 8; 10/2017
104–10092–10092; 1; 10/2017
104–10092–10102; 110; 10/2017
104–10092–10105; 5; 10/2017
104–10092–10126; 4; 10/2017
104–10092–10140; 11; 10/2017
104–10093–10009; 1; 10/2017
104–10093–10010; 10; 10/2017
104–10093–10127; 4; 10/2017
104–10093–10130; 5; 10/2017
104–10093–10142; 7; 10/2017
104–10093–10145; 6; 10/2017
104–10093–10161; 1; 10/2017
104–10093–10164; 1; 10/2017
104–10093–10170; 1; 10/2017
104–10093–10172; 1; 10/2017
104–10093–10178; 11; 10/2017
104–10093–10179; 1; 10/2017
104–10093–10191; 1; 10/2017
104–10093–10200; 2; 10/2017
104–10093–10203; 4; 10/2017
104–10093–10212; 1; 10/2017
104–10093–10218; 22; 10/2017
104–10093–10219; 1; 10/2017
104–10093–10221; 2; 10/2017
104–10093–10222; 1; 10/2017
104–10093–10229; 2; 10/2017
104–10093–10237; 1; 10/2017
104–10093–10239; 1; 10/2017
104–10093–10243; 1; 10/2017
104–10093–10245; 1; 10/2017
104–10095–10071; 1; 10/2017
104–10095–10126; 10; 10/2017
104–10096–10044; 1; 10/2017
104–10096–10088; 6; 10/2017
104–10096–10131; 8; 10/2017
104–10096–10223; 5; 10/2017
104–10096–10238; 11; 10/2017
104–10096–10321; 5; 10/2017
104–10097–10011; 2; 10/2017
104–10097–10016; 7; 10/2017
104–10097–10093; 13; 10/2017
104–10097–10147; 7; 10/2017
104–10097–10277; 8; 10/2017
104–10097–10371; 1; 10/2017
104–10097–10379; 1; 05/2001
104–10097–10384; 1; 05/2001
104–10097–10408; 1; 10/2017
104–10098–10055; 1; 10/2017
104–10098–10058; 3; 10/2017
104–10098–10059; 1; 10/2017
104–10098–10060; 7; 10/2017
104–10098–10068; 2; 10/2017
104–10098–10091; 11; 10/2017
104–10098–10113; 3; 10/2017
104–10098–10123; 1; 10/2017
104–10098–10138; 3; 10/2017
104–10098–10151; 1; 10/2017
104–10098–10155; 10; 10/2017
104–10098–10157; 2; 10/2017
104–10098–10160; 2; 10/2017
104–10098–10164; 1; 10/2017
104–10098–10165; 2; 10/2017
104–10098–10166; 10; 10/2017
104–10098–10218; 2; 10/2017
104–10098–10235; 1; 10/2017
104–10098–10238; 21; 10/2017
104–10098–10263; 21; 10/2017
104–10098–10269; 2; 10/2017
104–10098–10278; 3; 10/2017
104–10098–10285; 3; 10/2017
104–10098–10323; 3; 10/2017
104–10098–10345; 6; 10/2017
104–10098–10350; 2; 10/2017
104–10098–10404; 14; 10/2017
104–10098–10413; 5; 10/2017
104–10098–10425; 1; 10/2017
104–10098–10435; 2; 10/2017
104–10100–10004; 1; 05/2001
104–10100–10005; 3; 10/2017
104–10100–10027; 4; 10/2017
104–10100–10028; 2; 10/2017
104–10100–10031; 3; 05/2001
104–10100–10032; 2; 05/2001
104–10100–10039; 5; 10/2017
104–10100–10040; 1; 10/2017
104–10100–10087; 5; 10/2017
104–10100–10088; 1; 05/2001
104–10100–10089; 1; 05/2001
104–10100–10090; 5; 05/2001
104–10100–10092; 2; 10/2017
104–10100–10094; 3; 10/2017
104–10100–10096; 5; 10/2017
104–10100–10097; 2; 05/2001
104–10100–10100; 5; 10/2017
104–10100–10102; 1; 10/2017
104–10100–10104; 1; 05/2001
104–10100–10110; 3; 05/2001
104–10100–10111; 4; 05/2001
104–10100–10112; 1; 10/2017
104–10100–10113; 1; 05/2001
104–10100–10114; 7; 05/2001
104–10100–10119; 2; 10/2017
104–10100–10120; 3; 05/2001
104–10100–10121; 1; 05/2001
104–10100–10122; 5; 05/2001
104–10100–10124; 2; 05/2001
104–10100–10125; 2; 10/2017
104–10100–10127; 4; 05/2001
104–10100–10131; 2; 05/2001
104–10100–10132; 1; 05/2001
104–10100–10135; 1; 10/2017
104–10100–10136; 3; 10/2017
104–10100–10137; 2; 10/2017
104–10100–10138; 1; 10/2017
104–10100–10139; 3; 10/2017
104–10100–10142; 4; 10/2017
104–10100–10146; 2; 10/2017
104–10100–10147; 3; 10/2017
104–10100–10148; 4; 10/2017
104–10100–10150; 2; 10/2017
104–10100–10151; 8; 10/2017
104–10100–10152; 4; 10/2017
104–10100–10153; 1; 05/2001
104–10100–10154; 2; 05/2001
104–10100–10156; 2; 05/2001
104–10100–10157; 3; 05/2001
104–10100–10160; 2; 10/2017
104–10100–10162; 2; 05/2001
104–10100–10163; 1; 10/2017
104–10100–10165; 2; 05/2001
104–10100–10166; 7; 10/2017
104–10100–10170; 3; 05/2001
104–10100–10171; 1; 05/2001
104–10100–10172; 2; 05/2001
104–10100–10177; 3; 05/2001
104–10100–10178; 3; 05/2001
104–10100–10179; 1; 10/2017
104–10100–10181; 2; 05/2001
104–10100–10182; 1; 10/2017
104–10100–10184; 1; 05/2001
104–10100–10186; 2; 05/2001
104–10100–10187; 2; 10/2017
104–10100–10193; 1; 10/2017
104–10100–10194; 9; 05/2001
104–10100–10195; 7; 05/2001
104–10100–10197; 1; 10/2017
104–10100–10198; 2; 05/2001
104–10100–10201; 4; 10/2017
104–10100–10205; 1; 10/2017
104–10100–10206; 3; 05/2001
104–10100–10209; 3; 05/2001
104–10100–10210; 5; 10/2017
104–10100–10211; 9; 10/2017
104–10100–10213; 1; 10/2017
104–10100–10214; 3; 10/2017
104–10100–10215; 6; 10/2017
104–10100–10216; 1; 05/2001
104–10100–10217; 5; 10/2017
104–10100–10218; 6; 05/2001
104–10100–10221; 3; 10/2017
104–10100–10222; 2; 10/2017
104–10100–10224; 4; 10/2017
104–10100–10226; 6; 05/2001
104–10100–10227; 1; 10/2017
104–10100–10229; 2; 10/2017
104–10100–10231; 2; 10/2017
104–10100–10233; 4; 10/2017
104–10100–10236; 2; 10/2017
104–10100–10239; 2; 10/2017
104–10100–10240; 1; 10/2017
104–10100–10241; 2; 05/2001
104–10100–10242; 1; 05/2001
104–10100–10244; 1; 10/2017
104–10100–10245; 2; 10/2017
104–10100–10246; 2; 05/2001
104–10100–10247; 5; 05/2001
104–10100–10248; 2; 10/2017
104–10100–10249; 2; 05/2001
104–10100–10250; 3; 05/2001
104–10100–10251; 11; 10/2017
104–10100–10254; 2; 10/2017
104–10100–10258; 2; 10/2017
104–10100–10259; 6; 10/2017
104–10100–10261; 3; 10/2017
104–10100–10262; 2; 10/2017
104–10100–10263; 1; 10/2017
104–10100–10265; 2; 10/2017
104–10100–10266; 2; 10/2017
104–10100–10267; 4; 10/2017
104–10100–10269; 3; 10/2017
104–10100–10270; 1; 10/2017
104–10100–10271; 1; 10/2017
104–10100–10273; 2; 10/2017
104–10100–10274; 2; 10/2017
104–10100–10276; 1; 10/2017
104–10100–10277; 5; 10/2017
104–10100–10278; 1; 10/2017
104–10100–10280; 3; 10/2017

104–10100–10281; 1; 10/2017
104–10100–10284; 1; 10/2017
104–10100–10285; 1; 10/2017
104–10100–10288; 2; 10/2017
104–10100–10290; 1; 10/2017
104–10100–10293; 1; 10/2017
104–10100–10294; 2; 10/2017
104–10100–10297; 1; 10/2017
104–10100–10299; 1; 10/2017
104–10100–10304; 2; 10/2017
104–10100–10305; 2; 10/2017
104–10100–10306; 2; 10/2017
104–10100–10307; 2; 10/2017
104–10100–10310; 14; 10/2017
104–10100–10311; 1; 10/2017
104–10100–10312; 1; 10/2017
104–10100–10313; 2; 10/2017
104–10100–10314; 2; 10/2017
104–10100–10315; 1; 10/2017
104–10100–10318; 2; 10/2017
104–10100–10319; 1; 10/2017
104–10100–10320; 4; 10/2017
104–10100–10321; 3; 10/2017
104–10100–10322; 2; 10/2017
104–10100–10323; 1; 10/2017
104–10100–10325; 5; 10/2017
104–10100–10326; 2; 10/2017
104–10100–10327; 1; 10/2017
104–10100–10328; 3; 10/2017
104–10100–10329; 3; 10/2017
104–10100–10330; 1; 10/2017
104–10100–10331; 2; 10/2017
104–10100–10332; 2; 10/2017
104–10100–10334; 7; 10/2017
104–10100–10336; 1; 10/2017
104–10100–10337; 2; 10/2017
104–10100–10343; 1; 10/2017
104–10100–10344; 2; 10/2017
104–10100–10346; 1; 10/2017
104–10100–10348; 1; 10/2017
104–10100–10351; 6; 10/2017
104–10100–10353; 4; 10/2017
104–10100–10355; 1; 10/2017
104–10100–10357; 3; 10/2017
104–10100–10358; 1; 10/2017
104–10100–10360; 2; 10/2017
104–10100–10363; 3; 10/2017
104–10100–10364; 4; 10/2017
104–10100–10365; 1; 05/2001
104–10100–10379; 1; 10/2017
104–10100–10380; 1; 10/2017
104–10100–10383; 3; 10/2017
104–10100–10384; 1; 10/2017
104–10100–10385; 2; 10/2017
104–10100–10388; 2; 10/2017
104–10100–10389; 3; 10/2017
104–10100–10390; 1; 10/2017
104–10100–10397; 1; 10/2017
104–10100–10398; 1; 10/2017
104–10100–10399; 1; 10/2017
104–10100–10411; 9; 10/2017
104–10100–10429; 3; 10/2017
104–10100–10440; 8; 10/2017
104–10100–10442; 2; 10/2017
104–10100–10444; 1; 10/2017
104–10101–10007; 8; 10/2017
104–10101–10011; 4; 10/2017
104–10101–10012; 2; 10/2017
104–10101–10014; 1; 10/2017
104–10101–10015; 1; 10/2017
104–10101–10016; 6; 10/2017
104–10101–10017; 2; 10/2017
104–10101–10018; 1; 10/2017
104–10101–10020; 1; 10/2017
104–10101–10024; 2; 05/2001
104–10101–10025; 2; 10/2017
104–10101–10026; 3; 05/2001
104–10101–10029; 1; 10/2017
104–10101–10030; 1; 05/2001
104–10101–10038; 2; 10/2017
104–10101–10039; 1; 10/2017
104–10101–10040; 3; 05/2001
104–10101–10042; 1; 05/2001
104–10101–10044; 3; 10/2017
104–10101–10045; 2; 10/2017
104–10101–10046; 2; 05/2001
104–10101–10047; 3; 10/2017
104–10101–10048; 1; 10/2017
104–10101–10049; 5; 10/2017
104–10101–10053; 5; 10/2017
104–10101–10054; 5; 10/2017
104–10101–10055; 3; 05/2001
104–10101–10056; 2; 10/2017
104–10101–10061; 8; 10/2017
104–10101–10064; 3; 05/2001
104–10101–10065; 1; 05/2001
104–10101–10067; 2; 05/2001
104–10101–10070; 2; 05/2001
104–10101–10072; 5; 10/2017
104–10101–10073; 1; 10/2017
104–10101–10075; 6; 10/2017
104–10101–10077; 1; 05/2001
104–10101–10078; 1; 05/2001
104–10101–10080; 4; 10/2017
104–10101–10081; 4; 05/2001
104–10101–10085; 2; 05/2001
104–10101–10086; 3; 05/2001
104–10101–10090; 2; 10/2017
104–10101–10091; 1; 05/2001
104–10101–10094; 4; 05/2001
104–10101–10095; 3; 05/2001
104–10101–10097; 2; 05/2001
104–10101–10098; 3; 10/2017
104–10102–10223; 15; 10/2017
104–10102–10231; 6; 10/2017
104–10103–10193; 3; 10/2017
104–10103–10328; 88; 10/2017
104–10103–10367; 8; 10/2017
104–10103–10370; 1; 10/2017
104–10104–10348; 3; 10/2017
104–10105–10139; 1; 10/2017
104–10105–10270; 2; 10/2017
104–10105–10272; 10; 10/2017
104–10105–10278; 2; 10/2017
104–10105–10292; 1; 10/2017
104–10105–10298; 3; 10/2017
104–10105–10299; 2; 10/2017
104–10105–10308; 1; 10/2017
104–10106–10511; 1; 10/2017
104–10106–10521; 1; 10/2017
104–10106–10523; 2; 10/2017
104–10106–10588; 3; 10/2017
104–10106–10647; 5; 10/2017
104–10106–10688; 2; 10/2017
104–10106–10765; 1; 10/2017
104–10106–10766; 1; 10/2017
104–10109–10162; 3; 10/2017
104–10109–10324; 2; 10/2017
104–10109–10325; 1; 10/2017
104–10109–10326; 1; 10/2017
104–10109–10333; 2; 10/2017
104–10109–10334; 2; 10/2017
104–10109–10335; 1; 10/2017
104–10109–10347; 1; 10/2017
104–10109–10348; 1; 10/2017
104–10110–10042; 3; 10/2017
104–10110–10073; 1; 10/2017
104–10110–10208; 1; 10/2017
104–10110–10233; 1; 10/2017
104–10110–10240; 1; 10/2017
104–10110–10243; 8; 10/2017
104–10110–10245; 17; 10/2017
104–10110–10255; 7; 10/2017
104–10110–10256; 3; 10/2017
104–10112–10002; 6; 10/2017
104–10112–10003; 2; 10/2017
104–10112–10008; 2; 10/2017
104–10112–10012; 1; 10/2017
104–10113–10165; 1; 10/2017
104–10113–10171; 5; 10/2017
104–10113–10193; 1; 10/2017
104–10113–10205; 4; 10/2017
104–10113–10231; 5; 10/2017
104–10113–10237; 3; 10/2017
104–10113–10243; 1; 10/2017
104–10113–10271; 8; 10/2017
104–10113–10294; 1; 10/2017
104–10114–10152; 1; 10/2017
104–10114–10160; 1; 10/2017
104–10114–10161; 5; 10/2017
104–10114–10162; 81; 10/2017
104–10114–10163; 1; 10/2017
104–10115–10054; 1; 10/2017
104–10115–10138; 3; 08/2008
104–10115–10144; 1; 10/2017
104–10115–10146; 1; 10/2017
104–10115–10147; 1; 10/2017
104–10115–10150; 2; 10/2017
104–10115–10154; 1; 10/2017
104–10115–10176; 1; 10/2017
104–10116–10049; 1; 10/2017
104–10116–10050; 8; 10/2017
104–10116–10052; 1; 10/2017
104–10116–10053; 2; 10/2017
104–10116–10064; 2; 10/2017
104–10116–10104; 5; 10/2017
104–10116–10128; 2; 10/2017
104–10116–10132; 1; 10/2017
104–10116–10157; 3; 10/2017
104–10116–10199; 1; 10/2017
104–10116–10260; 3; 10/2017
104–10116–10266; 22; 10/2017
104–10116–10267; 4; 10/2017
104–10116–10288; 1; 10/2017
104–10116–10303; 1; 10/2017
104–10116–10442; 6; 10/2017
104–10117–10270; 4; 10/2017
104–10117–10272; 14; 10/2003
104–10117–10274; 19; 10/2017

HSCA Documents: Postponed in Part

180–10110–10100; 6; 10/2003
180–10140–10125; 2; 05/2001
180–10141–10225; 2; 10/2003
180–10142–10439; 2; 10/2003
180–10142–10444; 2; 10/2017
180–10142–10468; 1; 10/2017
180–10142–10485; 1; 10/2017
180–10143–10115; 5; 10/2017
180–10143–10124; 3; 10/2003
180–10143–10127; 1; 10/2017
180–10143–10149; 7; 10/2017
180–10143–10230; 3; 10/2017
180–10143–10234; 3; 10/2017
180–10143–10243; 7; 10/2017
180–10144–10022; 10; 05/2001
180–10144–10027; 1; 10/2017
180–10144–10028; 1; 10/2017
180–10144–10029; 2; 10/2017
180–10144–10031; 4; 10/2017
180–10144–10032; 30; 10/2017
180–10144–10034; 4; 10/2017
180–10144–10040; 1; 10/2017
180–10144–10069; 8; 10/2017
180–10144–10071; 1; 10/2017
180–10144–10073; 3; 10/2017
180–10144–10079; 2; 10/2017
180–10144–10080; 1; 10/2017
180–10144–10082; 1; 05/2001

180–10144–10086; 1; 10/2017
180–10144–10087; 2; 10/2017
180–10144–10088; 1; 10/2017
180–10144–10093; 5; 10/2017
180–10144–10095; 13; 10/2017
180–10144–10103; 1; 10/2017
180–10144–10106; 3; 10/2017
180–10144–10109; 1; 10/2017
180–10144–10110; 3; 05/2001
180–10144–10112; 1; 10/2017
180–10144–10118; 1; 10/2017
180–10144–10120; 2; 10/2017
180–10144–10133; 2; 10/2017
180–10144–10138; 3; 05/2001
180–10144–10139; 1; 05/2001
180–10144–10144; 2; 05/2001
180–10144–10166; 1; 05/2001
180–10144–10176; 4; 10/2017
180–10144–10182; 1; 05/2001
180–10144–10187; 2; 05/2001
180–10144–10192; 3; 05/2001
180–10144–10195; 1; 10/2017
180–10144–10203; 7; 05/2001
180–10144–10207; 2; 05/2001
180–10144–10229; 1; 10/2017
180–10144–10256; 6; 10/2017
180–10144–10353; 1; 10/2017
180–10144–10368; 11; 05/2001
180–10144–10391; 12; 10/2017
180–10144–10392; 7; 10/2017
180–10144–10407; 34; 10/2017
180–10144–10434; 1; 05/2001
180–10145–10038; 1; 10/2017
180–10145–10203; 5; 10/2017
180–10145–10205; 4; 10/2017
180–10145–10207; 2; 10/2017
180–10145–10208; 1; 10/2017
180–10145–10222; 7; 10/2017
180–10145–10229; 1; 10/2017
180–10145–10235; 37; 10/2017
180–10145–10249; 3; 05/2001
180–10145–10257; 5; 10/2017
180–10145–10263; 3; 05/2001
180–10145–10269; 52; 10/2017
180–10145–10348; 1; 10/2017
180–10145–10360; 24; 05/2001
180–10145–10366; 6; 05/2001
180–10145–10370; 10; 10/2017
180–10145–10381; 1; 10/2017
180–10145–10394; 1; 10/2017
180–10145–10395; 3; 05/2001
180–10145–10408; 2; 10/2017
180–10145–10412; 1; 10/2017
180–10145–10416; 3; 10/2017
180–10145–10421; 2; 10/2017
180–10145–10423; 12; 10/2017
180–10145–10424; 1; 10/2017
180–10145–10428; 7; 10/2017
180–10145–10431; 4; 10/2017
180–10145–10434; 15; 10/2017
180–10145–10436; 5; 10/2017
180–10145–10440; 3; 10/2017
180–10145–10443; 2; 10/2017
180–10146–10002; 1; 05/2001
180–10146–10007; 1; 10/2017
180–10146–10011; 1; 05/2001
180–10146–10013; 1; 05/2001
180–10146–10015; 2; 05/2001
180–10146–10021; 1; 10/2017
180–10146–10029; 3; 10/2017
180–10146–10031; 2; 05/2001
180–10146–10038; 3; 05/2001
180–10146–10047; 2; 10/2017
180–10146–10049; 15; 10/2017
180–10147–10004; 1; 10/2017
180–10147–10026; 16; 10/2017
180–10147–10049; 1; 10/2017
180–10147–10110; 2; 10/2017
180–10147–10111; 2; 10/2017
180–10147–10112; 1; 05/2001
180–10147–10116; 4; 10/2017
180–10147–10175; 8; 10/2017
180–10147–10176; 6; 10/2017
180–10147–10179; 2; 10/2017
180–10147–10180; 2; 10/2017
180–10147–10181; 2; 10/2017
180–10147–10182; 2; 10/2017
180–10147–10196; 1; 10/2017
180–10147–10207; 1; 10/2017
180–10147–10219; 1; 10/2017

Notice of Additional Releases

After consultation with appropriate Federal agencies, the Review Board announces that the following Federal Bureau of Investigation records are now being opened in full:

124–10196–10456; 124–10196–10457; 124–10196–10470; 124–10196–10471; 124–10196–10473; 124–10196–10474; 124–10196–10475; 124–10196–10476; 124–10196–10478; 124–10196–10479; 124–10196–10480; 124–10196–10481; 124–10196–10482; 124–10196–10483; 124–10196–10484; 124–10196–10485; 124–10196–10486; 124–10196–10487; 124–10196–10488; 124–10196–10489; 124–10196–10490; 124–10199–10490; 124–10199–10496; 124–10199–10498; 124–10200–10265; 124–10200–10266; 124–10200–10268; 124–10200–10269; 124–10200–10270; 124–10200–10271; 124–10200–10272; 124–10200–10279; 124–10200–10397; 124–10200–10398; 124–10200–10399; 124–10200–10400; 124–10200–10402; 124–10200–10404; 124–10200–10405; 124–10200–10406; 124–10200–10426; 124–10201–10474; 124–10201–10487; 124–10201–10488; 124–10201–10490; 124–10201–10491; 124–10201–10492; 124–10201–10493; 124–10201–10494; 124–10201–10495; 124–10201–10496; 124–10201–10498; 124–10203–10291; 124–10203–10295; 124–10203–10296; 124–10205–10375; 124–10205–10376; 124–10205–10379; 124–10205–10381; 124–10205–10382; 124–10205–10383; 124–10205–10384; 124–10205–10385; 124–10205–10387; 124–10205–10388; 124–10205–10389; 124–10205–10391; 124–10205–10392; 124–10205–10392; 124–10205–10393; 124–10205–10394; 124–10205–10396; 124–10205–10397; 124–10205–10398; 124–10205–10400; 124–10205–10401; 124–10205–10405; 124–10205–10407; 124–10205–10410; 124–10205–10411; 124–10205–10412; 124–10205–10414; 124–10205–10416; 124–10205–10418; 124–10205–10419; 124–10205–10420; 124–10205–10421; 124–10205–10422; 124–10205–10423; 124–10205–10424; 124–10205–10425; 124–10205–10426; 124–10205–10427; 124–10205–10430; 124–10205–10431; 124–10205–10433; 124–10205–10434; 124–10205–10438; 124–10205–10440; 124–10205–10441; 124–10205–10442; 124–10205–10443; 124–10205–10444; 124–10205–10445; 124–10205–10473; 124–10205–10478; 124–10205–10482; 124–10205–10498; 124–10206–10282; 124–10206–10284; 124–10206–10286; 124–10206–10287; 124–10206–10290; 124–10206–10291; 124–10206–10292; 124–10206–10293; 124–10206–10294; 124–10206–10298; 124–10206–10299; 124–10206–10300; 124–10206–10301; 124–10206–10302; 124–10206–10303; 124–10206–10304; 124–10206–10306; 124–10206–10307; 124–10206–10308; 124–10206–10309; 124–10206–10311; 124–10206–10311; 124–10206–10314; 124–10206–10315; 124–10206–10316; 124–10206–10317; 124–10206–10318; 124–10206–10319; 124–10206–10320; 124–10206–10321; 124–10206–10322; 124–10206–10323; 124–10206–10324; 124–10206–10325; 124–10206–10326; 124–10206–10327; 124–10206–10328; 124–10206–10329; 124–10206–10330; 124–10206–10331; 124–10206–10333; 124–10206–10334; 124–10206–10335; 124–10206–10336; 124–10206–10338; 124–10206–10340; 124–10206–10341; 124–10206–10342; 124–10206–10343; 124–10206–10344; 124–10206–10345; 124–10206–10346; 124–10206–10347; 124–10206–10349; 124–10206–10350; 124–10206–10354; 124–10206–10355; 124–10206–10358; 124–10206–10361; 124–10206–10364; 124–10206–10367; 124–10206–10368; 124–10206–10370; 124–10206–10372; 124–10206–10384; 124–10206–10385; 124–10206–10386; 124–10207–10497; 124–10208–10451; 124–10208–10452; 124–10208–10489; 124–10208–10490; 124–10208–10491; 124–10208–10492; 124–10208–10493; 124–10208–10494; 124–10208–10495; 124–10208–10496; 124–10208–10497; 124–10208–10498; 124–10208–10499; 124–10210–10260; 124–10210–10261; 124–10210–10262; 124–10210–10263; 124–10210–10264; 124–10210–10265; 124–10210–10266; 124–10210–10267; 124–10210–10268; 124–10210–10269; 124–10210–10270; 124–10210–10271; 124–10210–10272; 124–10210–10273; 124–10210–10274; 124–10210–10275; 124–10210–10276; 124–10210–10277; 124–10210–10279; 124–10210–10280; 124–10210–10282; 124–10210–10283; 124–10210–10286; 124–10210–10293; 124–10210–10295; 124–10210–10296; 124–10210–10297; 124–10210–10298; 124–10210–10299; 124–10210–10302; 124–10210–10307; 124–10210–10309; 124–10210–10311; 124–10210–10313; 124–10210–10314; 124–10210–10316; 124–10210–10318; 124–10210–10319; 124–10210–10321; 124–10210–10322; 124–10210–10323; 124–10210–10324; 124–10210–10325; 124–10210–10326; 124–10210–10328; 124–10210–10332; 124–10210–10333; 124–10210–10336; 124–10210–10339; 124–10210–10342; 124–10210–10343; 124–10210–10344; 124–10210–10345; 124–10210–10347; 124–10210–10349; 124–10210–10350; 124–10210–10351; 124–10210–10352; 124–10210–10353; 124–10210–10458; 124–10210–10459; 124–10210–10460; 124–10210–10461; 124–10210–10462; 124–10210–10463; 124–10210–10464; 124–10210–10466; 124–10210–10467; 124–10210–10468; 124–10210–10469; 124–10210–10470; 124–

10210–10472; 124–10210–10473; 124–10210–10475; 124–10210–10477; 124–10210–10478; 124–10210–10479; 124–10210–10480; 124–10210–10481; 124–10210–10482; 124–10210–10485; 124–10210–10487; 124–10210–10487; 124–10210–10489; 124–10210–10492; 124–10210–10493; 124–10210–10494; 124–10210–10495; 124–10210–10497; 124–10210–10498; 124–10210–10499; 124–10212–10103; 124–10212–10104; 124–10212–10105; 124–10212–10107; 124–10212–10110; 124–10212–10112; 124–10212–10113; 124–10212–10114; 124–10212–10115; 124–10212–10164; 124–10212–10165; 124–10212–10166; 124–10212–10167; 124–10212–10168; 124–10212–10169; 124–10212–10170; 124–10212–10171; 124–10212–10173; 124–10212–10174; 124–10212–10175; 124–10212–10176; 124–10212–10179; 124–10212–10180; 124–10212–10181; 124–10212–10182; 124–10212–10183; 124–10212–10184; 124–10212–10185; 124–10212–10186; 124–10212–10187; 124–10212–10188; 124–10212–10189; 124–10212–10190; 124–10212–10191; 124–10212–10192; 124–10212–10193; 124–10212–10194; 124–10212–10196; 124–10212–10197; 124–10212–10198; 124–10212–10199; 124–10212–10200; 124–10212–10201; 124–10212–10202; 124–10212–10203; 124–10212–10204; 124–10212–10205; 124–10212–10206; 124–10212–10207; 124–10212–10208; 124–10212–10208; 124–10212–10209; 124–10212–10210; 124–10212–10211; 124–10212–10212; 124–10212–10214; 124–10212–10215; 124–10212–10216; 124–10212–10217; 124–10212–10218; 124–10212–10219; 124–10212–10220; 124–10213–10311; 124–10213–10312; 124–10213–10313; 124–10213–10314; 124–10213–10315; 124–10213–10316; 124–10213–10317; 124–10213–10318; 124–10213–10319; 124–10213–10320; 124–10213–10321; 124–10213–10323; 124–10213–10325; 124–10213–10326; 124–10213–10327; 124–10213–10328; 124–10213–10329; 124–10213–10330; 124–10213–10331; 124–10213–10332; 124–10213–10333; 124–10213–10334; 124–10213–10341; 124–10213–10342; 124–10213–10344; 124–10213–10346; 124–10213–10347; 124–10213–10348; 124–10213–10350; 124–10213–10351; 124–10213–10352; 124–10213–10353; 124–10213–10354; 124–10213–10355; 124–10213–10356; 124–10213–10358; 124–10213–10359; 124–10213–10362; 124–10213–10363; 124–10213–10364; 124–10213–10366; 124–10213–10367; 124–10213–10368; 124–10213–10370; 124–10213–10371; 124–10214–10004; 124–10214–10006; 124–10214–10007; 124–10214–10008; 124–10214–10009; 124–10214–10010; 124–10214–10011; 124–10214–10013; 124–10214–10015; 124–10214–10016; 124–10214–10017; 124–10214–10019; 124–10214–10020; 124–10214–10021; 124–10214–10023; 124–10214–10262; 124–10214–10263; 124–10214–10264; 124–10214–10267; 124–10214–10268; 124–10214–10269; 124–10214–10270; 124–10214–10280; 124–10214–10281; 124–10215–10076; 124–10215–10079; 124–10215–10084; 124–10215–10085; 124–10215–10086; 124–10215–10088; 124–10215–10089; 124–10215–10093; 124–10215–10094; 124–10215–10098; 124–10215–10101; 124–10215–10102; 124–10215–10104; 124–10215–10105; 124–10216–10165; 124–10216–10167; 124–10216–10169; 124–10216–10170; 124–10216–10171; 124–10216–10172; 124–10216–10173; 124–10216–10174; 124–10216–10176; 124–10216–10177; 124–10216–10178; 124–10216–10180; 124–10216–10181; 124–10216–10183; 124–10216–10184; 124–10216–10185; 124–10216–10188; 124–10216–10189; 124–10216–10190; 124–10216–10192; 124–10216–10193; 124–10216–10194; 124–10216–10195; 124–10216–10196; 124–10216–10197; 124–10216–10199; 124–10216–10201; 124–10216–10202; 124–10216–10203; 124–10216–10204; 124–10216–10205; 124–10216–10206; 124–10216–10209; 124–10216–10210; 124–10216–10212; 124–10216–10213; 124–10216–10214; 124–10216–10215; 124–10216–10217; 124–10216–10218; 124–10216–10220; 124–10216–10221; 124–10216–10222; 124–10216–10223; 124–10216–10225; 124–10216–10226; 124–10216–10369; 124–10216–10391; 124–10216–10392; 124–10217–10077; 124–10217–10078; 124–10217–10081; 124–10217–10082; 124–10217–10083; 124–10217–10086; 124–10217–10088; 124–10217–10089; 124–10217–10467; 124–10217–10470; 124–10217–10473; 124–10217–10495; 124–10218–10025; 124–10218–10384; 124–10218–10399; 124–10218–10400; 124–10218–10401; 124–10218–10402; 124–10218–10409; 124–10218–10412; 124–10218–10417; 124–10218–10421; 124–10218–10430; 124–10218–10434; 124–10218–10435; 124–10218–10436; 124–10218–10437; 124–10218–10440; 124–10218–10442; 124–10218–10445; 124–10218–10447; 124–10218–10448; 124–10218–10452; 124–10219–10167; 124–10219–10168; 124–10219–10169; 124–10219–10170; 124–10219–10171; 124–10219–10172; 124–10219–10175; 124–10219–10178; 124–10219–10181; 124–10219–10182; 124–10219–10194; 124–10220–10000; 124–10220–10307; 124–10220–10333; 124–10220–10334; 124–10220–10335; 124–10220–10336; 124–10220–10340; 124–10220–10341; 124–10220–10343; 124–10220–10344; 124–10220–10345; 124–10220–10346; 124–10220–10347; 124–10220–10349; 124–10220–10352; 124–10220–10354; 124–10220–10355; 124–10220–10357; 124–10220–10358; 124–10220–10362; 124–10220–10363; 124–10220–10364; 124–10220–10365; 124–10220–10367; 124–10220–10368; 124–10220–10370; 124–10220–10372; 124–10220–10374; 124–10220–10376; 124–10220–10377; 124–10220–10378; 124–10220–10379; 124–10220–10380; 124–10220–10381; 124–10220–10382; 124–10220–10385; 124–10220–10386; 124–10220–10389; 124–10220–10390; 124–10220–10391; 124–10220–10393; 124–10220–10394; 124–10220–10395; 124–10220–10396; 124–10220–10397; 124–10220–10398; 124–10220–10399; 124–10220–10400; 124–10220–10401; 124–10220–10402; 124–10220–10402; 124–10220–10404; 124–10220–10409; 124–10220–10410; 124–10220–10411; 124–10220–10412; 124–10220–10413; 124–10220–10414; 124–10220–10415; 124–10220–10416; 124–10220–10419; 124–10220–10419; 124–10220–10420; 124–10220–10423; 124–10220–10428; 124–10220–10431; 124–10221–10000; 124–10221–10001; 124–10221–10002; 124–10221–10004; 124–10221–10005; 124–10221–10006; 124–10221–10007; 124–10221–10008; 124–10221–10009; 124–10221–10010; 124–10221–10011; 124–10221–10012; 124–10221–10013; 124–10221–10014; 124–10221–10015; 124–10221–10016; 124–10221–10017; 124–10221–10018; 124–10221–10352; 124–10221–10361; 124–10221–10376; 124–10221–10380; 124–10221–10383; 124–10221–10384; 124–10221–10394; 124–10221–10398; 124–10221–10399; 124–10221–10400; 124–10221–10407; 124–10221–10408; 124–10221–10414; 124–10222–10079; 124–10222–10080; 124–10222–10491; 124–10223–10092; 124–10223–10102; 124–10223–10103; 124–10223–10105; 124–10223–10112; 124–10223–10113; 124–10223–10115; 124–10223–10123; 124–10223–10125; 124–10223–10127; 124–10223–10132; 124–10223–10136; 124–10223–10138; 124–10223–10141; 124–10223–10149; 124–10223–10152; 124–10223–10153; 124–10223–10154; 124–10223–10155; 124–10223–10156; 124–10223–10159; 124–10223–10160; 124–10223–40124; 124–10224–10002; 124–10224–10005; 124–10225–10000; 124–10225–10002; 124–10225–10009; 124–10225–10013; 124–10225–10025; 124–10225–10076; 124–10225–10077; 124–10225–10079; 124–10225–10083; 124–10225–10085; 124–10225–10087; 124–10225–10088; 124–10225–10090; 124–10225–10092; 124–10225–10093; 124–10225–10095; 124–10225–10095; 124–10225–10096; 124–10225–10098; 124–10225–10100; 124–10225–10105; 124–10225–10108; 124–10225–10109; 124–10225–10110; 124–10225–10111; 124–10225–10112; 124–10225–10119; 124–10225–10123; 124–10225–10128; 124–10225–10131; 124–10225–10132; 124–10225–10135; 124–10225–10137; 124–10225–10139; 124–10225–10140; 124–10225–10142; 124–10225–10143; 124–10225–10145; 124–10225–10146; 124–10225–10147; 124–10225–10148; 124–10225–10150; 124–10225–10151; 124–10225–10154; 124–10225–10155; 124–10225–10156; 124–10225–10157; 124–10225–10158; 124–10225–10159; 124–10225–10160; 124–10225–10161; 124–10225–10162; 124–10225–10164; 124–10225–10165; 124–10225–10166; 124–10225–10168; 124–10225–10169; 124–10225–10170; 124–10225–10171; 124–10225–10172; 124–10225–10173; 124–10225–10174; 124–10225–10178; 124–10225–10179; 124–10225–10182; 124–10225–10183; 124–10225–10191; 124–10225–10192; 124–10225–10193; 124–10225–10194; 124–10225–10196; 124–10225–10196; 124–10225–10201; 124–

10225–10202; 124–10225–10204; 124–10225–10206; 124–10225–10312; 124–10225–10313; 124–10225–10314; 124–10225–10317; 124–10225–10319; 124–10225–10320; 124–10225–10322; 124–10225–10325; 124–10225–10326; 124–10225–10327; 124–10225–10328; 124–10225–10329; 124–10225–10330; 124–10225–10331; 124–10225–10334; 124–10226–10081; 124–10277–10343; 124–10277–10345; 124–10277–10360; 124–10277–10369; 124–10277–10370; 124–10277–10377; 124–10277–10379; 124–10277–10381; 124–10277–10382; 124–10277–10384; 124–10277–10386; 124–10277–10391; 124–10277–10392; 124–10277–10397; 124–10277–10404; 124–10277–10415; 124–10277–10416; 124–10277–10417; 124–10277–10426; 124–10278–10385; 124–10278–10392; 124–10278–10409; 124–10278–10426; 124–10278–10435; 124–10278–10498; 124–10279–10124; 124–10279–10125; 124–10279–10126; 124–10279–10127; 124–10279–10130; 124–10279–10131; 124–10279–10132; 124–10279–10133; 124–10279–10134; 124–10279–10135; 124–10279–10198; 124–10279–10199; 124–10279–10200; 124–10279–10202; 124–10280–10169; 124–10281–10181; 124–10281–10182; 124–10281–10183; 124–10281–10184; 124–10281–10185; 124–10281–10186; 124–10281–10187; 124–10281–10188; 124–10281–10189; 124–10281–10190; 124–10281–10192; 124–10283–10100; 124–10283–10102; 124–10283–10104; 124–10283–10105; 124–10283–10107; 124–10283–10109; 124–10283–10110; 124–10283–10115; 124–10283–10116; 124–10283–10118; 124–10283–10119; 124–10283–10122; 124–10283–10124; 124–10283–10125; 124–10283–10127; 124–10283–10128; 124–10283–10129; 124–10283–10130; 124–10283–10131; 124–10283–10133; 124–10283–10249; 124–10283–10252; 124–10283–10256; 124–10283–10257; 124–10283–10258; 124–10284–10000; 124–10284–10001; 124–10284–10002; 124–10284–10003; 124–10284–10004; 124–10284–10005; 124–10284–10006; 124–10284–10007; 124–10284–10008; 124–10284–10009; 124–10284–10010; 124–10284–10011; 124–10284–10012; 124–10284–10013; 124–10284–10014; 124–10284–10015; 124–10284–10016; 124–10285–10324; 124–10285–10325; 124–10287–10405; 124–10287–10427; 124–10287–10429; 124–10287–10433; 124–10287–10437; 124–10287–10441; 124–10287–10443; 124–10287–10445; 124–10287–10447; 124–10287–10456; 124–10287–10457; 124–10287–10458; 124–10287–10477; 124–10287–10478; 124–10287–10485; 124–10292–10271; 124–10292–10272; 124–10292–10273; 124–10293–10000; 124–10293–10001; 124–10293–10002; 124–10293–10013; 124–10293–10014; 124–10293–10018; 124–10293–10027; 124–10293–10036; 124–10293–10041; 124–10293–10045; 124–10293–10056; 124–10293–10068; 124–10293–10444; 124–10293–10445; 124–10293–10446; 124–10293–10447; 124–10293–10457; 124–10294–10353; 124–10294–10359; 124–10294–10360; 124–10294–10367; 124–10294–10368; 124–10298–10244; 124–10298–10246; 124–10298–10249; 124–10298–10252; 124–10298–10257; 124–10298–10259; 124–10298–10260; 124–10298–10262; 124–10298–10269; 124–10298–10271; 124–10298–10273; 124–10298–10275; 124–10298–10276; 124–10298–10279; 124–10298–10280; 124–10298–10285; 124–10298–10286; 124–10298–10287; 124–10298–10288; 124–10298–10290; 124–10298–10291; 124–10298–10292; 124–10298–10296; 124–10298–10297; 124–10298–10309; 124–10298–10314; 124–10302–10302; 124–10302–10303; 124–10302–10305; 124–10302–10306; 124–10302–10307; 124–10302–10308; 124–10302–10309; 124–10302–10310; 124–10302–10313; 124–10302–10314; 124–10302–10315; 124–10302–10316; 124–10302–10317; 124–10302–10320; 124–10302–10321; 124–10302–10322; 124–10302–10324; 124–10302–10326; 124–10303–10014; 124–10303–10015; 124–10303–10016; 124–10303–10017; 124–10303–10018; 124–10303–10019; 124–10303–10020; 124–10303–10021; 124–10303–10022; 124–10303–10023; 124–10303–10024; 124–10303–10025; 124–90005–10001; 124–90005–10002; 124–90005–10003; 124–90005–10004; 124–90005–10005; 124–90005–10006; 124–90005–10007; 124–90005–10008; 124–90005–10009; 124–90005–10010; 124–90005–10011; 124–90005–10012; 124–90005–10014; 124–90005–10015; 124–90005–10016; 124–90005–10017; 124–90005–10020; 124–90005–10021; 124–90005–10022; 124–90005–10024; 124–90005–10025; 124–90005–10026; 124–90005–10028; 124–90005–10029; 124–90005–10030; 124–90005–10031; 124–90005–10032; 124–90005–10033; 124–90005–10034; 124–90005–10035.

After consultation with appropriate Federal agencies, the Review Board announces that the following Central Intelligence Agency records are now being opened in full:

104–10023–10079; 104–10023–10088; 104–10023–10098; 104–10048–10019; 104–10048–10030; 104–10048–10034; 104–10048–10039; 104–10048–10045; 104–10048–10056; 104–10048–10064; 104–10048–10071; 104–10048–10083; 104–10048–10088; 104–10048–10090; 104–10048–10094; 104–10048–10095; 104–10048–10102; 104–10048–10116; 104–10048–10117; 104–10048–10122; 104–10048–10125; 104–10048–10126; 104–10048–10129; 104–10048–10131; 104–10048–10132; 104–10048–10134; 104–10048–10136; 104–10048–10137; 104–10048–10138; 104–10048–10141; 104–10048–10142; 104–10048–10147; 104–10048–10163; 104–10048–10168; 104–10048–10172; 104–10048–10173; 104–10048–10175; 104–10048–10177; 104–10048–10179; 104–10048–10180; 104–10048–10182; 104–10048–10184; 104–10048–10186; 104–10048–10188; 104–10048–10189; 104–10048–10191; 104–10048–10192; 104–10048–10194; 104–10048–10195; 104–10048–10203; 104–10048–10205; 104–10048–10207; 104–10048–10208; 104–10048–10210; 104–10048–10212; 104–10048–10214; 104–10048–10216; 104–10048–10223; 104–10048–10227; 104–10048–10229; 104–10048–10231; 104–10048–10234; 104–10048–10237; 104–10048–10241; 104–10048–10243; 104–10048–10250; 104–10048–10270; 104–10048–10283; 104–10048–10296; 104–10048–10319; 104–10048–10323; 104–10048–10328; 104–10048–10333; 104–10048–10375; 104–10048–10378; 104–10048–10385; 104–10048–10387; 104–10048–10388; 104–10048–10389; 104–10048–10390; 104–10048–10393; 104–10048–10395; 104–10048–10398; 104–10048–10399; 104–10048–10401; 104–10048–10407; 104–10048–10408; 104–10048–10409; 104–10048–10410; 104–10048–10411; 104–10048–10412; 104–10048–10414; 104–10048–10425; 104–10048–10433; 104–10048–10437; 104–10048–10439; 104–10048–10440; 104–10048–10441; 104–10048–10442; 104–10048–10443; 104–10049–10001; 104–10049–10005; 104–10049–10006; 104–10049–10008; 104–10049–10021; 104–10049–10027; 104–10049–10032; 104–10049–10041; 104–10049–10052; 104–10049–10053; 104–10049–10056; 104–10049–10069; 104–10049–10070; 104–10049–10071; 104–10049–10072; 104–10049–10083; 104–10049–10110; 104–10049–10111; 104–10049–10114; 104–10049–10115; 104–10049–10121; 104–10049–10123; 104–10049–10127; 104–10049–10131; 104–10049–10132; 104–10049–10134; 104–10049–10141; 104–10049–10142; 104–10049–10146; 104–10049–10147; 104–10049–10149; 104–10049–10150; 104–10049–10151; 104–10049–10152; 104–10049–10153; 104–10049–10154; 104–10049–10155; 104–10049–10156; 104–10049–10157; 104–10049–10158; 104–10049–10159; 104–10049–10160; 104–10049–10162; 104–10049–10164; 104–10049–10166; 104–10049–10167; 104–10049–10171; 104–10049–10172; 104–10049–10174; 104–10049–10176; 104–10049–10177; 104–10049–10178; 104–10049–10179; 104–10049–10181; 104–10049–10182; 104–10049–10183; 104–10049–10184; 104–10049–10187; 104–10049–10188; 104–10049–10189; 104–10049–10199; 104–10049–10200; 104–10049–10208; 104–10049–10227; 104–10049–10228; 104–10050–10073; 104–10051–10027; 104–10051–10030; 104–10051–10039; 104–10051–10040; 104–10051–10058; 104–10051–10060; 104–10051–10061; 104–10051–10070; 104–10051–10075; 104–10051–10076; 104–10051–10079; 104–10051–10090; 104–10051–10095; 104–10051–10099; 104–10051–10102; 104–10051–10103; 104–10051–10114; 104–10051–10116; 104–10051–10118; 104–10051–10119; 104–10051–10120; 104–10051–10126; 104–10051–10131; 104–10051–10143; 104–10051–10144; 104–10051–10145; 104–10051–10146; 104–10051–10155; 104–10051–10167; 104–10051–10169; 104–10051–10187; 104–10051–10188; 104–10051–10214; 104–10051–10248; 104–10051–10251; 104–10051–10272; 104–10051–10274; 104–10051–10276; 104–

10051–10277; 104–10051–10279; 104–10051–10280; 104–10051–10281; 104–10051–10284; 104–10051–10288; 104–10051–10290; 104–10051–10294; 104–10052–10000; 104–10052–10001; 104–10052–10002; 104–10052–10005; 104–10052–10016; 104–10052–10017; 104–10052–10020; 104–10052–10022; 104–10052–10023; 104–10052–10024; 104–10052–10025; 104–10052–10027; 104–10052–10029; 104–10052–10031; 104–10052–10033; 104–10052–10035; 104–10052–10038; 104–10052–10041; 104–10052–10042; 104–10052–10049; 104–10052–10050; 104–10052–10051; 104–10052–10053; 104–10052–10055; 104–10052–10060; 104–10052–10062; 104–10052–10065; 104–10052–10067; 104–10052–10068; 104–10052–10071; 104–10052–10073; 104–10052–10074; 104–10052–10076; 104–10052–10080; 104–10052–10086; 104–10052–10088; 104–10052–10110; 104–10052–10117; 104–10052–10120; 104–10052–10123; 104–10052–10127; 104–10052–10131; 104–10052–10133; 104–10052–10134; 104–10052–10138; 104–10052–10139; 104–10052–10140; 104–10052–10143; 104–10052–10156; 104–10052–10168; 104–10052–10171; 104–10052–10173; 104–10052–10176; 104–10052–10177; 104–10052–10184; 104–10052–10185; 104–10052–10187; 104–10052–10194; 104–10052–10195; 104–10052–10196; 104–10052–10200; 104–10052–10201; 104–10052–10202; 104–10052–10203; 104–10052–10204; 104–10052–10211; 104–10052–10215; 104–10052–10217; 104–10052–10219; 104–10052–10221; 104–10052–10225; 104–10052–10226; 104–10052–10230; 104–10052–10233; 104–10052–10245; 104–10052–10247; 104–10052–10249; 104–10052–10256; 104–10052–10278; 104–10052–10282; 104–10052–10288; 104–10052–10402; 104–10052–10415; 104–10052–10423; 104–10052–10424; 104–10054–10000; 104–10054–10003; 104–10054–10013; 104–10054–10020; 104–10054–10021; 104–10054–10026; 104–10054–10033; 104–10054–10035; 104–10054–10037; 104–10054–10042; 104–10054–10043; 104–10054–10047; 104–10054–10048; 104–10054–10052; 104–10054–10053; 104–10054–10054; 104–10054–10057; 104–10054–10062; 104–10054–10067; 104–10054–10068; 104–10054–10069; 104–10054–10070; 104–10054–10071; 104–10054–10072; 104–10054–10074; 104–10054–10078; 104–10054–10080; 104–10054–10082; 104–10054–10083; 104–10054–10088; 104–10054–10089; 104–10054–10091; 104–10054–10092; 104–10054–10093; 104–10054–10094; 104–10054–10096; 104–10054–10097; 104–10054–10100; 104–10054–10103; 104–10054–10104; 104–10054–10106; 104–10054–10108; 104–10054–10111; 104–10054–10112; 104–10054–10113; 104–10054–10114; 104–10054–10118; 104–10054–10119; 104–10054–10123; 104–10054–10127; 104–10054–10128; 104–10054–10129; 104–10054–10130; 104–10054–10134; 104–10054–10139; 104–10054–10145; 104–10054–10148; 104–10054–10149; 104–10054–10150; 104–10054–10151; 104–10054–10152; 104–10054–10153; 104–10054–10157; 104–10054–10175; 104–10054–10179; 104–10054–10183; 104–10054–10184; 104–10054–10190; 104–10054–10191; 104–10054–10193; 104–10054–10194; 104–10054–10195; 104–10054–10196; 104–10054–10197; 104–10054–10200; 104–10054–10202; 104–10054–10206; 104–10054–10207; 104–10054–10212; 104–10054–10214; 104–10054–10216; 104–10054–10217; 104–10054–10218; 104–10054–10221; 104–10054–10228; 104–10054–10231; 104–10054–10232; 104–10054–10233; 104–10054–10242; 104–10054–10243; 104–10054–10247; 104–10054–10248; 104–10054–10250; 104–10054–10254; 104–10054–10255; 104–10054–10263; 104–10054–10266; 104–10054–10268; 104–10054–10272; 104–10054–10273; 104–10054–10274; 104–10054–10275; 104–10054–10283; 104–10054–10290; 104–10054–10291; 104–10054–10297; 104–10054–10298; 104–10054–10299; 104–10054–10300; 104–10054–10306; 104–10054–10314; 104–10054–10317; 104–10054–10322; 104–10054–10332; 104–10054–10334; 104–10054–10338; 104–10054–10342; 104–10054–10343; 104–10054–10347; 104–10054–10351; 104–10054–10352; 104–10054–10357; 104–10054–10362; 104–10054–10367; 104–10054–10372; 104–10054–10378; 104–10054–10381; 104–10054–10390; 104–10054–10394; 104–10054–10401; 104–10054–10402; 104–10054–10406; 104–10054–10407; 104–10054–10409; 104–10054–10413; 104–10054–10415; 104–10054–10418; 104–10054–10423; 104–10054–10424; 104–10054–10427; 104–10054–10434; 104–10054–10436; 104–10054–10438; 104–10054–10440; 104–10054–10442; 104–10054–10444; 104–10054–10447; 104–10055–10002; 104–10055–10010; 104–10055–10021; 104–10055–10024; 104–10055–10039; 104–10055–10047; 104–10055–10048; 104–10055–10049; 104–10055–10052; 104–10055–10054; 104–10055–10056; 104–10055–10057; 104–10055–10059; 104–10055–10061; 104–10055–10063; 104–10055–10064; 104–10055–10065; 104–10055–10066; 104–10055–10067; 104–10055–10069; 104–10055–10071; 104–10055–10073; 104–10055–10074; 104–10055–10081; 104–10055–10082; 104–10055–10085; 104–10055–10098; 104–10055–10100; 104–10055–10101; 104–10055–10108; 104–10055–10109; 104–10055–10110; 104–10055–10111; 104–10055–10113; 104–10055–10116; 104–10055–10117; 104–10055–10122; 104–10055–10126; 104–10055–10145; 104–10056–10009; 104–10056–10016; 104–10056–10019; 104–10056–10028; 104–10056–10037; 104–10056–10041; 104–10056–10043; 104–10056–10049; 104–10056–10052; 104–10056–10053; 104–10056–10055; 104–10056–10057; 104–10056–10062; 104–10056–10076; 104–10056–10093; 104–10056–10095; 104–10056–10104; 104–10056–10106; 104–10056–10118; 104–10056–10194; 104–10056–10200; 104–10056–10225; 104–10056–10321; 104–10056–10322; 104–10056–10323; 104–10056–10324; 104–10056–10325; 104–10056–10419; 104–10057–10026; 104–10057–10057; 104–10057–10062; 104–10057–10065; 104–10057–10077; 104–10057–10090; 104–10057–10092; 104–10057–10138; 104–10057–10219; 104–10057–10224; 104–10057–10299; 104–10057–10362; 104–10057–10366; 104–10057–10367; 104–10057–10407; 104–10058–10067; 104–10059–10077; 104–10059–10086; 104–10059–10144; 104–10059–10147; 104–10059–10149; 104–10059–10174; 104–10059–10192; 104–10059–10193; 104–10059–10239; 104–10059–10246; 104–10059–10253; 104–10059–10257; 104–10059–10263; 104–10059–10277; 104–10059–10287; 104–10059–10288; 104–10059–10289; 104–10059–10290; 104–10059–10291; 104–10059–10312; 104–10059–10315; 104–10059–10317; 104–10059–10329; 104–10059–10330; 104–10059–10331; 104–10059–10332; 104–10059–10333; 104–10059–10338; 104–10059–10339; 104–10059–10340; 104–10059–10342; 104–10059–10343; 104–10059–10346; 104–10059–10350; 104–10059–10351; 104–10059–10364; 104–10059–10367; 104–10059–10371; 104–10059–10376; 104–10059–10385; 104–10059–10386; 104–10059–10387; 104–10059–10389; 104–10059–10390; 104–10059–10392; 104–10059–10394; 104–10059–10396; 104–10059–10397; 104–10059–10398; 104–10059–10399; 104–10059–10400; 104–10059–10401; 104–10059–10403; 104–10059–10405; 104–10059–10407; 104–10059–10414; 104–10059–10426; 104–10059–10435; 104–10063–10000; 104–10063–10004; 104–10063–10010; 104–10063–10011; 104–10063–10018; 104–10063–10020; 104–10063–10030; 104–10063–10039; 104–10063–10046; 104–10063–10047; 104–10063–10057; 104–10063–10061; 104–10063–10062; 104–10063–10063; 104–10063–10066; 104–10063–10067; 104–10063–10070; 104–10063–10076; 104–10063–10079; 104–10063–10084; 104–10063–10091; 104–10063–10098; 104–10063–10101; 104–10063–10102; 104–10063–10103; 104–10063–10104; 104–10063–10115; 104–10063–10137; 104–10063–10144; 104–10063–10146; 104–10063–10156; 104–10063–10158; 104–10063–10164; 104–10063–10167; 104–10063–10173; 104–10063–10231; 104–10063–10232; 104–10063–10237; 104–10063–10240; 104–10063–10241; 104–10063–10247; 104–10063–10249; 104–10063–10296; 104–10063–10323; 104–10063–10324; 104–10063–10344; 104–10063–10346; 104–10063–10405; 104–10063–10411; 104–10063–10414; 104–10063–10415; 104–10063–10422; 104–10063–10427; 104–10063–10432; 104–10063–10433; 104–10063–10435; 104–10063–10446; 104–10063–10447; 104–10063–10448; 104–10064–10004; 104–10064–10011; 104–10064–10017; 104–10064–10018; 104–10064–10021; 104–10064–10024; 104–10065–10004; 104–10065–10010; 104–10065–10012; 104–10065–10013; 104–10065–10014; 104–10065–10022; 104–10065–10031; 104–10065–10042; 104–10065–10044; 104–10065–10065; 104–

10065–10066; 104–10065–10090; 104–10065–10091; 104–10065–10101; 104–10065–10103; 104–10065–10110; 104–10065–10118; 104–10065–10120; 104–10065–10125; 104–10065–10131; 104–10065–10135; 104–10065–10141; 104–10065–10145; 104–10065–10150; 104–10065–10153; 104–10065–10155; 104–10065–10159; 104–10065–10161; 104–10065–10162; 104–10065–10165; 104–10065–10167; 104–10065–10181; 104–10065–10182; 104–10065–10186; 104–10065–10196; 104–10065–10200; 104–10065–10201; 104–10065–10207; 104–10065–10213; 104–10065–10217; 104–10065–10219; 104–10065–10221; 104–10065–10236; 104–10065–10240; 104–10065–10249; 104–10065–10252; 104–10065–10256; 104–10065–10262; 104–10065–10267; 104–10065–10280; 104–10065–10340; 104–10065–10353; 104–10065–10363; 104–10065–10381; 104–10065–10396; 104–10065–10417; 104–10065–10418; 104–10065–10424; 104–10065–10425; 104–10065–10426; 104–10065–10427; 104–10065–10431; 104–10065–10432; 104–10065–10438; 104–10066–10014; 104–10066–10022; 104–10066–10029; 104–10066–10030; 104–10066–10041; 104–10066–10048; 104–10066–10057; 104–10066–10062; 104–10066–10069; 104–10066–10070; 104–10066–10071; 104–10066–10072; 104–10066–10073; 104–10066–10074; 104–10066–10075; 104–10066–10080; 104–10066–10090; 104–10066–10092; 104–10066–10093; 104–10066–10100; 104–10066–10101; 104–10066–10102; 104–10066–10117; 104–10066–10129; 104–10066–10143; 104–10066–10147; 104–10066–10153; 104–10066–10155; 104–10066–10156; 104–10066–10176; 104–10066–10179; 104–10066–10182; 104–10066–10208; 104–10066–10229; 104–10066–10234; 104–10067–10002; 104–10067–10006; 104–10067–10008; 104–10067–10027; 104–10067–10045; 104–10067–10069; 104–10067–10070; 104–10067–10072; 104–10067–10074; 104–10067–10076; 104–10067–10083; 104–10067–10084; 104–10067–10098; 104–10067–10102; 104–10067–10105; 104–10067–10109; 104–10067–10111; 104–10067–10112; 104–10067–10120; 104–10067–10122; 104–10067–10136; 104–10067–10149; 104–10067–10159; 104–10067–10191; 104–10067–10200; 104–10067–10207; 104–10067–10216; 104–10067–10217; 104–10067–10228; 104–10067–10232; 104–10067–10236; 104–10067–10241; 104–10067–10253; 104–10067–10255; 104–10067–10271; 104–10067–10276; 104–10067–10297; 104–10067–10305; 104–10067–10307; 104–10067–10308; 104–10067–10311; 104–10067–10321; 104–10067–10324; 104–10067–10334; 104–10067–10335; 104–10067–10342; 104–10067–10344; 104–10067–10350; 104–10067–10352; 104–10067–10363; 104–10067–10365; 104–10067–10371; 104–10067–10374; 104–10067–10377; 104–10067–10382; 104–10067–10384; 104–10067–10387; 104–10067–10391; 104–10067–10393; 104–10067–10408; 104–10067–10414; 104–10067–10415; 104–10067–10423; 104–10067–10429; 104–10067–10442; 104–10068–10005; 104–10068–10012; 104–10068–10018; 104–10068–10021; 104–10068–10025; 104–10068–10028; 104–10068–10029; 104–10068–10030; 104–10068–10032; 104–10068–10033; 104–10068–10035; 104–10068–10040; 104–10068–10042; 104–10068–10043; 104–10068–10046; 104–10068–10048; 104–10068–10049; 104–10068–10050; 104–10068–10051; 104–10068–10056; 104–10068–10059; 104–10068–10060; 104–10068–10063; 104–10068–10064; 104–10068–10066; 104–10068–10068; 104–10068–10069; 104–10068–10072; 104–10068–10074; 104–10068–10075; 104–10068–10076; 104–10068–10077; 104–10068–10078; 104–10068–10081; 104–10068–10083; 104–10068–10084; 104–10068–10085; 104–10068–10086; 104–10068–10087; 104–10068–10090; 104–10068–10091; 104–10068–10093; 104–10068–10094; 104–10068–10095; 104–10068–10098; 104–10068–10101; 104–10068–10105; 104–10068–10112; 104–10068–10117; 104–10068–10118; 104–10068–10123; 104–10068–10126; 104–10068–10128; 104–10068–10129; 104–10068–10132; 104–10068–10133; 104–10068–10135; 104–10068–10136; 104–10068–10137; 104–10068–10143; 104–10068–10146; 104–10068–10148; 104–10068–10149; 104–10068–10153; 104–10068–10159; 104–10068–10161; 104–10068–10165; 104–10068–10169; 104–10068–10173; 104–10068–10175; 104–10068–10176; 104–10068–10183; 104–10069–10024; 104–10069–10025; 104–10069–10034; 104–10069–10047; 104–10069–10050; 104–10069–10052; 104–10069–10053; 104–10069–10054; 104–10069–10055; 104–10069–10058; 104–10069–10071; 104–10069–10089; 104–10069–10091; 104–10069–10107; 104–10069–10108; 104–10069–10109; 104–10069–10118; 104–10069–10199; 104–10069–10202; 104–10069–10211; 104–10069–10214; 104–10069–10226; 104–10069–10228; 104–10069–10238; 104–10069–10242; 104–10069–10243; 104–10069–10244; 104–10069–10245; 104–10069–10246; 104–10069–10247; 104–10069–10251; 104–10069–10259; 104–10069–10261; 104–10069–10262; 104–10069–10263; 104–10069–10265; 104–10069–10267; 104–10069–10273; 104–10069–10277; 104–10069–10282; 104–10069–10303; 104–10069–10304; 104–10069–10331; 104–10069–10333; 104–10069–10335; 104–10069–10338; 104–10069–10342; 104–10069–10347; 104–10069–10350; 104–10069–10377; 104–10069–10378; 104–10069–10379; 104–10069–10384; 104–10069–10388; 104–10069–10425; 104–10070–10056; 104–10070–10058; 104–10070–10059; 104–10070–10064; 104–10070–10065; 104–10070–10066; 104–10070–10076; 104–10070–10077; 104–10070–10093; 104–10070–10094; 104–10070–10119; 104–10070–10123; 104–10070–10130; 104–10070–10184; 104–10070–10186; 104–10070–10189; 104–10070–10225; 104–10070–10227; 104–10070–10239; 104–10070–10265; 104–10071–10104; 104–10071–10195; 104–10071–10221; 104–10071–10225; 104–10071–10235; 104–10071–10241; 104–10071–10245; 104–10071–10287; 104–10071–10290; 104–10071–10298; 104–10071–10312; 104–10071–10374; 104–10071–10378; 104–10071–10406; 104–10071–10413; 104–10071–10419; 104–10071–10420; 104–10071–10422; 104–10071–10423; 104–10071–10425; 104–10071–10426; 104–10071–10428; 104–10071–10431; 104–10071–10433; 104–10071–10435; 104–10071–10436; 104–10072–10009; 104–10072–10015; 104–10072–10070; 104–10072–10150; 104–10072–10153; 104–10072–10155; 104–10072–10157; 104–10072–10161; 104–10072–10165; 104–10072–10167; 104–10072–10172; 104–10072–10177; 104–10072–10178; 104–10072–10181; 104–10072–10208; 104–10072–10209; 104–10072–10210; 104–10072–10230; 104–10072–10231; 104–10072–10235; 104–10072–10261; 104–10072–10265; 104–10072–10266; 104–10072–10268; 104–10072–10279; 104–10072–10280; 104–10072–10281; 104–10072–10282; 104–10072–10283; 104–10072–10284; 104–10072–10285; 104–10072–10290; 104–10072–10292; 104–10072–10298; 104–10072–10312; 104–10072–10322; 104–10072–10325; 104–10073–10037; 104–10073–10066; 104–10073–10106; 104–10073–10121; 104–10073–10124; 104–10073–10127; 104–10073–10132; 104–10073–10141; 104–10073–10145; 104–10073–10148; 104–10073–10150; 104–10073–10161; 104–10073–10163; 104–10073–10166; 104–10073–10175; 104–10073–10314; 104–10073–10317; 104–10073–10318; 104–10073–10323; 104–10073–10326; 104–10073–10327; 104–10073–10328; 104–10073–10330; 104–10073–10331; 104–10073–10332; 104–10073–10336; 104–10073–10337; 104–10073–10338; 104–10073–10340; 104–10073–10343; 104–10073–10346; 104–10073–10357; 104–10073–10359; 104–10073–10362; 104–10073–10364; 104–10073–10369; 104–10073–10380; 104–10073–10381; 104–10073–10385; 104–10073–10388; 104–10073–10389; 104–10073–10392; 104–10073–10394; 104–10073–10395; 104–10073–10412; 104–10073–10414; 104–10073–10416; 104–10073–10417; 104–10073–10418; 104–10073–10421; 104–10073–10422; 104–10073–10425; 104–10074–10216; 104–10074–10219; 104–10074–10225; 104–10074–10235; 104–10074–10283; 104–10074–10298; 104–10074–10303; 104–10074–10401; 104–10074–10412; 104–10074–10415; 104–10075–10000; 104–10075–10001; 104–10075–10020; 104–10075–10023; 104–10075–10026; 104–10075–10029; 104–10075–10030; 104–10075–10031; 104–10075–10032; 104–10075–10034; 104–10075–10038; 104–10075–10046; 104–10075–10049; 104–10075–10050; 104–10075–10058; 104–10075–10059; 104–10075–10060; 104–10075–10062; 104–10075–10067; 104–10075–10068; 104–10075–10070; 104–10075–10072; 104–10075–10074; 104–10075–10075; 104–10075–10076; 104–10075–10079; 104–10075–10080; 104–10075–10081; 104–10075–10086; 104–10075–10087; 104–

10075–10088; 104–10075–10089; 104–10075–10090; 104–10075–10092; 104–10075–10093; 104–10075–10094; 104–10075–10098; 104–10075–10100; 104–10075–10101; 104–10075–10102; 104–10075–10103; 104–10075–10104; 104–10075–10105; 104–10075–10106; 104–10075–10107; 104–10075–10108; 104–10075–10109; 104–10075–10110; 104–10075–10114; 104–10075–10115; 104–10075–10117; 104–10075–10118; 104–10075–10119; 104–10075–10120; 104–10075–10127; 104–10075–10128; 104–10075–10133; 104–10075–10134; 104–10075–10135; 104–10075–10138; 104–10075–10139; 104–10075–10142; 104–10075–10143; 104–10075–10144; 104–10075–10145; 104–10075–10150; 104–10075–10151; 104–10075–10153; 104–10075–10155; 104–10075–10156; 104–10075–10157; 104–10075–10158; 104–10075–10170; 104–10075–10171; 104–10075–10173; 104–10075–10174; 104–10075–10175; 104–10075–10180; 104–10075–10181; 104–10075–10183; 104–10075–10184; 104–10075–10192; 104–10075–10195; 104–10075–10196; 104–10075–10201; 104–10075–10202; 104–10075–10204; 104–10075–10205; 104–10075–10207; 104–10075–10208; 104–10075–10209; 104–10075–10212; 104–10075–10215; 104–10075–10216; 104–10075–10217; 104–10079–10029; 104–10079–10035; 104–10079–10036; 104–10079–10039; 104–10079–10041; 104–10079–10050; 104–10079–10056; 104–10079–10066; 104–10079–10087; 104–10079–10092; 104–10079–10094; 104–10079–10112; 104–10079–10115; 104–10079–10135; 104–10079–10139; 104–10079–10185; 104–10079–10203; 104–10079–10205; 104–10079–10211; 104–10079–10216; 104–10079–10218; 104–10079–10252; 104–10079–10339; 104–10079–10366; 104–10081–10002; 104–10081–10007; 104–10081–10008; 104–10081–10009; 104–10081–10010; 104–10081–10011; 104–10081–10012; 104–10081–10013; 104–10081–10014; 104–10082–10007; 104–10082–10029.

After consultation with appropriate Federal agencies, the Review Board announces that the following House Select Committee on Assassinations records are now being opened in full:

180–10001–10378; 180–10001–10445; 180–10001–10446; 180–10001–10447; 180–10001–10448; 180–10001–10449; 180–10001–10450; 180–10001–10451; 180–10001–10482; 180–10068–10425; 180–10068–10429; 180–10068–10476; 180–10068–10479; 180–10068–10480; 180–10072–10034; 180–10077–10213; 180–10077–10422; 180–10080–10085; 180–10080–10420; 180–10082–10002; 180–10083–10346; 180–10083–10390; 180–10086–10056; 180–10087–10064; 180–10089–10497; 180–10095–10244; 180–10095–10355; 180–10095–10370; 180–10095–10421; 180–10102–10390; 180–10105–10263; 180–10107–10129; 180–10108–10319; 180–10108–10410; 180–10112–10424; 180–10114–10102; 180–10115–10093; 180–10115–10098; 180–10120–10013; 180–10130–10014.

Dated: October 1, 1997.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 97–26462 Filed 10–6–97; 8:45 am]

BILLING CODE 6118–01–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: October 14, 1997.

PLACE: ARRB, 600 E Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 97–26571 Filed 10–2–97; 3:33 pm]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Benchmark Survey of Foreign Direct Investment in the United States—1997.

Form: BE–12(LF), BE–12(SF), BE–12 Bank, BE–12(X).

Agency Approval Number: 0608–0042.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Burden: 245,000 hours.

Number of respondents: 11,000.

Avg Hours Per Response: 22 hours.

Needs and Uses: The purpose of the benchmark survey is to obtain enterprise-level data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States. The data from the survey will be used to measure the economic significance of such investment and to analyze its effects on the U.S. economy. They will also be used in formulating, and assessing the impact of, U.S. policy on foreign direct investment.

The data from the survey will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the foreign direct investment position in the United States and of the operations of the U.S. affiliates of foreign companies. Data from the benchmark survey are used by BEA to compute U.S. affiliates' gross product or value added, which is used to measure U.S. affiliates' share of U.S. gross domestic product and to evaluate affiliates' profitability and productivity. Data on employment by affiliates are used to link enterprise-level data on foreign-owned companies collected in the benchmark survey to establishment-level data for the same companies collected by the Census Bureau.

The benchmark survey data also serve as general purpose statistics and, as such, are used to answer a wide variety of research and policy questions. International organizations—including the United Nations, International Monetary Fund, and Organization for Economic Cooperation and Development—use the data to help assess the impact of direct investment on the U.S. and foreign economies. Numerous private researchers—including researchers affiliated with the National Bureau of Economic Research—also use the data.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quinquennial.

Respondent's Obligation: Mandatory.

Legal Authority: Title 22 U.S.C., Sections 3101–3108, as amended.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of this notice to Paul Bugg, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 2, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26560 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–802]

Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation

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

ACTION: Request for Comments.

SUMMARY: The Department of Commerce is hereby providing interested parties an opportunity to comment on proposed procedures to administer and enforce the uranium transfer provisions of Section 3112 of the USEC Privatization Act. All comments are due to the Department of Commerce within 30 days of publication of this notice.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: James Doyle or Karla Whalen, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482–0159 or (202) 482–0408, respectively.

Background: On April 26, 1996, the USEC Privatization Act was signed into law (Pub. L. 104–134, 42 USC 2297(h) *et seq.*). In part, the USEC Privatization Act provides for the measured delivery into the United States market of the natural uranium component of highly enriched uranium (HEU) imported pursuant to the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993. Pursuant to Section 3112(b)(9) of the USEC Privatization Act, the Department of Commerce (the Department) is responsible for the administration and enforcement of the limitations set forth in Section 3112 of the USEC Privatization Act.

Opportunity to Submit Comments: The Department is preparing procedures to administer and enforce the limitations on the delivery of the natural uranium associated with imports of low enriched uranium (LEU) derived from HEU according to the restrictions in the USEC Privatization Act and the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (Suspension Agreement). The specific elements of the proposal are included in the attached Annex.

Prior to reaching a final decision on this issue, the Department is providing an opportunity for full participation on the record to parties wishing to comment. Accordingly, not later than 30 days from the date of publication of this notice, parties may submit comments with respect to the attached procedures which will govern the administration and enforcement of the limitations set worth in Section 3112 of the USEC Privatization Act. Six copies of the comments should be submitted to: Secretary of Commerce, Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. All comments provided to the Department in response to this notice will be subject to release under Administrative Protective Order (APO) in accordance with 19 CFR 353.32. Therefore, all comments must properly identify information the submitter would like treated as business proprietary, and be accompanied by a properly bracketed public version. The Department will meet with interested parties upon request to explain the proposed procedures contained in the Annex to this notice. Any party uncertain of the proper procedures for filing under APO may contact the Department for further information and assistance.

Dated: October 1, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Group III.

Annex

Proposed Procedures For The Sale And Delivery Of The Natural Uranium Feed Component Of Highly Enriched Uranium Entries

These following proposed procedures have been developed pursuant to the Department's authority to administer and enforce the limitations set forth in Section 3112(b)(9) of the USEC Privatization Act. To avoid confusion, the Department intends to follow procedures established under the Suspension Agreement, as closely as possible.

Submission of Contracts

- Matched sales utilizing natural uranium associated with LEU imports derived from HEU (the natural uranium component), pursuant to Section 3112(b)(6) of the Act, will be reviewed and approved according to current existing matched sales procedures. The matched sales procedures and appropriate definitions are contained in the Amendment to the Suspension Agreement (59 FR 15373 (April 1, 1994)) and related Statements of Administrative Intent which are available by contacting the Department personnel listed above.
- All contracts for the sale of the natural uranium component between any parties must be submitted to the Department.

Allocation of Natural Uranium Component According to Available Direct Delivery Quota

The Department believes that allocating the delivery quota available under section 3112(b) of the USEC Privatization Act will contribute to the efficient and equitable administration of the delivery schedule set forth in subsection 3112(b)(5) of the USEC Privatization Act. The Department intends to use the following approach to allocate the delivery quotas.

- The Department will allocate a portion of the quota to a party only upon receipt of submitted contracts and confirmation by the Department on a first-come first-served basis.
- The Department will determine the amount of quota used by a given contract by applying the maximum annual deliveries (including allowed flexibilities) under the contract to the remaining quota available for each of the appropriate delivery years.
- Consistent with Section 3112(b)(5) of the USEC Privatization Act, all requests submitted to the Department for confirmation must contain, in addition to the contract, a statement from the end-user certifying that the material will be delivered solely for consumption in the United States.

Monitoring and Enforcement

- The Department will strictly monitor and verify the movement of the natural uranium component between accounts.
- The Department will require that account balances be documented to the Department on a quarterly basis.
- The Department reserves the right to conduct on-site verifications of documentation reflecting natural uranium component transactions.
- Procedures customarily applied to imports of CIS-origin uranium will also apply to all physical imports into the United States of the natural uranium component.

Please also comment on the following:

- Should the Ministry of Atomic Energy of the Russian Federation license the material authorizing delivery for its intended use, in accordance with section 3112(b)(5) of the USEC Privatization Act?
- Should the Department directly monitor or approve every transfer of natural uranium component-related material between companies' accounts?

[FR Doc. 97–26549 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals: General Incidental Take Permits, Small Take Exemptions, and Certificates of Inclusion

ACTION: Proposed collection; comment request.

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

DATES: Written comments must be submitted on or before December 8, 1997.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Wanda L. Cain, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–2055).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information is used to issue Certificates of Inclusion under the General Permit issued to the American Tunaboat Association (ATA) and to process requests for dolphin mortality limits from those vessels intending to fish for tuna in the eastern tropical Pacific Ocean (ETP) with purse seine nets. This is the only General Permit authorized under the Marine Mammal Protection Act, and it governs the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean. Individual vessels must obtain certificates of inclusion under this permit.

II. Method of Collection

Currently, no take of marine mammals is authorized under the General Permit issued to the ATA under the Marine Mammal Protection Act since the established quota is zero. However, NMFS requires vessels fishing for tuna in the eastern tropical Pacific Ocean to maintain valid Vessel and Operator Certificates of Inclusion to maintain adequate observer coverage.

Each year, NMFS notifies current certificated vessels and operators of their obligation to renew their certificates if they intend to fish in the eastern tropical Pacific Ocean. Vessel Certificates of Inclusion are valid for one year, non-transferable, and cost $200. Operator Certificates of Inclusion are valid for one year, non-transferable, and no fee is required. However, to qualify for an Operator Certificate of Inclusion, the operator must have a current or previous calendar year Certificate of Inclusion or attend a new operator's workshop session.

III. Data

OMB Number: 0648–0083.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Individuals & Businesses.

Estimated Number of Respondents: 27.

Estimated Time Per Response: 0.25 hr.

Estimated Total Annual Burden Hours: 6.75 hrs.

Estimated Total Annual Cost to Public: $0.00 (no capital expenditures are required of respondents).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: October 1, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26562 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093097G]

Draft Strategic Plan for Fisheries Research

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of and seeks public comment on the draft Strategic Plan for Fisheries Research.

Section 404 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires the Secretary of Commerce to develop, trianually, a strategic plan for fisheries research for the subsequent years. Any written comments on the draft plan will be considered by NMFS in the development of the final Strategic Plan for Fisheries Research.

DATES: Comments on the plan will be accepted on or before November 6, 1997.

ADDRESSES: Requests for copies of the draft plan and comments on the draft plan should be directed to John T. Everett, Chief, Research, Analysis, and Coordination Division, Office of Science and Technology, NMFS, NOAA, 1315 East-West Highway, Silver Spring, MD 20910. PHONE: (301) 713–2363. FAX: (301) 713–1875.

FOR FURTHER INFORMATION CONTACT: John Everett or Carolyn Brown at 301–713–2363.

SUPPLEMENTARY INFORMATION: Section 404 of the Magnuson-Stevens Act requires the Secretary of Commerce to publish in the **Federal Register** a strategic plan for fisheries research for the five years immediately following the plan's publication. The Magnuson-Stevens Act requires that the plan address four major areas of research: (1) Research to support fishery conservation and management; (2) conservation engineering research; (3) research on the fisheries; and (4) information management research. The Magnuson-Stevens Act specifies that the plan shall contain a limited number of priority objectives for each of these research areas; indicate goals and timetables; provide a role for commercial fishermen in such research; provide for collection and dissemination of complete and accurate information concerning fishing

activities; and be developed in cooperation with the Councils and affected states.

In 1997, NMFS published a Strategic Plan for NOAA Fisheries. The NMFS Strategic Plan was developed in a comprehensive manner, with extraordinary public involvement, including 16 public meetings. The present Strategic Plan for Fisheries Research is based upon and entirely consistent with the NMFS Strategic Plan. It is a subset of the all-encompassing NMFS Strategic Plan, focusing on science research activities. The objectives found under the *Major Fishery Research Objectives and Goals* section of the subject document can be matched with those in the NMFS Strategic Plan. In addition, the strategies, goals and objectives of the draft Strategic Plan for Fisheries Research are wholly consistent with the 1993 NOAA Strategic Plan: A Vision for 2005.

The scope of the present document is solely fisheries research to support the Act. It does not include the regulatory and enforcement components of the NMFS mission. NMFS currently conducts a comprehensive program of fisheries research and involves industry and others interested in fisheries in planning and implementing its objectives.

NMFS intends that the final version of the Strategic Plan for Fisheries Research will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions on this draft NMFS Strategic Plan for Fisheries Research are hereby solicited from the public, other concerned government agencies, the scientific community, industry, and any other person.

Dated: October 1, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26554 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093097D]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's Scientific and Statistical Committee Salmon Subcommittee will hold a public meeting.

DATES: The meeting will begin at 1 p.m. on October 22 and recess in the evening. On October 23 and 24, the meeting will convene at 8:30 a.m. and recess upon completion of each day's agenda.

ADDRESSES: The meeting will be held at the Northwest Fisheries Science Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Room 370–West, Seattle, WA 98112–2097; telephone (206) 860–3200.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Seger, Economic Analysis Coordinator, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to review methodologies used by the Council to manage salmon.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 1, 1997.

Bruce Morehead,

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

[FR Doc. 97–26551 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration (NTIA)

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; Notice of Open Meeting

DATE: October 7, 1997.

ACTION: Notice is hereby given of a meeting of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, created pursuant to Executive Order 13038.

SUMMARY: The President established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC) to advise the Vice President on the public interest obligations of digital broadcasters. The Committee will study and recommend which public interest obligations should accompany broadcasters' receipt of digital television licenses. The President designated the National Telecommunications and Information Administration to provide secretariat services for the Committee.

AUTHORITY: Executive Order 13038, signed by President Clinton on March 11, 1997.

DATES: The meeting will be held on Wednesday, October 22, 1997 from 8:30 a.m. until 5:30 p.m., and on Thursday, October 23, 1997 from 8:30 a.m. until 1:00 p.m.

ADDRESSES: The meeting is scheduled to take place in the Auditorium at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. This location is subject to change. If the location changes, another **Federal Register** notice will be issued. Updates about the location of the meeting will also be available on the Advisory Committee's homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm or you may call Karen Edwards at 202–482–8056.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Designated Federal Officer and Telecommunications Policy Specialist, at the National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4716; 14th Street and Constitution Avenue, N.W.; Washington, DC 20230. Telephone: 202–482–8056; Fax: 202–482–8058; E-mail: piac@ntia.doc.gov.

Media Inquiries: Please contact Paige Darden at the Office of Public Affairs, at 202–482–7002.

Agenda

Wednesday, October 22

Opening remarks
Announcement and introduction of members
Committee discussion of organization and structure
Briefings
Public comment period

Thursday, October 23

Remarks
Briefings

This agenda is subject to change. For an updated, more detailed agenda, please check the Advisory Committee homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm.

Public Participation: The meeting will be open to the public, with limited seating available on a first-come, first-served basis. This meeting is physically accessible to people with disabilities. Any member of the public requiring special services, such as sign language interpretation or other ancillary aids,

should contact Karen Edwards at least five (5) working days prior to the meeting at 202–482–8056 or at piac@ntia.doc.gov. Please bring a form of picture identification such as a driver's license or passport for clearance into the building on the day of the meeting.

Any member of the public may submit written comments concerning the Committee's affairs at any time before or after the meeting. Comments should be submitted through electronic mail to piac@ntia.doc.gov (please use ''Public Comment'' as the subject line) or by letter addressed to the Committee at the address listed below (please place ''Public Comment'' on the bottom left of the envelope).

Guidelines For Public Comment: The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters welcomes public comments. In general, opportunities for oral comment will usually be limited to no more than five (5) minutes per speaker and no more than thirty (30) minutes total at meetings. Written comments received from the public may be mailed (if at least thirty-five (35) paper copies are submitted) or forwarded by e-mail to the committee members prior to the meeting date. However, comments received too close to the meeting date will normally be provided to committee members at the meeting. Written comments received shortly after a meeting will be compiled and sent as briefing material prior to the next meeting.

Obtaining Meeting Minutes: Within thirty (30) days following the meeting, copies of the minutes of the meeting may be obtained over the Internet at www.ntia.doc.gov/pubintadvcom/pubint.htm, by phone request at 202–501–6195, or by written request to Karen Edwards; Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4716; 14th Street and Constitution Avenue N.W.; Washington, DC 20230.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 97–26548 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology

ACTION: Proposed collection; comment request.

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

DATES: Written comments must be submitted on or before December 8, 1997.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Katie Wolf, National Medal of Technology, Technology Administration, Room 4226 Department of Commerce, Washington, DC 20230, 202/482–3953 phone, and 202/501–8153 fax.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a renewal of a currently approved submission by the U.S. Department of Commerce's Technology Administration. The nominating forms associated with this annual Presidential Medal contain information that is necessary in order to select the Nation's outstanding contributors to the development and commercialization of technology for the improvement of this country's competitiveness.

II. Method of Collection

Nomination forms are made available for wide public distribution. Individuals, teams and/or companies voluntarily complete the forms and submit them to the Department of Commerce, Technology Administration by mail.

III. Data

OMB Number: 0692–0001.

Form Number: None.

Type of Review: Regular submission for a renewal.

Affected Public: Individuals, businesses, non-profit institutions, Federal agencies or employees and small businesses or organizations.

Estimated Number of Respondents: 125.

Estimated Time Per Response: 3 hours.

Estimated Total Annual Burden: 375 hours.

Estimated Total Annual Cost: $15,000—no capital expenditures are required from members of the public.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: October 1, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26561 Filed 10–6–97; 8:45 am]

BILLING CODE 3510–18–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, October 23, 1997.

PLACE: 1155 21st St. N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Program objectives.

CONTACT PERSON FOR MORE INFORMATION: Catherine Dixon, 202–418–5100.

Catherine Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26650 Filed 10–3–97; 11:40 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Wednesday, October 22, 1997.

PLACE: 1155 21st St. N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Catherine Dixon, 202–418–5100.

Catherine Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26651 Filed 10–3–97; 11:40 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 1:00 p.m., Wednesday, October 15, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room located at Room 1000.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Hearing on the proposed order to Chicago Board of Trade to change and to supplement CBT's proposal on delivery specifications.

CONTACT PERSON FOR MORE INFORMATION: Catherine Dixon, 202–418–5100.

Catherine Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26652 Filed 10–3–97; 11:40 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 62 F.R. 49499.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., Friday, October 14, 1997.

CHANGES IN THE DATE: The Commodity Futures Trading Commission is correcting the date. The closed meeting to discuss Adjudicatory Matters is scheduled for 2:00 p.m., Tuesday, October 14, 1997.

CONTACT PERSON FOR MORE INFORMATION: Catherine Dixon, 418–5100.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26653 Filed 10–3–97; 11:40 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Friday, October 17, 1997.

PLACE: 1155 21st St., NW., Washington, DC, 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Catherine Dixon, 202–418–5100.

Catherine Dixon,

Assistant Secretary of the Commission.

[FR Doc. 97–26654 Filed 10–3–97; 11:40 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Collection: Comment Request; Submission for OMB Review of National Senior Service Corps Grant Application

The Corporation for National and Community Service's National Senior Service Corps (Senior Corps) is submitting a public information collection request (ICR) on the revised Senior Corps Grant Application to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of the revised Grant Application may be obtained by calling the Corporation for National Service, Janice Forney Fisher, (202) 606–5000, extension 275. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C. 20503, (202) 395-7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information to 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 submissions of responses.

Type of Review: Request for 3-Year Renewal of OMB Approval through December 31, 2000.

Agency: Corporation for National and Community Service.

Title: National Senior Service Corps Grant Application.

OMB Number: 3045–0035.

Agency Number: 424–NSSC.

Affected Public: Prospective Sponsors for National Senior Service Corps Grants.

Total Respondents: Estimated at 1,463 Annually.

Frequency: Ranges from Every Three Years to Annually Based on Specific Program Requirements.

Estimated Time Per Respondent: Averages 13.3 hours. Estimated at 16.5 hours for first-time respondents, 15 hours for continuation sponsors, and 5 hours for revisions.

Estimated Annual Reporting or Disclosure Burden: 19,450 hours

Total Annualized Capital/Startup Costs: None.

Total Annualized Burden Costs: $2,867.

Description: The National Senior Service Corps Grant Application is submitted by prospective grantees to apply for sponsorship of projects under the Retired and Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), and Senior Companion Program (SCP), collectively known as the Senior Corps. Completion of the Grant Application is required to obtain sponsorship.

In March 1997, the National Senior Service Corps (Senior Corps) announced a 60-day review and comment period, ending May 30, 1997, during which project sponsors and the public were encouraged to submit comments on the revised draft Grant Application (424–NSSC). Existing sponsors were provided copies of the draft concurrent with **Federal Register** publication.

Approximately 30 comments were received from over 1,200 existing Senior Corps projects and the public. As many of the comments as feasible were incorporated into the revised Grant Application. Key changes were the following:

• Reorganization and streamlining of the Grant Application, particularly Part III, for improved clarity and burden reduction.

• Minor modifications to Part I to reduce burden by providing additional information used by applicants in completing the form.

• Deletion of the requirement to submit *with the Grant Application,* 5-Element Planning Worksheets for priority community needs. Applicants are now only required to submit their timeline and plan for developing 5-Element Planning Worksheets at the time of their application is submitted.

• Streamlining and standardization of Attachments (Part IV).

• Addition of a table of contents and clarifying instructions.

Once approved by OMB, the revised Grant Application will be completed by all public and private, non-profit organizations applying for National Senior Service Corps funds. The anticipated implementation schedule calls for the revised Grant Application to be used with grants having a start date of July 1, 1998, or thereafter.

For Further Information Please Contact: Janice Forney Fisher (202) 606–5000, extension 275.

Dated: September 30, 1997.

Thomas E. Endres,

Director, National Senior Service Corps.

[FR Doc. 97–26460 Filed 10–6–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–778–000]

ANR Pipeline Company; Notice of Application

October 1, 1997.

Take notice that on September 26, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–719–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a natural gas transportation service for Fina Oil and Chemical Company, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR states that the transportation service was originally authorized in Docket No. CP84–651–000, *et al.* ANR further states that the service is designated as Rate Schedule X–150 in ANR's FERC Gas Tariff, Original Volume No. 2. ANR asserts that the agreement was entered into by ANR, Fina, Louisiana Resources Company (LRC), and Faustina Pipeline Company (Faustina). ANR further asserts that under the agreement, ANR received natural gas tendered by Fina at High Island Area, Block 546, South Addition, offshore Texas. ANR indicates that it then delivered the gas to LRC at Cameron Parish, Louisiana. It is further indicated that LRC then delivered the gas to Faustina at Vermillion Parish, Louisiana, for ultimate redelivery to a petrochemical plant in Iberville Parish, Louisiana. ANR asserts that by mutual agreement ANR and Fina have agreed to terminate the service. ANR states that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make protest with reference to said application should on or before October 22, 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 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 permission and approval for the proposed abandonment are required by the public convenieance 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 provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26473 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–538–000]

ANR Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

October 1, 1997.

Take notice that, on September 26, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 27, 1997:

Third Revised Sheet No. 1
Fifth Revised Sheet No. 2
Third Revised Sheet No. 49
Eighth Revised Sheet No. 120
Sixth Revised Sheet No. 121
First Revised Sheet No. 122A
Third Revised Sheet No. 132
Original Revised Sheet No. 137A
Second Revised Sheet No. 187A
Fifth Revised Sheet No. 191

ANR states that the purpose of this filing is to make a revision to a provision of ANR's tariff in light of a recent clarification granted by the Commission related to a Gas Industry Standards Board (GISB) standard regarding the delivery point-allocation methodology, as well as to make a number of ministerial corrections, of errors that ANR has discovered in its tariff.

ANR states that copies of the filing have been mailed to all its Second Revised Volume No. 1 customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commissions Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not served to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Chasell,

Secretary.

[FR Doc. 97–26487 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–770–000]

ANR Pipeline Company and Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

October 1, 1997.

Take notice that on September 25, 1997,[1] ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, jointly referred to as Applicants, filed in Docket No. CP97–770–000 a request pursuant to Sections 157.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for authorization to modify and operate an existing meter station between the Applicants and the Dayton Power and Light Company (DP&L), for delivery of natural gas to DP&L in Montgomery County, Ohio. ANR makes such request under its blanket certificate issued in Docket No. CP82–480–000, while Texas Eastern makes its request under its blanket certificate issued in Docket No. CP82–535–000 both pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

The Applicants state that in response to DP&L's request, they propose to modify an existing meter station, the Farmersville Meter. It is stated that the Farmersville Meter is jointly owned, fifty percent each by ANR and Texas Eastern. The Applicants further state that DP&L has requested that the metering capability of the Farmersville facility be expanded from 100,000 Dt Per day to 200,000 Dt daily, at an estimated project cost of $105,440.

Specifically, the Applicants propose to construct an additional 8-inch turbine meter, an 8-inch valve, approximately 30-feet of 8-inch piping, and appurtenant facilities such as flanges on the existing meter site. In addition, the Applicants also propose to modify two existing 8-inch turbine meters. It is averred that DP&L has informed the Applicants, that the enhanced facility will allow DP&L to serve existing gas-fired electrical generation facilities in the area, which will be used for peaking and off-system power sales.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26472 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

[1] By supplement filed September 29, 1997, the Applicants clarified the Section of the Commission's Regulations under the NGA, under which they are seeking authorization.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–69–000]

Boundary Gas, Inc.; Notice of Refund Report

October 1, 1997.

Take notice that on September 26, 1997, Boundary Gas, Inc. (Boundary) tendered for filing a refund report reflecting the flowthrough of the Gas Research Institute (GRI) refund received by Boundary on May 30, 1997.

Boundary states that it has credited such refund, together with interest accrued to date, proportionally to its firm customers of non-discounted service based on the GRI surcharges those customers paid during the calendar year 1996. Boundary states that each customer's credit will be reflected on its invoice for September 1997 services to be issued on or about October 15, 1997.

Boundary states that a copy of this filing is being mailed to each of Boundary's affected customers and the state commissions of New York, Connecticut, New Jersey, Massachusetts, New Hampshire and Rhode Island.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests must be filed on or before October 8, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26477 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–740–000]

Iroquois Gas Transmission System, L.P.; Notice of Request Under Blanket Authorization

October 1, 1997.

Take notice that on September 9, 1997, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed in Docket No. CP7–740–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations (18 CFR 157.205, 157,212) under the Natural Gas Act (NGA) for authorization to add a new delivery point and to construct and operate appurtenant facilities on behalf of New York State Electric & Gas Company (NYSEG), an existing shipper, in Lewis County, New York, for Part 284 transportation services by Iroquois, under Iroquois' blanket certificate issued in Docket No. GP89–634–000, *et al.*, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Iroquois proposes to add the new delivery point for service to NYSEG, as local distribution company, and states that NYSEG will construct and operate the associated metering and regulating facilities under New York State jurisdiction. It is stated that the Iroquois is not presently delivering any volumes at the proposed new delivery point. Iroquois and NYSEG estimate that

Iroquois would deliver up to 5,000 Mcf per day of NYSEG's current contract quantity at the proposed delivery point. It is asserted that the deliveries would have no effect on Iroquois' peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26471 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–104–005]

Kentucky West Virginia Gas Company, L.L.C.; Notice of Proposed Changes In FERC Gas Tariff

October 1, 1997.

Take notice that on September 26, 1997, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to become effective November 1, 1997:

Second Revised Sheet No. 119
Second Revised Sheet No. 120
First Revised Sheet No. 120A
First Revised Sheet No. 120B
First Revised Sheet No. 134
First Revised Sheet No. 135
First Revised Sheet No. 136
Second Revised Sheet No. 137
Second Revised Sheet No. 171
Third Revised Sheet No. 172

Kentucky West states that the purpose of this filing is to comply with the Commission's June 25, 1997 in the captioned docket, and to implement the business practices standards which were adopted in Order No. 587–C.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26481 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–779–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

October 1, 1997.

Take notice that on September 26, 1997, K N Interstate Gas Transmission Co. (Applicant), P.O. Box 291304, Lakewood, Colorado 80228, filed in Docket No. CP97–779–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate two new delivery taps, under blanket certificate issued in Docket No. CP83–140–000, *et al.*,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Applicant proposes to construct two new delivery taps located in Dawson and Buffalo Counties, Nebraska, which will be added as delivery points under an existing transportation agreement between Applicant and K N Energy Inc. (KNE). These proposed delivery points will be used by KNE to facilitate the delivery of natural gas to direct retail sales customers.

Applicant further states that these two taps were mistakenly installed and gas service has commenced through one of the delivery taps. At the request of the domestic retail customer of KNE, who is receiving gas service, Applicant requests that such service continue while this prior notice is under consideration, since economic and physical hardship to the customer would result if service were discontinued.

The Buffalo County, Nebraska delivery point will serve a commercial customer approximately 6 Mcf on a peak day and 360 Mcf annually; and, the cost of the valve and tap was estimated at $1,500. The Dawson County, Nebraska delivery point will serve a domestic customer approximately 4 Mcf on a peak day and 216 Mcf annually; and, the cost of the valve and tap was estimated at $1,500. Applicant states that construction of the proposed delivery point is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the service proposed herein without determent or disadvantage to Applicant's other customers. Applicant holds a blanket transportation certificate pursuant to Part 284 of the Commission's Regulations issued in Docket No. CP89–1043–000.[2]

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26474 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–005]

K N Interstate Gas Transmission Co.; Notice of Tariff Filing

October 1, 1997.

Take notice that on September 26, 1997, K N Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets:

[1] *See*, 22 FERC ¶ 62,330 (1983).

[2] *See*, 48 FERC ¶ 61,159 (1989).

Tariff sheet:	Effective date
First Rev. Second Revised Sheet No. 4–G.	September 29, 1997.
Fourth Revised Sheet No. 4–G.	October 1, 1997.
Fifth Revised Sheet No. 4–G.	November 1, 1997.

KNI states that the tariff sheets are being filed pursuant to Third Revised Volume No. 1–B, Section 36 of KNI's FERC Gas Tariff, and the procedures proscribed by the Commission in its December 31, 1997 ''Order Accepting Tariff Filing Subject to Conditions'', in Docket Nos. RP97–81) (77 FERC ¶ 61,350) and the Commission's Letter Order dated March 28, 1997 in Docket No. RP–97–81–001.

KNI states that copies of the filing have been served upon KNI's mainline jurisdictional customers, interested public bodies, and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests 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. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26480 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–537–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

October 1, 1997.

Take notice that on September 29, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective November 1, 1997.

Natural states that the purpose of the filing is to modify Natural's tariff so that Natural can offer firm transportation service which is subject to cancellation or suspension upon prior notice.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective on November 1, 1997.

Natural states that copies of the filing have been mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26486 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–105–005]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 1, 1997.

Take notice that on September 26, 1997, Nora Transmission Company (Nora) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective November 1, 1997:

Second Revised Sheet No. 119
Second Revised Sheet No. 120
First Revised Sheet No. 120A
First Revised Sheet No. 120B
First Revised Sheet No. 134
Second Revised Sheet No. 135
First Revised Sheet No. 136
Second Revised Sheet No. 171
First Revised Sheet No. 173
Sheets No. 174–219

Nora states that the purpose of this filing is to comply with the Commission's June 25, 1997 in the captioned docket, and to implement the business practices standards which were adopted in Order No. 587–C.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26482 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–31–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 1, 1997.

Take notice that on September 26, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1997:

Ninth Revised Sheet No. 5
Ninth Revised Sheet No. 6

NGT states that the revised tariff sheets are being filed to adjust NGT's fuel percentages pursuant to Section 21 of its General Terms and Conditions.

Any person desiring to be heard or protect the proposed tariff sheets should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26489 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–539–000]

Northern Border Pipeline Company; Notice of Proposed Changes

October 1, 1997.

Take notice that on September 26, 1997, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective November 1, 1997:

Second Revised Sheet Number 283

Northern Border states that it proposes to revise Method A of the Bid evaluation methods and to clarify certain factors in the Method A formula. Northern Border further states that the proposed change to Bid evaluation Method A provides a wider range of Bid evaluation alternatives.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with § 385.214 and § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26488 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–447–001]

Northern Natural Gas Company; Notice of Compliance Filing

October 1, 1997.

Take notice that on September 26, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, with an effective date of September 15, 1997:

Substitute Third Revised Sheet No. 106

Northern states that the instant filing is made in compliance with the Commission's Order issued September 11, 1997 in Docket No. RP97–447–000, addressing the shipper notification requirements associated with reduction rights under Rate Schedule TF.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26484 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES97–44–002]

Orange and Rockland Utilities, Inc.; Notice Of Filing

October 1, 1997.

Take notice that on September 26, 1997, Orange and Rockland Utilities, Inc. (O&R), filed an amendment to its application for authorization to issue securities in the above-captioned docket. The only change to the previously-approved application is a request by O&R that the authorization level be increased from $150.0 million to $200.0 million.

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 must be filed on or before October 10, 1997. Protests will be considered by the Commission in determining he 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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashhell,

Secretary.

[FR Doc. 97–26476 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–780–000]

Paiute Pipeline Company; Notice of Request Under Blanket Authorization

October 1, 1997.

Take notice that on September 26, 1997, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed in Docket No. CP97–780–000 a request pursuant to Sections 157.205, 157.211 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) for approval to construct and operate a delivery tap for the transportation and delivery of natural gas to Winnemucca Farms, Inc. (Winnemucca), under Paiute's blanket certificate issued in Docket Nos. CP84–739–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Paiute proposes to construct and operate a new delivery tap at a point on Paiute's Elko Lateral facilities in Humboldt County, Nevada. Paiute states that it has been informed by Winnemucca that it intends to construct a small diameter pipeline to extend from its plant to the proposed new delivery tap on Paiute's Elko Lateral. Paiute asserts that it will provide

interruptible transportation service directly to Winnemucca at the proposed delivery point. Paiute further asserts that the estimated annual peak day volumes to be delivered to Winnemucca at the proposed delivery point will be 438,000 Mcf and 2,000 Mcf, respectively. Paiute indicates that it will be reimbursed by Winnemucca for the total cost of constructing the delivery point facilities.

Any person or the Commission's Staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26475 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–536–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 1, 1997.

Take notice that on September 25, 1997, Panhandle Eastern Pipe Line Company (Panhandle), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 1997.

Panhandle states that the purpose of the filing is to reinstate the Stranded Transportation Cost Reservation Surcharge (ST Reservation Surcharge) and the Stranded Transportation Cost Volumetric Surcharge (ST Volumetric Surcharge) pursuant to Section 18.13(g) of the General Terms and Conditions of Panhandle's tariff. A Reconciliation Recovery Period is to be established if Panhandle has not fully recovered the total Stranded Transportation Costs at the conclusion of the initial recovery period. Panhandle has not completed the recovery of the Stranded Transportation Costs as of June 30, 1997 and accordingly is proposing to implement a ST Reservation Surcharge of $0.01 per Dt. applicable to Rate per Dt. applicable to Rate Schedule SCT and a ST Volumetric Surcharge of 0.03¢ per Dt. applicable to Rate Schedules IT and EIT to be in effect during the twelve month Section 18.13 Reconciliation Recovery Period which commences November 1, 1997.

Panhandle states that copies of its filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26485 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–142–001]

Pennsylvania Power & Light Company; Notice of Filing

October 1, 1997.

Take notice that on August 15, 1997, Pennsylvania Power & Light Company (PP&L) tendered for filing proposed changes to, and clarifications regarding, its Open Access Transmission Tariff, to comply with the Commission's order in *Allegheny Power System, Inc.,* 80 FERC ¶ 61,143 (1997).

PP&L served a copy of this filing upon all persons listed on the official service list compiled by the Secretary in Docket No. OA96–142–000, and upon the current customers under the open access tariff.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 10, 1997. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26478 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–109–007]

Sabine Pipe Line Company; Notice of Compliance Filing

October 1, 1997.

Take notice that on September 29, 1997, Sabine Pipe Line Company (Sabine) tendered for filing the tariff sheets listed on Attachment A to the filing, with an effective date of November 1, 1997.

Sabine states that the instant filing is being made to comply with the provisions of Order No. 587–C issued March 4, 1997, in Docket No. RM96–1–004, and the Commission's order issued June 18, 1997 in Docket No. RP97–109–004.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26483 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–186–001]

UtiliCorp United Inc.; Notice of Filing

October 1, 1997.

Take notice that on August 15, 1997, in compliance with the Commission's July 31, 1997, Order in this docket, UtiliCorp United Inc., filed with the Commission revised open access transmission tariff sheets on behalf of its Missouri Public Service Company, WestPlains Energy-Colorado, and WestPlains Energy-Kansas operating divisions. The revised tariff sheets separately state rates for Scheduling, System Control and Dispatch Service.

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 October 10, 1997. 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 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. 97–26479 Filed 10–6–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5906–4]

Agency Information Collection Activities: Proposed Collection, Comment Request; Application for Reference or Equivalent Method Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Application for Reference and Equivalent Method Determination, EPA ICR Number: 0559.06, OMB No: 2080–0005, expiration date: 01/31/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 8, 1997.

ADDRESSES: U.S. Environmental Protection Agency, Human Exposure and Atmospheric Sciences Division/ Atmospheric Methods and Monitoring Branch, Mail Drop 46, Research Triangle Park, NC 27711. Interested persons may obtain a copy of the ICR without charge by contacting the hereinafter named person.

FOR FURTHER INFORMATION CONTACT: Frank F. McElroy, 919–541–2622; facsimile number: 919–541–7953; E-Mail: MCELROY.FRANK@EPAMAIL.EPA.GOV

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are manufacturers or vendors of air monitoring instruments suitable for use by state and local air monitoring agencies in their federally required air surveillance monitoring networks, and agents acting for instrument manufacturers or vendors. Other applicants include state or local air monitoring agencies.

Title: Application for Reference and Equivalent Method Determination (OMB Control No. 2080–0005; EPA ICR No. 0559.06; expiring January 31, 1998).

Abstract: State air monitoring agencies are required to use EPA-designated reference or equivalent methods in their air monitoring networks to determine compliance with the national ambient air quality standards (NAAQS). A manufacturer or seller of an air monitoring method (e.g. an air monitoring sampler or analyzer) which seeks EPA designation of their products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information to determine whether the particular method should be designated as either a reference or equivalent method. After designation of a method, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. Following designation of a method for $PM_{2.5}$, the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of a designated method are manufactured in an ISO 9001-register facility. Responses to the collection of information are voluntary but are required to obtain a benefit (40 CFR part 53). Submission of information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as such will be protected in full accordance with 40 CFR part 53.15 and all applicable provisions of 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) evaluate the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond.

Burden Statement: The EPA estimates that the total annual respondent burden for all activities covered in this ICR is approximately 6926 hours at a cost of $405,378. EPA estimates an average burden of 1118 hours and an estimated cost of $65,816 per major application, based on an estimated 6 applications per year. However, it should be noted that such applications range widely in content and extent. Accordingly, the individual respondent burden for a particular application response may differ substantially from the average burden. EPA estimates the average

burden of 12 hours and $432 per response for minor related responses, based on an estimated 18 such responses per year. The expected frequency of all responses is on occasion. These average burden estimates include the following costs: The cost of capital equipment and supplies, annualized over expected useful life, is estimated to be $14,000. An annual recordkeeping burden of 150 hours is estimated at an annual cost of $2,700. ISO facility registration and document upgrade is estimated to require 2128 hours per year at a cost of $200,944.

The Agency's total annual burden to process these responses is estimated to be 1015 hours at an estimated cost of $44,460. Annual contractual services are estimated to require $300,000.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: September 30, 1997

Gary J. Foley,

Director, National Exposure Research Laboratory.

[FR Doc. 97–26530 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5906–5]

Acid Rain Program: Notice of Annual Adjustment Factors for Excess Emission Penalty

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of annual adjustment factors for excess emissions penalty.

SUMMARY: Under the Acid Rain Program, affected units must hold enough allowances to cover their sulfur dioxide emissions and meet an emission limit for nitrogen oxides. Under 40 CFR 77.6, units that do not meet these requirements must pay a penalty without demand to the Administrator based on the number of excess tons emitted times $2000 as adjusted by an annual adjustment factor that must be published in the **Federal Register**.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide and nitrogen oxides under 40 CFR part 77 for compliance year 1997 is 1.2624. This value is derived from the Consumer Price Index for 1990 and 1997, as defined in 40 CFR part 72, and corresponds to a penalty of $2525 per excess ton of sulfur dioxide or nitrogen oxides emitted.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide and nitrogen oxides under 40 CFR part 77 for compliance year 1998 is 1.2905. This value is derived from the Consumer Price Index for 1990 and 1998, as defined in 40 CFR part 72, and corresponds to a penalty of $2581 per excess ton of sulfur dioxide or nitrogen oxides emitted.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 at (202) 233–9089.

Dated: September 29, 1997.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–26531 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5906–6]

Project XL Final Project Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Project Agreement with HADCO Corporation and Response to Public Comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing the signing of its Final Project Agreement (FPA) with HADCO Corporation, New York and New Hampshire, under EPA's Project XL program. Through this notice, EPA is also responding to public comments received on the draft FPA. As the comments below indicate, many suggested changes were incorporated into the FPA.

FOR FURTHER INFORMATION CONTACT: Kenneth Rota, EPA Region I, (617) 565–3349; Jim Sullivan, EPA Region 2, (212) 637–4138; or Lisa Hunter, EPA Headquarters, (202) 260–4744.

SUPPLEMENTARY INFORMATION:

Background:

HADCO, EPA, the New Hampshire Department of Environmental Services (NH DES), the New York State Department of Environmental Conservation (NYS DEC) signed an agreement applicable to HADCO's facilities in New Hampshire and New York under EPA's ''Project XL'' initiative.

HADCO is one of the first companies accepted into EPA's Project XL program. EPA created Project XL in 1995 as an initiative providing regulatory flexibility for industry to achieve environmental performance that is superior to what would be achieved through compliance with existing and reasonably anticipated future regulations. The HADCO FPA was developed by EPA staff in Regions I, II and its Headquarters, the NH DES, the NYS DEC, and HADCO Corporation (''the parties''). The FPA is the document that memorializes the parties intentions concerning Project XL for the HADCO facilities in Owego, NY, Hudson, NH, Derry, NH and Salem, NH.

This XL project concerns the classification under RCRA Subtitle C of wastewater treatment (WWT) sludge generated from printed wire board manufacturing facilities (SIC 3672). Presently this WWT sludge is classified as a listed hazardous waste, having the waste code F006, pursuant to regulations promulgated under the Resource Conservation and Recovery Act (40 CFR 261.31(a)). Because of this hazardous waste designation, HADCO, and others in the PWB industry, must currently ship this waste to a separate facility licensed to handle hazardous wastes before it can be reclaimed. The project seeks to test whether (a) classifying the WWT sludge generated by HADCO as an F006 waste pursuant to Subtitle C is not necessary to protect human health and the environment, (b) the WWT sludge can be safely reclaimed without all of the strict regulatory controls imposed by RCRA Subtitle C; and (c) a conditional delisting or solid waste variance will yield substantial economic and environmental benefits.

The HADCO FPA details a procedure through which HADCO will extensively test its sludge generated from the treatment of wastewater associated with circuit board manufacture. This data will be reviewed by EPA, NH DES and NYS DEC, in order to determine if such data supports removal of the sludge from regulation as a hazardous waste, as

defined in RCRA. If this determination can be made, off-site treatment would no longer be required prior to reclamation. Such a determination by EPA, NH DES, and NYS DEC is wholly contingent upon HADCO shipping the sludge off-site for reclamation of copper contained in the sludge. The four (4) HADCO facilities that are involved in this project collectively generate approximately 600 tons per year of this sludge.

HADCO has agreed to direct all of its cost savings realized towards the reclamation of non-hazardous copper containing dusts that are land filled currently (or other pollution prevention activities). If HADCO does not substantially reduce the amount of copper dusts currently land filled, the project may be terminated. HADCO must also consider the installation of sludge driers to reduce sludge volume at its New Hampshire facilities, if feasible.

This draft FPA provides an overview of the parties' intentions under the XL agreement. The parties to the agreement have considered public comments received during a 30-day public comment period that began January 23, 1997 (as noticed at 62 FR 3508, January 23, 1997) and at an informal public hearing held at the HADCO facility located in Owego, New York on February 12, 1997. After considering these comments, the parties modified the agreement as necessary. The FPA is not legally binding, but states the plans and intentions of the parties regarding the project. It is not a rule or other final agency action; public notice and opportunity for comment were provided as a matter of EPA policy.

In addition to the EPA contacts listed in the section entitled **FOR FURTHER INFORMATION CONTACT,** above, questions concerning Project XL and the HADCO project may also be directed to: Ken Marschner, NH DES, (603) 271–2943, Mark Moroukian, NYS DEC, (518) 457–2553, or Lee Wilmot, HADCO Corporation, (603) 896–2424. General information about Project XL may be obtained by accessing EPA's internet site for Project XL, at http://www.epa.gov/Project XL. A copy of the HADCO FPA is posted at this location.

Agency Response to Comments

The Agency received written public comments from five interested parties. Additionally, on February 12, 1997, oral comments were received and discussed during an informal public hearing held at the HADCO facility located in Owego, New York. The notable comments are listed below, along with the Agency's response. The comments received are as follows:

1. Use of Atlantic States Legal Foundation (''ASLF'') Offices as a Depository for the Project Records

ASLF suggested that either the NY DEC regional office in Syracuse or its own offices in Syracuse be used a repository for the records generated by this project, including all raw data. ASLF notes that at present, the closest depository to its office is 75 miles away in Owego. ASLF notes that it cannot actively participate unless the information is made available at a more convenient location.

Response: The ASLF Syracuse office will be used as an additional depository. Records kept at this office will be available to the public on terms similar to those of other repositories.

2. Use HADCO's Cost Savings to Enable Stakeholders to Participate More Actively

One commenter suggested that HADCO should have to use some of its cost savings to enhance the stakeholders' ability to participate.

Response: According to HADCO's current projections, its initial cost savings will not be very substantial. For this project to provide tangible environmental benefits, those savings must be channeled into copper dust reclamation at a minimum. EPA believes that since all data and any portions of the record will be made available to any stakeholder upon request, there is no imminent need to require HADCO to channel its cost savings to enhance stakeholder participation.

EPA believes that substantial stakeholder participation is ensured because all parties are available to discuss the project via telephone or through correspondence. In addition, any stakeholder can participate in meetings through telephone hookups provided by HADCO, if he cannot afford the time and expense to attend a meeting in person.

Thus far, three stakeholder meetings have been held at HADCO's Derry, New Hampshire facility. Two stakeholder meetings and one public hearing have been held at HADCO's Owego, New York facility. The public hearing was advertised in the local newspapers and through radio announcements. Throughout the FPA development process, drafts of the FPA and other supporting information were made readily available. The parties have always stressed that any specific information or data can be made available upon request. In addition, the FPA, as revised includes five local repositories for this project's relevant records; a requirement to mail the FPA, executive summaries of the annual reports (''executive summaries'') to the interested stakeholders; posting of the final FPA (as signed) and executive summaries on the HADCO's world wide web page; a requirement to hold additional on-site stakeholder meetings with those stakeholders who request meetings to review project progress; and the filing of press releases at critical junctures. EPA believes that the FPA provides ample opportunity and resources to ensure adequate stakeholder support. In addition, most of the participating stakeholders agree with this assessment.

3. Dust Reclamation

One commenter noted that Section VI.C. of the FPA does not require HADCO to carry out dust reclamation in the most environmentally beneficial manner. The commenter suggests that there is no reason why HADCO should not be required to do something better with these dusts regardless of what happens to the sludge. The commenter suggests the removal of the second sentence in paragraph 29 to address this issue.

Response: The inclusion of this suggestion would provide no incentive for HADCO to participate in this project. According to cost documentation submitted by HADCO, the copper dust reclamation proposed is an expensive undertaking. From HADCO's perspective, the implementation of copper dust reclamation would require it to make a substantial investment.

The potential grant of regulatory relief provides HADCO with an incentive to make such an investment. Current State and Federal laws and regulations do not require that copper drilling and edging dusts be recycled. These dusts are currently land filled. As such, no legal mechanism currently exists that requires HADCO to handle this waste in a more environmentally beneficial manner. However, through proper implementation, this agreement, and any resulting grant of regulatory flexibility, can ensure better management of this waste stream. Therefore, if regulatory relief is granted, EPA believes that the project is environmentally superior to what would occur if the project did not proceed. If the Agencies determine that HADCO's WWT sludge is eligible for a conditional delisting or a solid waste variance, the Agencies will only grant such relief if HADCO uses its cost savings to recycle those copper dusts (or implements an acceptable pollution prevention activity in the alternative). For these reasons, the

second sentence of paragraph 29 in the draft version of the FPA will remain.

4. HADCO Should Complete an Enhanced Pollution Prevention Survey

One commenter suggested that the parties add another section to the FPA that requires HADCO to complete an enhanced pollution prevention (''P2'') analysis. The commenter also notes that HADCO has had some success implementing P2 under EPA's 33/50 program; however, HADCO should be required to expand its P2 efforts and examine the entire waste stream and explore P2 options.

Response: HADCO has already achieved significant success implementing P2. While further P2 is always desirable, and EPA understands that HADCO will continue exploring further waste reduction methods, EPA believes that the project already provides superior performance for the reasons discussed above, and that adding further conditions to the project would no longer make it attractive enough for the company to participate.

5. Uses of Pollution Prevention Methods Should be Encouraged

The same commenter later specifies that he has no objection to recycling drilling and edging dusts and reclaiming the copper contained in such dusts; however, the commenter notes that pollution prevention is the preferable solution. The commenter believes that HADCO should have to demonstrate that there is no P2 alternative before it uses reclamation.

Response: EPA agrees that P2 solutions are always the preferred to reclamation solutions. However, as discussed above, EPA believes that the project results will be environmentally superior to what would have occurred otherwise, and that the additional P2 requirements would make it too unattractive for HADCO to continue. In addition, HADCO has already invested a substantial amount of time and effort in developing a feasible reclamation solution. Nevertheless, the parties have agreed to adjust paragraph 29 of the FPA by using language that encourages HADCO to identify and implement P2 activities, in addition to or in lieu of the reclamation solution. If a P2 activity is not pursued, HADCO must implement the dust reclamation program.

6. Reservation of Rights

One commenter objected to the inclusion of Section X. of the FPA, which is entitled ''Reservation of Rights.'' The commenter noted that by singling out criminal enforcement authority, the language improperly implies that civil enforcement authority is somewhat undermined. The commenter was also concerned that this section's language could somehow undermine citizen suit viability.

Response: EPA agrees, and the parties have agreed to strike this section. Since the FPA is not an enforceable document, there is no need to include a specific reservation of rights. EPA agrees the language of this section could be read to improperly imply that entry of the FPA affects civil enforcement authority for EPA, the State Agencies and concerned citizens, which was not the parties' intent. Similarly, the deletion of this section from the FPA should in no way be understood to infer or imply that the Agency is relinquishing its authority to respond in any of the situations referred to in the now-deleted section reserving the Agency's rights. Further, any rules promulgated as a result of this project will be fully enforceable by EPA, State Agencies, or the public.

7. Specifically Identify Each Party's Obligations Under the FPA

One commenter noted that much of the wording of the FPA is confusing. The commenter noted that Section VI, in particular, addresses a number of unrelated subjects and is difficult to follow. The commenter suggested that the FPA use a structure where the different parties' obligations were ''spelled out.''

Response: EPA agrees that some portions of the FPA require clarification, and the parties have agreed to make some limited changes. In response to this comment, a few portions of the FPA have been reworded to further clarify each party's obligations. Each party is acutely aware of its obligations under the FPA. For the most part, the parties' obligations are listed in a chronological order. For example, the sampling program and analyses precede the section regarding federal and state rulemaking implementation. Approval of Reclamation Facilities logically follows the rulemaking provisions.

With regard to Section VI of the FPA, which is entitled ''Verification of Environmental Benefits,'' the parties believe that each subject included under that section deals with a different facet of demonstrating the environmental benefits that result from this project. Additional language was added to each subsection to emphasize this connection.

8. The FPA Creates a Preference for Reclamation at Primary Copper Smelters

Response: One commenter noted that any relief from classification of HADCO's F006 as hazardous waste should be available regardless of whether the waste is shipped to a primary smelter, or to an intermediate processor. Specifically, this commenter objected to the sentence in paragraph 24 of the proposed FPA that stated:

> * * * The primary recipients of HADCO's sludges will be primary copper smelters, where the sludge will comprise a feedstock substitute for natural ore or other recycled product streams. Alternative reclamation processes will require prior approval by the EPA and relevant State Parties.

In response, EPA wishes to make clear that no final decision as to the precise conditions of any variance or delisting has been made at this time (nor, since the FPA has no legal or regulatory effect, could such a decision be made until final action is taken on a variance or delisting). Accordingly, the sentence referred to by this commenter has been replaced with the statement that:

> HADCO will request approval by the EPA and relevant State Parties, prior to the shipment of its sludge to such facility. If EPA and the relevant State Parties reject HADCO's request for approval because the shipment of the WWT sludge to such reclamation facility would not foster the goals of this project, this project will be terminated in accordance with the provisions of Sections I.E. and V. of this FPA.

This sentence makes clear that EPA and the relevant states will require, as a condition for participating in Project XL, that HADCO must request and obtain approval from EPA and the relevant states for any facility to which it wishes to ship waste for which a variance or delisting has been granted. EPA and the states have reserved this right in order to ensure that the goals of the project are furthered—specifically, that the proposed arrangement is environmentally superior and represents an approach that warrants investigation as a potentially transferable regulatory option. To date, HADCO's proposal has been to authorize shipment to a direct recycler, and having studied this proposal in depth, EPA and the States both believe that such shipment would further the above goals. EPA and the states have not, however, evaluated other specific options at this time.

9. The Sampling and Analyses Plan Should Include Additional Organic Analyses

One commenter stated that the organic constituent sampling is not adequate and that more complete data on the organic content are required to ascertain whether HADCO's F006 sludge should be regulated for factors

other than those related to the original listing and to also render a ''toxics along for the ride'' assessment of the proposed recycling activity. The commenter suggested that additional organic constituents may originate from materials used by HADCO in the course of its manufacturing process. This commenter suggested that EPA conduct a rigorous review of all materials used by HADCO at its facilities or require a broader sampling of organic chemicals.

Response: EPA does not believe that HADCO's sludge poses any significant risks from volatile organic compounds based upon prior inspections conducted by EPA at HADCO and EPA's prior evaluations of waste analyses conducted by the company on its sludge and other waste streams. HADCO has also conducted a corporate phase out of solvents such as methylene chloride from its manufacturing process since the time of EPA's inspection of the facility. However, volatile organic compound testing conducted by HADCO for its wastewater effluent has detected trace amounts of some volatile organic solvents in the parts per billion range. Therefore, EPA believes this commenter does raise valid concerns about the potential for volatile organic compounds that could be present in the waste which is a reasonable assumption.

EPA has reassessed its sampling protocol and agrees to require additional organics testing on the F006 sludge. Based on a review of the types of compounds previously identified by EPA, the following analytical procedures will be included in the testing protocol: Method 8240B (volatile organics), Method 8250A (semi-volatile organics) and Method 8315 (carbonyl compounds).

10. Call for Additional Notice and Comment

A commenter identified the lack of a formal public notice and comment period in the FPA if a solid waste variance is selected as the most appropriate relief mechanism. The commenter felt that EPA should expressly provide for the same level of participation under either a conditional delisting or solid waste variance process to maintain the transparency of the XL process.

Response: EPA agrees with this comment and EPA will post notice in the **Federal Register** for all interested parties and stakeholders if a solid waste variance is selected. Such **Federal Register** notice would have no legal effect, per se, since the variances would be effectuated under state law. The notice would simply provide another means to alert stakeholders to a significant milestone in this project's development.

If a variance is pursued in New York, the applicable rules provide ample opportunity for notice and comment With reason, a commenter may request that NYSDEC hold a legislative public hearing to listen to oral comments. After evaluating public comment NYSDEC would render a final determination.

11. Time Frames for the Agencies' Data Review Are Limited

A commenter also identified the time frames listed in the FPA as extremely short and expressed concern that EPA would not be able to conduct an adequate review of this project.

Response: EPA does not consider the time frames set out in the FPA to be binding for any review or decisions that the Agency must make in the course of this project. EPA and HADCO have agreed to use the dates identified in the FPA as target dates. Should EPA fail to meet one of these target dates, HADCO would not obtain a conditional delisting or solid waste variance by default. Conversely, should HADCO fail to submit information by a targeted date, this project would not terminate by default.

12. Reclamation Options

During the public hearing, one participant asked whether there were procedures other than smelting that can be used to extract the copper from HADCO's sludge.

Response: Copper can be extracted from different media by a variety of physical separation processes, but that extricated copper would generally be sent to a high temperature furnace, such as a smelter, to remove entrained or bound impurities. The copper could then be purified and formed into a commercial grade ingot, which would maximize the reclaimed copper's future uses.

13. Chemicals Used at the HADCO Facilities

During the public hearing, one participant asked if chemicals used in the process could be identified and screened to improve sludge quality.

Response: EPA has reviewed HADCO's Material Safety Data Sheets ('MSDSs') which identify all chemicals used in their process and believes that the substitution of ammonium chloride for chrome sulfuric acid as an etchant had significantly ''greened'' or reduced the toxicity of the WWT sludge. Also, as a member of EPA's 33/50 Program, HADCO has substituted other less or non-toxic raw materials for previously employed toxic materials.

14. If Data Exhibit Hazardous Characteristics

During the public hearing, one participant asked whether the Agency would terminate the project if HADCO's sludge exhibited a characteristic of a hazardous waste (e.g., the toxicity characteristic for lead).

Response: EPA believes that the project could continue, but that it could impact the type of relief sought by HADCO. This may not be a significant issue if a variance from classification as a solid waste is pursued because the variance primarily investigates the degree to which the reclaimed material is like an analogous raw material. However, such circumstances would preclude a traditional delisting since delisting is based on inherent risk associated with the material. Nevertheless, the conditional delisting sought by HADCO remains an option, depending on degree of sludge toxicity.

15. Potential for Transferability of the Project

During the public hearing, one participant inquired about the transferability of the project.

Response: As indicated in Appendix A of the draft Final Project Agreement, the Agency believes the proposal may be transferable to other PWB manufacturers not using chrome-based etchants. However, the specific relief that may be provided when this project is implemented is not being made more generally available at this time. Other manufacturers may continue to use usual processes for delisting their sludge or seeking a variance from classification of a sludge as solid waste.

16. Eligible Smelters

During the public hearing, one participant asked whether a domestic smelter could receive HADCO's sludge.

Response: EPA notes that the sludge could be received by any domestic primary smelter which had successfully demonstrated, in accordance with 40 CFR 266.112, that the properties of its residues (e.g., slag or slag tailings) were not adversely impacted by the co-processing of hazardous waste. If the regulatory relief sought in this project is granted, then HADCO's sludge could be accepted by any primary smelter.

Dated: September 30, 1997.

Christopher Knopes,

Acting Director, Project XL.

[FR Doc. 97–26532 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 97–2142]

North American Numbering Council; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 2, 1997, the Commission released a public notice announcing the October 21, 1997, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its Agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes, Paralegal Specialist, assisting the NANC at (202) 418–2313 or via the Internet at jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20054. The fax number is: (202) 418–2345. The TTY number is: (202)418–0484.

SUPPLEMENTARY INFORMATION: The next meeting of the North American Numbering Council (NANC) will be held on Tuesday, October 21, 1997, from 8:30 a.m until 4:30 p.m., EST at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC 20054.

Proposed Agenda

The planned agenda for the October 21, 1997, meeting is as follows:

1. Number Pooling Management Group (NPMG) Report.
2. Industry Numbering Committee (INC) Report on Number Pooling.
3. Local Number Portability Administration (LNPA) Working Group Report: LNPA Dispute Resolution process and procedures for Limited Liability Corporation (LLC) members, non-LLC members and end-users.
4. LNPA Working Group and Wireline/Wireless Task Force Report.
5. North American Numbering Plan Administration (NANPA) Working Group Status Report.
6. Discussion of Central Office Code (NXX) Assignment Guidelines Policy Issue: NXX Code Protection
7. Network Interconnection Interoperability Form (NIIF) Committee Report: Work Plan for Central Office (CO) Code and NPA Activation Issue.
8. Other Business.
9. Review of Decisions Reached and Action Items.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau

[FR Doc. 97–26638 Filed 10–6–97; 8:45 am]

BILLING CODE 6712–01–D

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

Open Commission Meeting Thursday, October 9, 1997

October 2, 1997.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 9, 1997, which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, N.W., Washington, D.C.

Item No.	Bureau	Subject
1	WIRELESS TELE-COMMUNICATIONS.	TITLE: Service Rules for the 746–806 MHz Band, and Revisions to Part 27 of the Commission's Rules and The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010—Establishment of Rules and Requirements for Priority Access Service (WT Docket No. 96–86). SUMMARY: The Commission will consider action concerning service rules for the 746–806 MHz band and on rules to permit the provision of priority access service.
2	COMMON CARRIER	TITLE: Administration of the North American Numbering Plan (CC Docket No. 92–237) and Toll Free Service Access Codes (CC Docket No. 95–155). SUMMARY: The Commission will consider action concerning the administrator of the North American Numbering Plan, the Billing and Collection Agent for telecommunications numbering administration, and administration of the database containing toll free numbers.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800 or fax (202) 857–3805 and 857–3184. These copies are available in paper format and alternative media which includes, large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its__inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770; and from Conference Call USA (available only outside the Washington, D.C. metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be obtained from the Office of Public Affairs, Television Staff, telephone (202) 418–0460, or TTY (202) 418–1398; fax numbers (202) 418–2809 or (202) 418–7286.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26637 Filed 10–3–97; 11:10 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-25936) published on page 51110 of the issue for Tuesday, September 30, 1997.

Under the Federal Reserve Bank of Boston heading, the entry for Charles Michael Hazard, Boston, Massachusetts, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Charles Michael Hazard, Boston, Massachusetts; to acquire voting shares of Boston Private Bancorp, Inc., Boston, Massachusetts, and thereby indirectly

acquire Boston Private Bank & Trust Company, Boston, Massachusetts.

Comments on this application must be received by October 15, 1997.

Board of Governors of the Federal Reserve System, October 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26544 Filed 10–6–97; 8:45 am]

BILLING CODE 6210–01–F

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 22, 1997.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Clark S. Frame and David C. Frame, Doylestown, Pennsylvania; to acquire voting shares of Premier Bancorp, Inc., Doylestown, Pennsylvania, and thereby indirectly acquire Premier Bank, Doylestown, Pennsylvania.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Michael P. Landen, Dallas, Texas; to acquire voting shares of Security National Corporation, Omaha, Nebraska, and thereby indirectly acquire Security National Bank of Omaha, Omaha, Nebraska.

Board of Governors of the Federal Reserve System, October 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26545 Filed 10–6–97; 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 Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Premier Bancshares, Inc., Atlanta, Georgia; to acquire 100 percent of the voting shares of Citizens Gwinnett Bankshares, Inc., Duluth, Georgia, and thereby indirectly acquire Citizens Bank of Gwinnett, Duluth, Georgia

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Capitol Bancorp, Ltd., Lansing, Michigan; to acquire a majority of the voting shares of Muskegon Commerce Bank, Muskegon, Michigan, a *de novo* bank.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. TCA Financial Corporation, Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Trust Company of America, Boulder, Colorado, a *de novo* bank.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Amador Merger Corporation, Las Cruces, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Las Cruces, Las Cruces, New Mexico.

Board of Governors of the Federal Reserve System, October 2, 1997.

Willaim W. Wiles,

Secretary of the Board.

[FR Doc. 97–26546 Filed 10–6–97; 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 San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. The Sanwa Bank Limited, Osaka, Japan; to acquire Morcroft Capital Corporation, Fairfield, New Jersey, and thereby engage in leasing and financing

activities, pursuant to §§ 225.28(b)(3) and (b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 2, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26547 Filed 10–6–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Tuesday, October 14, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 3, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26721 Filed 10–3–97; 3:49 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[Docket No. 9261]

Weight Watchers International, Inc., Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint issued earlier and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Richard Kelly, Federal Trade Commission, H–200, 6th & Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–3304. Ronald Waldman, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 3.25 of the Commission's Rules of Practice (16 CFR 3.25), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for September 30, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth and Pennsylvania Avenue, N.W., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Weight Watchers International, Inc. (hereinafter ''Weight Watchers'' or ''respondent''), marketers of the Weight Watchers Weight Loss Program. The Weight Watchers Weight Loss Program is offered to the public nationwide through company-owned and franchised weight loss centers.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and any comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint alleged that the respondent made numerous unsubstantiated representations through consumer testimonials and other advertisements that:

(1) Its customers are typically successful in reaching their weight loss goals and maintaining their weight loss under respondent's diet program;

(2) Overweight or obese customers typically are successful in reaching their weight loss goals and maintaining their weight loss either long-term or permanently; and

(3) Its weight loss programs are superior to other weight loss programs in enabling participants to achieve and maintain weight loss.

The complaint further charges that Weight Watchers made false and unsubstantiated claims that consumers using its ''Quick Success'' program would lose weight at a faster rate when compared to its earlier programs.

The proposed consent order seeks to address the alleged success misrepresentations cited in the accompanying complaint in several ways. First, the proposed order, in Part I.A., requires the company to possess a reasonable basis consisting of competent and reliable scientific evidence when appropriate substantiating any claim about the success of participants on any diet program in achieving or maintaining weight loss. To ensure compliance, the proposed order further specifies what this level of evidence shall consist of when certain types of success claims are made:

(1) In the case of claims that weight loss is typical or representative of all participants using the program or any subset of those participants, that evidence shall be based on a representative sample of: (a) All participants who have entered the programs where the representation relates to such persons; or (b) all participants who have completed a particular phase of the program or the entire program, where the representation only relates to such persons.

(2) In the case of claims that any weight loss is maintained long-term, that evidence shall be based upon the experience of participants who were followed for a period of at least two years after their completion of the respondents' program, including any

periods of participation in respondent's maintenance program.

(3) In the case of claims that weight loss is maintained permanently, that evidence shall be based upon the experience of participants who were followed for a period of time after completing the program that is either: (a) Generally recognized by experts in the field of treating obesity as being of sufficient length to constitute a reasonable basis for predicting that weight loss will be permanent; or (b) demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

Second, Part I.B. of the proposed order requires the respondent, when making any claim that participants of any diet program have successfully maintained weight loss, to disclose the fact that ''For many dieters, weight loss is temporary.'' In addition, Part I.C. requires respondent to disclose the following information relating to that claim:

(1) The average percentage of weight loss maintained by those participants (e.g., ''60% of achieved weight loss was maintained''),

(2) The duration over which the weight loss was maintained, measured from the date that participants ended the active weight loss phase of the program, and the fact that all or a portion of the time period covered includes participation in respondent's maintenance program(s) that follows active weight loss, if that is the case (e.g., ''Participants maintain an average of 60% of weight loss 22 months after active weight loss (includes 18 months on a maintenance program)),'' and

(3) The proportion of the total participant population that those participants represent, if the participant population referred to is not representative of the general participant population for that program (e.g., ''Participants on maintenance—30% of our clients—kept off an average of 66% of the weight for one year (includes time on maintenance program)).'' (In lieu of that factual disclosure, respondent may state: ''Weight Watchers makes no claim that this result is representative of all participants in the Weight Watchers program).''

However, if Weight Watchers makes a representation about weight loss maintenance that does not use a number or percentage, or descriptive terms that convey a quantitative measure such as ''We have a successful weight management program,'' then in lieu of the above disclosures it may make in connection with such representation the statement ''Check at our centers for details about our maintenance record'' Weight Watchers would then be required to make the required maintenance information disclosures, in a printed document that is distributed to consumers at weight loss centers in accordance with the procedures set forth in Appendix A of the proposed order. The proposed order specifies that consumers must acknowledge receipt of this document and that it must be signed by the client and retained in the customers record of service for three years.

Third, Part I.D. of the proposed order addresses advertisements containing an endorsement or testimonial about weight loss success or weight loss maintenance when those claims are not representative or ''typical'' of what Weight Watchers participants generally achieve. Part I.D. requires Weight Watchers, when employing such ''atypical'' weight loss success or weight loss maintenance testimonials, to disclose either (1) what the generally expected success would be for Weight Watchers customers; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

Part I.D. of the proposed order addresses advertisements containing an endorsement or testimonial about weight loss success or weight loss maintenance when those claims are not representative or ''typical'' of what Weight Watchers participants generally achieve. In accordance with the principles set out in the Endorsement Guides, Part I.D. would require Weight Watchers, when employing such ''atypical'' weight loss success or weight loss maintenance testimonials, to disclose either (1) what the generally expected success would be for Weight Watchers customers (Part I.D.(1)); or (2) the limited applicability of the endorser's experience to what consumers may generally expected to achieve (Part I.D.(2)). For weight loss testimonials Part I.D. of the proposed order permits Weight Watchers to accurately make the ''generally expected success'' disclosure in one of two ways. First, the company may state, in the relevant advertisement, ''Weight loss averages (number) lbs. over ____ weeks.'' Alternatively, Part I.D. of the proposed order permits Weight Watchers to disclose in the relevant advertisement ''Average weight loss (number) lbs. More details at centers.''

Required disclosures that are made at centers—which are described in Appendix B of the proposed order—may be made either in the introductory brochure or in a separate document entitled ''Weight Loss Information.''

The proposed order makes clear that the alternative disclosures requirement contained in Parts I.C. and D. do not relieve Weight Watchers of the obligation to substantiate any maintenance success claim in accordance with Part I.A. of the proposed order.

Other Proposed Order Relief

Part I.E. of the proposed order prohibits unsubstantiated comparative efficacy claims. It would require Weight Watchers not make comparisons between the efficacy or success of one or more of its weight loss programs and the efficacy or success of any other weight loss program(s) unless it possesses and reliefs upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

Part I.F. of the proposed order covers rate of weight loss claims. It requires Weight Watchers to cease and desist from making any representation, directly or by implication, about the rate or speed at which any participant in any weight loss program has experienced or will experience weight loss, unless true.

Part I.G. of the proposed order would require Weight Watchers to cease and desist from making any representation, directly or by implication, about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or survey, unless true.

Part I.H. of the proposed order is fencing-in relief which would require Weight Watchers to cease and desist from making any representation, directly or by implication, about the performance or efficacy of any weight loss program, unless true.

Part II. of the proposed order would require Weight Watchers to notify the Commission of certain changes in the corporate respondent.

Part III. of the proposed order would require Weight Watchers, for a period of three years after date of last dissemination of any representation covered by the order, to maintain and make available to the FTC materials relied upon in disseminating such representation and any evidence that contradicts or qualifies such representation.

Part IV. of the proposed order covers the distribution of the order to designated current and future persons. The order must be distributed to regional managers and those having point-of-sale responsibilities under the order as well as key individuals involved in the placement of advertisements.

Part V. of the proposed order covers the efforts Weight Watchers shall use to obtain its weight loss program franchisees' and licensees' (''franchisees'') compliance with the order.

Weight Watchers is required under Part V., among other things, to:

(1) distribute a copy of this order to each of its weight loss program franchisees or licensees within forty-five days after service of the order;

(2) review advertising and promotional materials submitted to it from its franchisees or licensees prior to dissemination and publication to determine compliance with the requirements of the order;

(3) notify any franchisee or licensee in writing if any advertising or promotional material does not comply with the requirements of the order and that it should not be disseminated or published;

(4) monitor franchisee and licensee advertising and where it finds advertising that has not been submitted to it and which it believes is not in compliance with the requirements of the order, to notify such franchisee or licensee in writing of its findings and that such advertising should be withdrawn;

(5) maintain separate files for each franchisee or licensee containing copy of the signed receipt and copies of any correspondence relating to any advertising and promotional materials with respect to the issues raised by the order for a period of three (3) years;

(6) make these files available to the Commission staff for inspection and copying; and

(7) where the order provides for the distribution of documents containing certain information to participants, to include such information in ''Program'' materials which its franchisees or licensees are required to supply to each participant.

In addition, subparagraph B. of Part V. requires Weight Watchers to include in all future weight loss program agreements with new franchisees or licensees a requirement that the franchisee or licensee operate its business in full compliance with the prohibitions and affirmative requirements imposed on respondent pursuant to Part I. of the Commission's order. This part of the order defines ''new franchisees or licensees'' to mean those who are not franchised or licensed to conduct any weight loss program, or those who do not own or control such franchisees or licensees, at the time the order becomes final.

Part VI. of the proposed order would require Weight Watchers to file a compliance report with the Commission within sixty days after the date of service of this order.

Part VII. of the proposed order is a sunset provision that indicates, in part, that this order will terminate twenty years from the date of its issuance.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–26525 Filed 10–6–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Xiaomin Shang, Ph.D., University of Texas Southwestern Medical Center: Based upon a report from the University of Texas Southwestern Medical Center, information obtained by the Office of Research Integrity (ORI) during its oversight review, and Dr. Shang's own admission, ORI found that Dr. Shang, a former postdoctoral fellow student in the Department of Obstetrics and Gynecology, University of Texas Southwestern Medical Center, engaged in scientific misconduct arising out of certain biomedical research supported by a training grant from the National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Specifically, Dr. Shang fabricated a chemiluminescent film of a Western blot by using a physical mask to alter the prior results showing lack of antibody specificity to a human steroid metabolizing isozyme, rather than replicating an experiment as requested by his mentor. The fabricated data were not published.

Dr. Shang has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning September 29, 1997:

(1) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Dr. Shang's participation is proposed or which uses him in any capacity on PHS supported research or that submits a report of PHS-funded research in which he is involved must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Dr. Shang's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

No scientific publications were required to be corrected as part of this Agreement.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 97–26499 Filed 10–6–97; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP), in association with the meeting of the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee (HHES): Cancellation of meeting.

This notice announces the cancellation of a previously announced meeting.

Federal Notice Citation of Previous Announcement: 62 FR 6973, February 14, 1997.

Previously Announced Time and Date: 9 a.m.–5 p.m., December 10, 1997.

Change in the Meeting: This meeting has been cancelled.

Contact Person for More Information: James K. Carpenter, Executive Secretary, Citizens Advisory Committee on PHS Activities and Research at DOE Sites: HHES, ATSDR, 1600 Clifton Road, NE, M/S E–32, Atlanta, Georgia 30333, telephone 404/639–6027.

Dated: October 1, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26496 Filed 10–6–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee (HHES); Meeting Cancellation

This notice announces the cancellation of a previously announced meeting.

Federal Notice Citation of Previous Announcement: 62 FR 6539, February 12, 1997.

Previously Announced Times and Dates: 9 a.m.–5 p.m., and 6:30 p.m.–8:30 p.m., December 11, 1997; 9:30 a.m.–3:30 p.m., December 12, 1997.

Change in the Meeting: This meeting has been cancelled.

Contact Person for More Information: James K. Carpenter, Executive Secretary, Citizens Advisory Committee on PHS Activities and Research at DOE Sites: HHES, ATSDR, 1600 Clifton Road, NE, M/S E–32, Atlanta, Georgia 30333, telephone 404/639–6027.

Dated: October 1, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26497 Filed 10–6–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Occupational Exposure to Inorganic Lead: Request for Comments and Information

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Request for Comments and Information Relevant to Occupational Exposure to Inorganic Lead.

SUMMARY: NIOSH is reviewing its recommendations contained in the document Criteria for a Recommended Standard....Occupational Exposure to Inorganic Lead, Revised Criteria—1978 [NIOSH 1978]. The evaluation of recent literature indicates that the NIOSH recommended exposure limit (REL) of 100 g/m^3 as an 8-hour time-weighted average (TWA) in that document does not sufficiently protect workers from the adverse effects of exposure to inorganic lead. NIOSH is requesting comments and information relevant to the evaluation of the potential health risks associated with occupational exposure to inorganic lead, as well as case reports or other data that demonstrate adverse health effects in workers exposed to inorganic lead at or below the OSHA permissible exposure limit (PEL) of 50 g/m^3 as an 8-hour TWA and any information pertinent to evaluating the technical feasibility of establishing a more protective REL for inorganic lead. NIOSH is also soliciting information on worker blood lead levels (BLLs) including data on methodologies used in measuring BLLs in the workplace and information that can be used for comparing airborne inorganic lead concentrations to observed BLLs.

NIOSH intends to analyze the feasibility of developing preventive measures including an REL that would provide better protection for workers. In the interim, NIOSH plans to adopt the more protective current OSHA PEL as its REL.

DATES: Written comments to this notice should be submitted to Diane Manning, NIOSH Docket Office, 4676 Columbia Parkway, M/S C–34, Cincinnati, Ohio 45226, on or before December 8, 1997. Comments may also be faxed to Diane Manning at (513) 533–8285 or submitted by email to dmm2@cdc.gov as WordPerfect 6.0/6.1 files.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Dr. Henryka Nagy, NIOSH, CDC, 4676 Columbia Parkway, M/S C–32, Cincinnati, Ohio 45226, telephone (513) 533–8369.

SUPPLEMENTARY INFORMATION: NIOSH has conducted a literature review of the health effects data on inorganic lead exposure and finds evidence that some adverse effects on the adult reproductive, cardiovascular, and hematologic systems, and on the development of children of exposed workers can occur at BLLs as low as 10 g/dl with no apparent threshold. At BLLs below 40 g/dl, many of the health effects associated with lead exposure would not necessarily be evident by routine physical examinations, but represent early stages in a continuum of disease development. The risk of developing adverse health effects appears to increase as BLLs rise above 40 g/dl.

In the NIOSH 1978 criteria document entitled Occupational Exposure to Inorganic Lead [NIOSH 1978], NIOSH recommended that exposure to inorganic lead be limited to 100 g/m^3 as an 8-hour TWA. This exposure limit was expected to maintain BLLs below 60 g/dl and to prevent clinical health effects to the hematologic system, the central and peripheral nervous systems, the reproductive system, and the kidneys. NIOSH also expressed concern about possible health effects that may occur below 60 g/dl:''In adhering to the 60 g/dl figure, NIOSH has not relinquished its concerns for possible effects that may occur below 60 g/dl. Adherence to this 60 g/dl figure should not be interpreted as a firm NIOSH opposition to establishing a lower blood lead standard. In fact, NIOSH endorses a lower blood lead standard as a future goal to provide greater assurance of safety.

In 1978, the Occupational Safety and Health Administration (OSHA) promulgated an occupational inorganic lead standard for general industry that incorporates a PEL of 50 g/m^3 which is intended to maintain worker BLLs below 40 g/dl. OSHA also included provisions for reducing the PEL for work shifts that exceed 8 hours, medical monitoring of workers exposed to airborne inorganic lead concentrations at or above the action level of 30 g/m^3, and medical removal of workers with BLLs greater than 50 g/dl. Workers are permitted to return to jobs involving inorganic lead exposure only after their BLLs have declined to 40 g/dl.

OSHA concluded in 1978 that a PEL of 50 g/m^3 represented the lowest level for which there was evidence of feasibility in most industries. OSHA also acknowledged that, based on the scientific data, the PEL of 50 g/m^3 did not provide protection from all adverse health effects of inorganic lead toxicity because the hematologic system, the nervous system, the kidneys, and the fetus can be adversely affected by exposures to inorganic lead resulting in BLLs below 40 g/dl (43 FR 52952, November 14, 1978). In May 1993, OSHA published the Interim Final Lead in Construction Standard (58 FR 26590, May 4, 1993). This standard extended the general industry standard for inorganic lead to include workers in the construction industry. No additional analysis of the health data was performed by OSHA in adopting this standard for the construction industry.

NIOSH seeks to obtain materials, including reports and research findings, to evaluate the health risks of occupational exposure to inorganic lead. Examples of requested information include, but are not be limited to, the following:

1. Occupational (environmental) exposure data.
2. Data on the effectiveness of engineering controls, work practices, training, personal protective equipment and other activities used to limit workers' exposure.
3. Identification of industries or occupations where intermittent or low concentrations of inorganic lead may occur.
4. Descriptions of work practices and engineering controls used to reduce workplace exposure.
5. Case reports or other health data that demonstrate adverse health effects in workers exposed to inorganic lead at or below the OSHA PEL and any information pertinent to evaluating the feasibility of establishing a more protective exposure limit. Case reports and health data should be submitted without personal identifiers.
6. Information regarding methods for BLL determination that could be used routinely in the workplace (e.g., determination of BLLs using portable equipment). NIOSH is evaluating whether the routine biological monitoring of inorganic lead exposed workers (through BLLs) may be a more appropriate measure than airborne concentrations for estimating the potential for developing adverse health effects.

This information will be used by NIOSH to determine the need for developing new recommendations for lowering the occupational exposure to inorganic lead and improving strategies for monitoring inorganic lead exposure.

All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

References

43 FR 52952, November 14, 1978. Chapter XVII—Occupational Safety and Health Administration, Department of Labor; Part 1910—Occupational safety and health standards: occupational exposure to lead.

58 FR 26590, May 4, 1993. Occupational Safety and Health Administration: lead exposure in construction; interim final rule. (To be codified at 29 CFR 1926.)

NIOSH [1978]. Criteria for a recommended standard . . . occupational exposure to inorganic lead, revised criteria. Rockville, MD: U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health, DHEW (NIOSH) Publication No. 78–158.

Dated: September 29, 1997.

Linda Rosenstock, MD., MPH.,

Director, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26516 Filed 10–6–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Oak Ridge Workshop; Energy-Related Health Research Needs; Notice of a Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC), in collaboration with the Department of Energy (DOE), the National Institute for Occupational Safety and Health, CDC, and the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Oak Ridge Workshop on Energy-Related Health Research Needs.

Times And Dates: 2 p.m.-9 p.m., October 30, 1997. 8:30 a.m.–12 noon, October 31, 1997.

Place: Ramada Inn and Suites, 420 South Illinois Avenue, Oak Ridge, Tennessee 37830, telephone 423/483–4371, FAX 423/483–5972.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: To solicit individual input from scientists, representatives of State and local health departments, DOE facility managers, workers, and the public regarding health research needs in and around the Oak Ridge DOE facility. The results of this workshop and similar workshops at other locations will be used to set the short- and long-range research plan for health studies at DOE facilities.

Matters To Be Discussed: The workshop will be divided into three breakout sessions which will include the following topics: (1) worker health studies, (2) environmental health studies, and (3) communications and community involvement.

Agenda items are subject to change as priorities dictate.

Due to circumstances beyond our control, it was necessary to reschedule the original meeting dates of September 22–23, 1997, to October 30–31, 1997.

Contact Person for More Information: Michael J. Sage, Deputy Chief, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: October 1, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26495 Filed 10–6–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0416]

Johnson and Johnson Professional, Inc.; Premarket Approval of the S–ROM Poly-Dial Constrained Liner

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Johnson and Johnson Professional, Inc., Raynham, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the S–ROM Poly-Dial Constrained Liner. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of June 20, 1997, of the approval of the application.

DATES: Petitions for administrative review by November 6, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration,12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hany W. Demian, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION: On December 26, 1996, Johnson and Johnson Professional, Inc., Raynham, MA, 02767–0350, submitted to CDRH an application for premarket approval of the S–ROM Poly-Dial Constrained Liner. The device is a constrained acetabular liner and is indicated for use as a component of a total hip dislocation due to a history of prior dislocation, bone loss, joint or soft tissue laxity, neuromuscular disease, or intraoperative instability.

On June 10, 1997, the Orthopedic and Rehabilitation Devices Panel of the

Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On June 20, 1997, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 6, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 11, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–26563 Filed 10–6–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0411]

Bovine Spongiform Encephalopathy (BSE) in Products for Human Use; Guidance for Industry on the Sourcing and Processing of Gelatin to Reduce Potential Risk; 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 ''The Sourcing and Processing of Gelatin to Reduce the Potential Risk Posed by Bovine Spongiform Encephalopathy (BSE) in FDA-Regulated Products for Human Use.'' This guidance is intended to provide information to industry on reducing the risk of transmission of BSE in gelatin for human use.

DATES: Submit written comments on this guidance by December 22, 1997.

ADDRESSES: Submit written requests for single copies of the guidance document to the Executive Secretariat (HF–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. 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: Linda H. Gangloff, Executive Secretariat (HF–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4450.

SUPPLEMENTARY INFORMATION: In 1994, representatives of the gelatin industry presented preliminary data to FDA concerning an experimental study of the infectivity of tissue infected with a transmissible spongiform encephalopathy (TSE). TSE's are rare, fatal, neurological diseases that occur in a number of animals (e.g., scrapie in sheep) and in humans (e.g., Creutzfeldt-Jakob disease). Based on the data presented, FDA decided that recommendations concerning bovine ingredients from countries that have reported BSE in FDA-regulated products would not include gelatin. A notice in the **Federal Register** of August 29, 1994 (59 FR 44584), summarized FDA's recommendations to reduce any potential BSE risk to humans from FDA-regulated products and clarified that FDA did not object at that time to gelatin for human use produced from bovine materials from countries reporting BSE.

FDA is committed to amending previous guidance to industry as new information becomes available. On April 23 and 24, 1997, FDA's TSE Advisory Committee discussed information on gelatin manufacturing practices and final results of the research study. At the end of the meeting, a majority of the advisory committee members agreed that current scientific evidence did not justify continued exemption of gelatin from restrictions recommended by FDA for other bovine-derived materials from BSE countries. They also stated that the potential risk of BSE transmission from bovine-derived gelatin varies depending on the country of origin of the raw materials, type of tissue used, the gelatin processes used, and the route of administration or exposure.

FDA has adopted ''Good Guidance Practices'' (GGP's) that set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). The guidance announced in this document is issued as a Level 1 guidance consistent with GGP's. The agency is accepting public comments, but it is implementing this guidance immediately because of public health concerns related to the use of gelatin. This guidance represents the agency's current thinking on reducing the potential risk of transmission of BSE related to the use of gelatin in FDA-regulated products for human use. It does not create or confer any rights for or on any person and does not operate to bind the FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before December 22, 1997, submit to the Dockets Management Branch (address above) written comments regarding this notice. 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.

Persons with access to the Internet may obtain the guidance document using the World Wide Web (WWW). For WWW access, go to ''http://www.fda.gov/opacom/morechoices/industry/guidance/gelguide.htm''.

Dated: October 1, 1997.

Michael A. Friedman,

Lead Deputy Commissioner for the Food and Drug Administration.

[FR Doc. 97–26501 Filed 10–2–97; 12:02 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center for Research Resources Special Emphasis Panel (SEP) meeting:

Name of SEP: Resource Related Research Project—R24.

Date: October 21, 1997.

Time: 9:30 a.m.—Until Adjournment.

Place: Woodfin Suites Hotel, Virginia Room, 1380 Piccard Drive, Rockville, MD 20850 (301) 590–9880.

Contact Person: Dr. Jill Carrington, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965 (301) 435–0811.

Purpose/Agenda: To evaluate and review grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.306, Laboratory Animal Science and Primate Research.)

Dated: October 1, 1997.

Laverne Y. Stringfield,

Committee Management Office, NIH.

[FR Doc. 97–26505 Filed 10–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Research Resources Initial Review Group—General Clinical Research Centers Review Committee, October 15–16, 1997, Bethesda Ramada Hotel, Ambassador 2 Room, 8400 Wisconsin Avenue, Bethesda, Maryland, which was published in the **Federal Register** on September 23 (62 FR 49697).

This committee was scheduled to meet on October 15–16, 1997, from 8:00 a.m. to 9:30 a.m. in open session, and from 9:30 a.m. until adjournment in closed session. The meeting has been changed to add an additional open session on October 16, 1997.

The session on October 16 will be open to the public from 10:30 a.m. to 11:30 a.m., and will be closed from 11:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications.

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26506 Filed 10–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Purusant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center for Research Resources Special Emphasis Panel (SEP) meeting:

Name of SEP: General Clinical Research Centers

Date: October 30, 1997

Time: 8:00 a.m.–Until Adjournment

Place: City of Hope National Medical Center, 1500 East Duarte Road, Duarte, CA 90027, (626) 301–8434

Contact Person: Dr. Charles Hollingsworth, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0806

Purpose/Agenda: To evaluate and review grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.306, Laboratory Animal Science and Primate Research.)

Dated: September 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26507 Filed 10–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Perinatal Studies of Disorders of Fetal Metabolism.

Date: October 6–7, 1997.

Time: October 6–7:30 p.m.–10:00 p.m.; October 7—8:30 a.m.–adjournment.

Place: The Glidden House Inn, 1901 Ford Drive, Cleveland, Ohio 44106.

Contact Person: Gopal Bhatnagar, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building–Room 5E01, Rockville, Maryland 20852; Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a grant application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. the discussions of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research Mothers and Children], National Institutes of Health.)

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26503 Filed 10–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual applications.
Name of SEP: Clinical Sciences.
Date: October 23–24, 1997.
Time: 8:00 a.m.
Place: Quality Hotel & Conference Center, Metairie, LA.
Contact Person: Dr. Jo Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Multidisciplinary Sciences.
Date: November 6, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5116, Telephone Conference.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Multidisciplinary Sciences.
Date: November 13–15, 1997.
Time: 7:00 p.m.
Place: The Inn at Children's Hospital, Boston, MA.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: November 3, 1997.
Time: 8:30 a.m.
Place: Holiday Inn-Central, Washington, DC.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Biological and Physiological Sciences.
Date: November 14, 1997.
Time: 8:30 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5512, Bethesda, Maryland 20892, (301) 435–1169.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 39.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS.)

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26504 Filed 10–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4049–N–04]

Lead-Based Paint Hazard Control in Privately-Owned Housing: Announcement of Funding Awards—FY 1996

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102 (a) (4) (C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Lead-Based Paint Hazard Control in Privately-Owned Housing. This announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Ellis G. Goldman, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755–1785, ext. 112. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-based Paint Poisoning Prevention program is authorized by Pub. L. 91–695, 84 Stat. 2078, as amended by Pub. L. 93–151 and Pub. L. 94–317 (42 U.S.C. 4821–4846).

The purpose of the competition was to award grant funding for approximately $55,000,000 for the grant program for lead-based paint hazard control in privately-owned housing. Approximately $4,000,000 of this total has been awarded for controlling lead-based paint hazards at or near Superfund sites or ''brownfield'' sites where Superfund or brownfield dollars will be spent to address lead-contaminated soil (Category B grantees). The 1996 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on May 14, 1996 (61 FR 24408). Applications were scored and selected for funding on the basis of the selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as follows:

Jefferson County, Office of Planning and Community Development, 805 N. 22nd St., Birmingham, AL 35203–2385, $1,014,778.00
City of Dubuque, Dubuque Housing Services, 1805 Central Ave., Dubuque, IA 52001–3656, $3,690,619.00
City of Shreveport, Dept of Community Development, P.O. Box 31109, Shreveport, LA 71130, $1,142,300.00
City of Cambridge, Lead-Safe Cambridge, Community Development Dept, 57 Inman St., 2nd Floor, Cambridge, MA 02139, $2,177,327.00
County of Wayne, Wayne County Dept of Public Health, 5454 Venoy, Wayne, MI 48184, $4,994,424.00
City of Minneapolis, Environmental Health Services Division, 250 S 4th St., Room 401, Minneapolis, MN 55415, $4,994,424.00
State of Minnesota, Division of Environmental Health, 717 Delaware St. Southeast, P.O. Box 9441, Minneapolis, MN 55440–9441, $1,475,389.00
City of Kansas City, Health Dept., 2400 Troost Ave, Suite 1400, Kansas City, MO 64108, $4,994,424.00
City of Charlotte, Neighborhood Development Key Business, 600 East Trade Street, Charlotte, NC 28202–2859, $4,986,800.00
County of Chautauqua, Health Dept, Hall Clothier Bldg., 7 N. Erie Street, Mayville, NY 14757, $2,725,334.00
City of New York, Dept of Housing Preservation and Development, 100 Gold Street, New York, NY 10038, $1,596,274.00
County of Mahoning, Mahoning County Courthouse, 120 Market St., Youngstown, OH 44503, $4,295,668.00
City of Springfield, Clark County, 76 E. High Street, Springfield, OH 45502, $2,966,805.00
City of Philadelphia, Office of Housing & Community Development, 1234 Market St., 17 Floor, Philadelphia, PA 19107, $1,573,200.00
State of Vermont, Vermont Housing & Conservation Board, 149 State Street, Montpelier, VT 05602, $1,804,610.00

City of Milwaukee, 841 N. Broadway, Milwaukee, WI 53202, $4,994,424.00
State of Wisconsin, Department of Administration, Division of Housing, 101 E. Wilson, 4th Floor, Madison, WI 53708–8944, $1,573,200.00
City of Richmond (Cat. B), Richmond City Health Dept., East District Center, Suite 105, 701 N. 25th St., Richmond, VA 23223, $1,368,818.00
State of Missouri (Cat. B), Bureau of Environmental Epidemiology, P.O. Box 570, 210 El Mercado Plaza, Jefferson City, MO 65102, $1,997,894.00
Palmerton Borough (Cat. B), Borough Hall, P.O. Box 235, Palmerton, PA 18071, $633,288.00

Dated: September 29, 1997.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 97–26464 Filed 10–6–97; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4167–N–03]

Announcement of Funding Awards for the Traditional Indian Housing Development Program—Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Traditional Indian Housing Development Program. This announcement contains the names and addresses of the awardees and the amount of the awards made available by HUD to provide assistance to the Indian Housing Development Program.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Director, Housing and Community Development Division, Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202–3607; telephone (303) 675–1600 (this is not a toll-free number). Hearing-or speech impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Indian Housing Development program is authorized by sections 5 and 6, U. S. Housing Act of 1937 (42 U.S.C. 1437c, 1437d), as amended; Section 23 U. S. Housing Act of 1937, as amended by section 554, Cranston-Gonzalez National Affordable Housing Act; section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).

This notice announces FY 1997 funding of approximately $200,000,000 to be used to assist in job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. The FY 1997 grantees announced in this Notice were selected for funding consistent with the provisions in the NOFA published in the **Federal Register** on April 24, 1997 (62 FR 20068).

The Catalog of Federal Domestic Assistance number for this program is 14.850.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A.

Dated: September 30, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FUNDING AWARDS TRADITIONAL INDIAN HOUSING DEVELOPMENT PROGRAM

[Fiscal Year 1997]

Grantee name & address	Amount	Units
Alabama-Quassarte Tribal Town of Oklahoma, 111 North 6th Street, P.O. Box 537, Henryetta, Oklahoma 74437	1,343,258	15
Aleutian Housing Authority, 4000 Old Seward Highway, STE #202, Anchorage, Alaska 99503	3,564,426	20
AVCP Regional Housing Authority, P.O. Box 767, Bethel, Alaska 99559	3,702,767	20
Bay Mills Housing Authority, Route 1 Box 3345, Brimley, Michigan 49715	5,342,780	50
Bering Straits Regional Housing Authority, P.O. Box 995, Nome, Alaska 99762	3,907,142	20
Bristol Bay Housing Authority, P.O. Box 50, Dillingham, Alaska 99576	4,278,815	20
C.L.U.S.H.A., 338 Wallace Avenue, Coos Bay, Oregon 97420	2,014,984	15
Catawba Indian Housing Authority, P.O. Box 11106, Rock Hill, South Carolina 29730	1,833,516	20
Chehalis Indian Housing Authority, P.O. Box 314, Oakville, Washington 98568	1,388,548	10
Cheyenne River Housing Authority, P.O. Box 480, Eagle Butte, South Dakota 57625	3,327,410	30
Citizen Band Potawotomi, Nation Housing Authority, 1901 South Gordon Cooper Drive, Shawnee, Oklahoma 74801	1,841,370	15
Coeur d'Alene Housing Authority, P.O. Box 267, Plummer, Idaho 83851	514,920	5
Cook Inlet Housing Authority, 2600 Cordova Street, STE 201, Anchorage, Alaska 99503	2,283,567	20
Copper River Basin, Regional Housing Authority, Post Ofice Box 199, Copper Center, Alaska 99573	2,503,780	18
Delaware Tribe of Western Oklahoma, P.O. Box 825, Anadarko, Oklahoma, 73005	1,315,169	15
Eastern Shawnee Tribe of Oklahoma, P.O. Box 350, Seneca, Missouri 64865	1,459,596	15
Eastern Shoshone Housing Authority, P.O. Box 538, Fort Washakie, Wyoming 82514	1,988,726	15
Enterprise Rancheria Indian Housing Authority, 2950 Feather River Boulevard, Suite C, Oroville, CA 95965	2,287,653	15
Fort Belknap Housing Authority, Route 1, P.O. Box 61, Harlem, Montana 59526	3,281,696	25
Fort Hall Indian Housing Authority, P.O. Box 306, Fort Hall, Idaho 83203	564,185	5
Fort Peck Housing Authority, P.O. Box 667, Poplar, Montana 59255	2,477,362	20
Goshute Housing Authority, P.O. Box 6104, Ibapah, Utah 84034	2,258,490	15
Grand Ronde Housing Authority, P.O. Box 38, Grand Ronde, Oregon 97347	598,265	5
Hoopa Valley Indian Housing Authority, P.O. Box 1285, Hoopa, California 95546	7,156,733	41
Houlton Maliseet Housing Authority, 13 Clover Circle, P.O. box 13, Houlton, Maine 04730	1,699,207	15
Housing Authority of the Cherokee Nation, P.O. Box 1007, Tahlequah, Oklahoma 74465	4,489,242	50
Housing Authority of the Cheyenne-Arapaho Tribe, 1000 Canyon Ridge Road, Clinton, Oklahoma 73601	2,852,880	30
Housing Authority of the Iowa Tribe of Kansas and Nebraska, P.O. Box 68, White Cloud, Kansas 66094	960,260	10

APPENDIX A.—FUNDING AWARDS TRADITIONAL INDIAN HOUSING DEVELOPMENT PROGRAM—Continued

[Fiscal Year 1997]

Grantee name & address	Amount	Units
Housing Authority of the Iowa Tribe of Oklahoma, Rural Route 1, Box 721, Perkins, Oklahoma 74059	1,415,325	15
Housing Authority of the Kaw Tribe of Indians, P.O. Box 371, Newkirk, Oklahoma 74647	868,046	10
Housing Authority of the Kickapoo Tribe of Oklahoma, P.O. Box 120, McLoud, Oklahoma 74851	957,477	10
Housing Authority of the Osage Tribe, P.O. Box 517, Hominy, Oklahoma 74035	869,020	10
Housing Authority of the Peoria Tribe, P.O. Box 1304, Miami, Oklahoma 74355	1,776,999	20
Housing Authority of the Seminole Nation, P.O. Box 1493, Wewoka, Oklahoma 74884	280,531	3
Huron Potawatomi Indian Housing Authority, 2221 1½ Mile Road, Fulton, Michigan 49052	1,518,889	15
Indian Housing Authority of Central California, 5108 E. Clinton Way, #108, Fresno, California 93727	8,954,932	55
Interior Regional Housing Authority, 828 27th Avenue, Fairbanks, Alaska 99701–6918	3,847,797	20
Kalispel Tribe, P.O. Box 38, Usk, Washington 99180	1,073,688	8
Karuk Tribe Housing Authority, P.O. Box 1159, Happy Camp, California 96039	7,535,144	44
Kasigluk Tribal Council, Yup'ik Housing Authority, P.O. Box 119, Kasigluk, Alaska 99609	2,320,663	8
Klamath Tribal Housing Authority, 905 Main Street, Suite 613, Klamath Falls, Oregon 97601	1,157,120	10
Little River Band of Ottawa Indians, P.O. Box 314, Manistee, Michigan 49660	1,897,740	15
Little Traverse Bay Band of Odawa, P.O. Box 246, 1345 U.S. 31 North, Petoskey, Michigan 49770	1,897,740	15
Lower Brule Housing Authority, P.O. Box 183, Lower Brule, South Dakota 57548	3,168,725	27
Lower Elwha Indian Housing Authority, 22 Kwitsen Drive, Port Angeles, Washington 98362	1,382,483	10
Lummi Nation Indian Housing Authority, 2616 Kwina Road, Bellingham, Washington 98226–8698	655,325	5
Miami Tribe of Oklahoma, P.O. Box 1326, Miami, Oklahoma 74355	1,389,680	15
Mississippi Band of Choctaw Housing Authority, P.O. Box 6088, Choctaw Branch, Philadelphia, Mississippi 39350	4,898,121	59
Modoc Tribe of Oklahoma Housing Authority, 515 G, SE Street, Miami, Oklahoma 74354–8224	1,389,680	15
North Fork Rancheria, Indian Housing Authority, P.O. Box 929, North Fork, California 93643	2,396,590	15
North Pacific Rim Housing Authority, 560 E. 34th Avenue, Ste #302, Anchorage, AK 99503	2,822,233	16
Northern Circle Indian Housing Authority, 694 Pinoleville Drive, Ukiah, California 95482	4,087,950	30
Northwest Inupiat Housing Authority, P.O. Box 331, Kotzebue, Alaska 99752	2,945,193	15
Omaha Indian Housing Authority, P.O. Box 150, Macy, Nebraska 68039	4,392,131	38
Owens Valley Housing Authority, P.O. Box 490, Big Pine, California 93513	5,856,661	36
Pueblo of Acoma Housing Authority, P.O. Box 620, Acoma, New Mexico 87034	5,098,135	40
Pueblo of Laguna Housing Authority, P.O. Box 178, Laguna, New Mexico 87026	3,035,400	30
Quapah Tribal Housing Authority, P.O. Box 765, Quapah Oklahoma 74363	1,337,990	15
Quileute Indian Housing Authority, P.O. Box 159, La Push, Washington 98350	655,325	5
Quinault Indian Housing Authority, P.O. Box 160, Taholah, Washington 98587	1,414,514	10
Sac and Fox of Missouri Housing Authority, Rt 1, Box 97, Unit 12, Reserve, Kansas 66434	1,940,172	20
Santa Clara Pueblo Housing Authority, P.O. Box 580, Espanola, New Mexico 87532	2,252,908	20
Seminole Housing Authority, 6300 Stirling Road, 3rd Floor, Hollywood, Florida 33024	3,534,624	35
Seneca Indian Housing Authority, 50 Iroquois Drive, Irving, New York 14081	3,538,648	25
Shoalwater Bay Tribe, P.O. Box 130, Tokeland, Washington 98590	1,310,650	10
Siletz Indian Housing Authority, P.O. Box 549, Siletz, Oregon 97380	1,854,841	15
Spokane Indian Housing Authority, P.O. Box 195, Wellpinit, Washington 99040	1,342,110	10
Squaxin Island Tribe, Route 1, Box 257, Shelton, Washington 98584	860,005	7
Swinomish Indian Housing Authority, P.O. Box 677, La Conner, Washington 98257	655,325	5
Tagiugmiullu Nunamiullu Housing Authority, P.O. Box 409, Barrow, Alaska 99723	3,392,144	20
Tlingit-Haida Regional Housing Authority, P.O. Box 32237, Juneau, Alaska 99803	3,521,273	20
United Keetoowah Band of Cherokee Housing Authority, P.O. Box 746, Tahlequah, Oklahoma 74465–0746	1,409,511	15
Upper Sioux Indian Community, P.O. Box 147, Granit Falls, Minnesota 56241	1,948,135	15
Utah Paiute Housing Authority, 665 North, 100 East, Cedar City, Utah 84720	2,097,260	20
Walker River Reservation Housing Authority, P.O. Box 238, Schurz, Nevada 89427	2,867,490	20
Warm Springs Indian Housing Authority, P.O. Box 1167, Warm Springs, Oregon 97761	705,712	5
Wyandotte Tribe of Oklahoma, P.O. Box 250, Wyandotte, Oklahoma 74370	1,607,194	15
Yurok Indian Housing Authority, P.O. Box 98, Klamath, California 95548	10,628,004	64

[FR Doc. 97–26463 Filed 10–6–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. 832946

Applicant: James E. Pike, Huntington Beach, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the least Bell's vireo (Vireo bellii pusillus), southwestern willow flycatcher (Empidonax traillii extimus), and coastal California gnatcatcher (Polioptila californica californica) in conjunction with population monitoring and removal of brown-headed cowbird (Molothrus ater) eggs and chicks from parasitized nests of these species throughout their range in California for the purpose of enhancing their survival.

Permit No. 832945

Applicant: Lisa Kegarice, San Bernardino, California.

The applicant requests a permit to take (harass by survey) the least Bell's vireo (Vireo bellii pusillus) in conjunction with presence or absence surveys throughout the species range in California for the purpose of enhancing its survival.

Permit No. 796286

Applicant: Larry Serpa, The Nature Conservancy, Tiburon, California.

The applicant requests an amendment to his permit to take (harass by survey; capture and release; collect voucher specimens) the San Diego fairy shrimp (Branchinecta sandiegonensis) throughout its range in California and take (harass by survey, capture, mark, and release) the California freshwater shrimp (Syncaris pacifica) in Marin, Napa, and Sonoma Counties, California in conjunction with presence or absence surveys and scientific research for the purpose of enhancing their survival. The activities for the California freshwater shrimp have been previously authorized under subpermit TNCBAP.

Permit No. 833230

Applicant: Robert Aramayo, Tiburon, California.

The applicant requests a permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (Branchinecta conservatio), longhorn fairy shrimp (Branchinecta longiantenna), vernal pool tadpole shrimp (Lepidurus packardi), San Diego fairy shrimp (Brachinecta sandiegonensis), and Riverside fairy shrimp (Streptocephalus woottoni) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

Permit No. 799074

Applicant: Ted Case, University of California, San Diego, California.

The applicant requests an amendment to his permit to take (attach radio transmitters) southwestern arroyo toads (Bufo microscaphus californicus) in conjunction with ecological research in San Diego, Orange, and Riverside Counties, California for the purpose of enhancing its survival.

Permit No. 780566

Applicant: Ruben Ramirez, Diamond Bar, California.

The applicant requests an amendment to his permit to take (capture and release) the southwestern arroyo toad (Bufo microscaphus californicus) in conjunction with life history studies throughout the species range in California for the purpose of enhancing its survival.

Permit No. 793640

Applicant: Jerry Smith, San Jose State University, San Jose, California.

The applicant requests an amendment to his permit to take (attach radio transmitters and passive-integrated transponders) the California red-legged frog (Rana aurora draytonii) in conjunction with ecological research in San Mateo and Santa Cruz Counties, California for the purpose of enhancing its survival.

Permit No. 778195

Applicant: Helix Environmental, La Mesa, California (previously issued under Sweetwater Environmental Biologists, Inc., San Diego, California).

The applicant requests an amendment to his permit to take (harass by survey) the southwestern willow flycatcher (Empidonax traillii extimus) in conjunction with presence or absence surveys in Southern California and extend the area authorized to take (harass by survey; locate and monitor nests; remove cowbird (Molothrus ater) chicks and eggs from parasitized nests) the least Bell's vireo (Vireo bellii pusillus) to include Riverside County, California for the purpose of enhancing their survival.

Permit No. 802904

Applicant: Carl J. Page, Cotati, California.

The applicant requests an amendment to his permit to take (harass by survey, capture and release) the California red-legged frog (Rana aurora draytonii) in conjunction with aquatic surveys, which may require electroshocking, throughout the species range in California for the purpose of enhancing its survival.

Permit No.831909

Applicant: James Frazier, Oneonta, New York.

The applicant requests a permit to purchase in interstate commerce one pair of captive bred Hawaiian (=nene) geese (Nesochen [=Branta] sandvicensis) from Maurice Field of Martin, Tennessee for the purpose of enhancing its propagation and survival.

Permit No. 822631

Applicant: Wildlife Research Associates, Petaluma, California.

The applicant requests a permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (Branchinecta conservatio), longhorn fairy shrimp (Branchinecta longiantenna), and the vernal pool tadpole shrimp (Lepidurus packardi) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

Permit No. 834490

Applicant: Eric D. Tatersall, Occidental, California.

The applicant requests a permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (Branchinecta conservatio), longhorn fairy shrimp (Branchinecta longiantenna), vernal pool tadpole shrimp (Lepidurus packardi), San Diego fairy shrimp (Brachinecta sandiegonensis), and the Riverside fairy shrimp (Streptocephalus woottoni) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

Permit No. 834491

Applicant: Michelle Casey, Occidental, California.

The applicant requests a permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (Branchinecta conservatio), longhorn fairy shrimp (Branchinecta longiantenna), vernal pool tadpole shrimp (Lepidurus packardi), San Diego fairy shrimp (Brachinecta sandiegonensis), and the Riverside fairy shrimp (Streptocephalus woottoni) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

Permit No. 834492

Applicant: Julie Thomas, Morro Bay, California.

The applicant requests a permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (Branchinecta conservatio), longhorn fairy shrimp (Branchinecta longiantenna), vernal pool tadpole shrimp (Lepidurus packardi), San Diego fairy shrimp (Brachinecta sandiegonensis), and the Riverside fairy shrimp (Streptocephalus woottoni) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

Permit No. 827494

Applicant: Rick Riefner, Tustin, California.

The applicant requests an amendment to his permit to take (harass by survey)

the Quino checkerspot butterfly (Euphydryas editha quino) in conjunction with presence or absence surveys throughout the species range in California for the purpose of enhancing its survival.

Permit No. 834488

Applicant: Gregg B. Miller, Tustin, California.

The applicant requests a permit to take (capture and release) the Pacific pocket mouse (Perognathus longimembris pacificus) in conjunction with presence or absence surveys in Los Angeles, Orange, and San Diego Counties, California for the purpose of enhancing its survival.

Permit No. 797259

Applicant: Chris Wilcox, Santa Cruz, California.

The applicant requests an amendment to his permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the San Diego fairy shrimp (Brachinecta sandiegonensis) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing its survival.

Permit No. 702631

Applicant: Assistant Regional director-Ecological Services, Region 1, Fish and Wildlife Service, Portland, Oregon.

The applicant requests an amendment to his permit to remove and reduce to possession specimens of the following plant species: Cercocarpus traskiae (Catalina Island mountain-mahogany), Lithophragma maximum (San Clemente Island woodland-star), and Sibara filifolia (Santa Cruz Island rockcress) throughout their range in conjunction with recovery efforts for the purpose of enhancing their survival.

Permit No. 802086

Applicant: Lisa Webber, Sacramento, California.

The applicant requests an amendment to her permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the San Diego fairy shrimp (Brachinecta sandiegonensis), and the Riverside fairy shrimp (Streptocephalus woottoni) in conjunction with presence or absence surveys in vernal pools throughout the species range in California for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before November 6, 1997.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; FAX: 503–231–6243. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: 503–231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: September 29, 1997.

Don Weathers,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–26494 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–07–1320–00; NM–6802, NM–3835, NM–3752, NM–3753, NM–3754, NM–3755, NM–3837, NM–7235, NM–3918, NM–3919, NM–8745]

Notice of Coal Action; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, cost estimate document (CED) for the Ark Land Company's preference right lease applications (PRLAs) San Juan County, New Mexico.

SUMMARY: The PRLA process requires that a CED be prepared and made available to the public. The CED estimates the costs of compliance with all laws, regulations, lease terms, and special stipulations intended to protect the environmental impacts of mining. This action establishes the availability of the CED for Ark Land Company's PRLAs.

DATES: On or before December 8, 1997, interested parties may submit comments regarding the CED to the Bureau of Land Management at the following address. All comments will be reviewed by the Bureau of Land Management, Farmington District Manager, 1235 La Plata Highway, Suite A., Farmington, New Mexico, 87401.

FOR FURTHER INFORMATION CONTACT: Charlie Beecham, Farmington District, BLM, (505) 599–6370.

Dated: October 1, 1997.

John Phillips,

Acting District Manager.

[FR Doc. 97–26493 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(UT–020–07–2811–00)

Salt Lake District Fire Management Plan Preparation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a fire management plan and associated environmental analysis and plan amendment.

SUMMARY: The Bureau of Land Management, Salt Lake District, will be preparing a Fire Management Plan (FMP) to address the management of wildland fire within the Salt Lake District. The purpose of the FMP is to provide the framework for the reintroduction of fire into the ecosystem while maintaining first priority on protection of human life, and secondary priority on protection of property and natural and cultural resources. An Environmental Assessment (EA), will be prepared for the FMP and amendment of existing land use plans, Box Elder and Pony Express Resource Management Plans and the Randolph and Park City Management Framework Plans.

DATES: Written comments will be accepted throughout the process of modifying plans and preparation of the EA. However, comments received after December 1, 1997 may not be reflected in the EA.

FOR FURTHER INFORMATION CONTACT: Jeff Scott, Fire Management Officer, Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salt Lake City, UT 84119, telephone (801) 977–4344. Existing planning documents and information are available at the above address or telephone number. Comments on the proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: The Salt Lake District is proposing to develop a FMP which sets objectives for integrating wildland fire into resource management. These objectives include wildfire suppression, prescribed fire use, and fuels management targets.

Some goals of the FMP are to identify fire management strategies to achieve desired resource conditions, and reduce the potential for catastrophic wildfires through the management of fuels, while reducing overall wildland fire management costs.

The public is invited to participate in the identification of issues related to the management of fire in the Salt Lake District. Anticipated issues for the plan amendment are:

- Protection of human life.
- Protection of property.
- Protection of natural/cultural resources.
- Safe re-introduction of fire into natural ecosystems.
- Reducing the cost of fire suppression.
- Integration of fire and resource management strategies.
- Air Quality.
- Recreation.
- Watershed management.
- Livestock grazing.
- Visual resources.
- Wildlife habitat.

An EA will be prepared to analyze the impacts of this proposal and alternatives. Public participation is being sought at this initial stage in the planning process to ensure the amendment addresses all issues, problems and concerns from those interested in the management of lands within the Salt Lake District.

Dated: September 30, 1997.

Douglas M. Koza,

Acting State Director, Utah.

[FR Doc. 97–26498 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–070–1320–00;]

Notice of Intent to Amend Farmington District Resources Management Plan; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Farmington District, is preparing a Resource Management Plan Amendment and an Environmental Assessment (EA) for BLM-managed minerals in San Juan County, New Mexico. The Code of Federal Regulations, Title 43, Subpart 1600 (43 CFR 1600) will be followed in the preparation of this plan amendment. The public is invited to participate in this land use plan amendment effort. Written comments or suggested additional issues will be accepted through November 14, 1997. The BLM will hold a public scoping meeting at which time oral comments and suggestions will be accepted. This notice is to solicit coal resource information and indications of other interest and needs pursuant to 43 CFR 3420.1–2 and 3500, for inclusion in the Farmington Resources Management Plan (RMP). The public and all local, and state governments are encouraged to participate.

DATES: Comments relating to the identification of additional issues, and responses to this call for coal resource information will be accepted through November 14, 1997.

ADDRESSES: Comments and requests to be included on the mailing list should be sent to Bureau of Land Management, 1235 La Plata Highway, Suite A, Farmington, New Mexico 87401. Proprietary data should be identified as such to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Charlie Beecham, Farmington District BLM, (505) 599–6370.

SUPPLEMENTARY INFORMATION: The proposed Farmington RMP amendment is to allow coal leasing and development for the Federal coal lease application located in:

New Mexico Principal Meridian

T. 30 N., R. 14 W.
Secs. 17–20, inclusive;
Secs. 29–30, inclusive;
Sec. 31, lots 1, 2, 3, and 4, N½, N½S½.

The proposed lease contains 4,483.88 acres, more or less, in San Juan County, New Mexico.

The proposed mining method for the applied for lands is an underground longwall operation.

This planning issue is presented for public hearing and is subject to change based upon such public hearing. Comments should be received by CLOSE OF BUSINESS November 14, 1997. The planning team will seek public involvement throughout the planning amendment process. A formal public hearing/open house will be held to provide the public an opportunity to participate in this Amendment effort.

Notice is hereby given that the public hearing will start at 6:00 p.m. and is scheduled for October 21, 1997, at the Farmington City Council Chambers at 800 Municipal Drive, Farmington, New Mexico.

Complete records of all phases of the planning process will be available for public review and comment at the Bureau of Land Management, Farmington District Office, 1235 La Plata Highway, Suite A, Farmington, New Mexico.

The final RMP amendment documents will be available upon request.

Dated: October 1, 1997.

John Phillips,

Acting District Manager.

[FR Doc. 97–26492 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF INTERIOR

National Park Service

Notice of Intent to Issue a Concession Contract at Grand Teton National Park

AGENCY: National Park Service, Department of Interior.

ACTION: Public notice.

SUMMARY: Public Notice is hereby given that the National Park Serice proposes to award a concession contract authorizing the continued operation of a rustic dude ranch located within the Triangle X area of Grand Teton National Park, Wyoming for a period of ten (10) years from January 1, 1998 through December 31, 2007.

EFFECTIVE DATE: On or before October 17, 1997, a notice will be published in the Commerce Business Daily. The official release date of the Prospectus shall be the date of publication in the Commerce Business Daily. Anyone interested in making an offer for the new contract must do so within 90 days of the date of publication of the Commerce Business Daily announcement.

ADDRESS: Interested parties should contact the Concessions Division, Grand Teton National Park, P.O. Box 170, Moose, Wyoming 83012, to obtain a copy of the Prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: The contract will be for a period of ten (10) years from January 1, 1998 through December 31, 2007. This ten (10) year term is conditioned upon the Concessioner's completion of a Building and Improvement Program which requires the construction of guest cabins and employee housing. In the event the Concessioner fails to complete this program to the satisfaction of the Secretary of Interior within four (4) years following the execution of the contract, the contract term shall be for the term of five (5) years from January 1, 1998 to December 31, 2002.

Compliance

Prior to any construction, compliance with Section 106 of the National Historic Preservation Act must be completed by the National Park Service.

The current concessioner has performed its obligations to the satisfaction of the Secretary of Interior under the existing contract which expires on December 31, 1998. Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (16 U.S.C. 20d), the current concessioner is entitled to a right of preference in the award of a new contract provided the concessioner submits a responsive offer (an offer received within the response period which meets the terms and conditions of the prospectus). If the best offer is submitted by a party other than the current concessioner, the current concessioner will be afforded the opportunity to match the best offer. If the current concessioner agrees to match the best offer, the contract must be awarded to the current concessioner. If the current concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will be awarded to the party which has submitted the best responsive offer. The Secretary of Interior will consider and evaluate only those offers received within the ninety (90) day response period. Any offer, including that of the current concessioner, must be received by the Superintendent, Grand Teton National Park, P.O. Box 170, Moose, Wyoming 83012 no later than ninety (90) days from the day this notice is published.

Dated: September 25, 1997.

Ronald E. Everhart,

Deputy Regional Director.

[FR Doc. 97–26518 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 27, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 22, 1997.

Carol D. Shull,

Keeper of the National Register.

Arizona

Coconino County

Lee's Ferry and Lonely Dell Ranch, Confluence of Colorado and Paria Rs., near Utah and Arizona border, Marble Canyon vicinity, 97001234.

California

Los Angeles County

Sovereign Hotel, 205 Washington Ave., Santa Monica, 97001236.

Colorado

Denver County

Mosque of the El Jebel Shrine, 1770 Sherman St., Denver, 97001235.

Kentucky

Adair County

Giles, Janice Holt and Henry, Log House, 302 Spout Springs Rd., Knifley vicinity, 97001237.

Caldwell County

Knott House, 302 Nichols St., Princeton, 97001238.

Massachusetts

Suffolk County

Dorchester Temple Baptist Church, 670 Washington St., Boston, 97001239.

Ohio

Franklin County

Glen Echo Historic District, Roughly bounded by Glen Echo Ravine, Big Four RR tracks, Indianola Ave., and Hudson St., Columbus, 97001241.

Lucas County

Commodore Perry Hotel, 505 Jefferson Ave., Toledo, 97001240.

Pennsylvania

Chester County

Paoli Battlefield Site and Parade Grounds, Roughly bounded by Warren, and Monument Aves., and Sugartown Rd., Malvern, 97001248.

Clearfield County

Dubois Historic District, Roughly along N. and S. Brady Sts., and E. and W. Long Aves., Du Bois, 97001254.

Fayette County

Dawson Historic District, Roughly bounded by Howell St., Middle Alley, Youghiogheny R, River Rd., and Spring, and Locust Alleys, Dawson, 97001252.

Karolcik Building, 115–117 S. Liberty St., Perryopolis, 97001246.

Providence Quaker Cemetery and Chapel, Jct. of PA 4038 and PA 4036 W, Perry, 97001243.

St. Nicholas Byzantine Catholic Church, 504 S. Liberty St., Perryopolis, 97001247.

Star Junction Historic District (Bituminous Coal and Coke Resources of Pennslyvania MPS), Roughly the jct. of PA 51 and PA 4036, including Post Office Rd., Church St., PA 532, and Old Ridge Rd., Perry, 97001244.

Youghiogheny Bank of Pennslyvania, S. Libety St., S of Washington Diamond, Perryopolis, 97001245.

Lackawanna County

Cassese, Joseph, House (Anthracite-Related Resources of Northeastern Pennsylvania MPS), 1000 Clay Ave., Scranton, 97001258.

Lackawanna County Courthouse and John Mitchell Monument (Anthracite-Related Resources of Northeastern Pennslyvania MPS), Bounded by Washington Ave., Linden St., Adams Ave., and Spruce St., Scranton, 97001257.

Masonic Temple and Scottish Rite Cathedral, 416–420 N. Washington Ave., Scranton, 97001259

Montgomery County

Hanging Rock, 1144 S. Gulph Rd., Upper Marion Township, 97001251.

Venango County

Emlenton Historic District (Oil Industry Resources in Western Pennsylvania MPS), Roughly bounded by Allegheny R., the borough limits, Kerr Ave., Hickory, and Center Sts., Emlenton, 97001256.

Oil City Downtown Commercial Historic District (Oil Industry of Western Pennsylvania MPS), Generally along Seneca, Center, Elm, Sycamore, Duncomb, and Main Sts., Oil City, 97001250.

Oil City South Side Historic District (Oil Industry in Western Pennslyvania MPS). Roughly bounded by Allegheny R., Wilson Ave., Lee's Ln., W. Third, and W. Fifth Sts., and Reservoir St., Oil City, 97001249.

York County

Fissel's School, Jct. of Fissel's Church Rd, and Country Club Rd., Shrewsbury Township, 97001253.

Quay, Rev. Anderson B., House, 22 N. Baltimore St., Dillsburg, 97001255.

[FR Doc. 97–26517 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Review of Existing Coordinated Long-Range Operating Criteria for Colorado River Reservoirs (Operating Criteria)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Reissue of Notice of Proposed Decision Regarding the Operating Criteria

SUMMARY: The purpose of this action is to provide public notice that the Secretary of the Interior (Secretary) proposes no change to the existing Operating Criteria as a result of the current review process. The current review has been conducted as an open public process, including formal consultation with the seven Colorado River Basin States (Basin States). The results of the review indicate that modification of the Operating Criteria is not justified at the present time.

The original **Federal Register** notice was published on August 27, 1997 (62 FR 45440). Due to requests from interested parties and agencies, the comment period has been extended by the Bureau of Reclamation.

DATES: All written comments relevant to this proposed decision must be received by close of business, October 17, 1997.

ADDRESSES: Interested parties should send comments or questions to Bruce Moore, Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone (801) 524–3702, or Jayne Harkins, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89005, telephone (702) 293–8190.

SUPPLEMENTARY INFORMATION: The public review process began with a **Federal Register** notice published on August 20, 1996 (61 FR 43073), announcing the review of the Operating Criteria and inviting comments during the 60 days following the notice. On October 31, 1996, another **Federal Register** notice (61 FR 56246) was published announcing two public consultation meetings and extending the comment period an additional 30 days. On November 4, 1996, a Fact Sheet containing information about the Operating Criteria review and an invitation to the public consultation meetings was sent to known and anticipated interested parties and agencies, and governor-designated representatives of the Basin States, inviting their participation.

Comments from the two **Federal Register** notices were received from 18 respondents. The comments were reviewed by the Bureau of Reclamation for identification and analysis of the issues. Public consultation meetings were held on November 18, 1996, and December 2, 1996, to discuss the identified issues and answer questions from all interested parties. A set of all comment letters received was provided to any interested party requesting a copy. After the public consultation meetings, the analyses of the issues were revised to reflect any information resulting from the two meetings. That information was then sent to all interested parties and participants in a March 1997 newsletter entitled the River Review.

In response to requests, another public consultation meeting and an additional 45-day comment period were announced in the **Federal Register** on March 28, 1997 (62 FR 14942). On April 4, 1997, a letter from the Reclamation Team Leader containing the preliminary results of Reclamation's analysis on each major issue area and an invitation to attend the next public consultation meeting was sent to all 18 respondents, governor-designated representatives of the Basin States, and any others who had attended meetings or expressed an interest in the review of the Operating Criteria. On April 22, 1997, a final public consultation meeting was conducted to discuss the preliminary analyses.

As required by Pub. L. 90–537, formal consultation with the representatives of the seven Basin States, and other parties and agencies as the Secretary may deem appropriate, was conducted in the context of public consultation meetings on three separate occasions: November 18, 1996; December 2, 1996; and April 22, 1997.

Following analysis of comments received as a result of this notice, any proposed federal action will be evaluated by Reclamation to determine the appropriate National Environmental Policy Act (NEPA) compliance. After that process has been completed, the final Secretarial decision will be published in the **Federal Register**.

Background

The Operating Criteria, promulgated pursuant to Section 602 of Public Law 90–537 (43 U.S.C. 1552), were published in the **Federal Register** on June 10, 1970. The Operating Criteria provide for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty.

Previous reviews of the Operating Criteria were initiated in 1975, 1980, 1985, and 1990. They resulted in no changes to the Operating Criteria. Prior to 1990, reviews were conducted primarily through meetings with and correspondence among representatives of the seven Basin States and Reclamation. Because the long-range operation of the Colorado River reservoirs is important to many agencies and individuals, in 1990, through an active public involvement process, Reclamation expanded the review of the Operating Criteria to include all interested stakeholders. A team consisting of Reclamation staff from Denver, Colorado; Salt Lake City, Utah; and Boulder City, Nevada, was organized to conduct the 1990 review. For the 1995 review, Reclamation staff from Salt Lake City, Utah, and Boulder City, Nevada, followed the same public process.

The scope of the review has been consistent with the statutory purposes of the Operating Criteria which are ''to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty.'' Long-range operations generally refer to the planning of reservoir operations over several decades, as opposed to the Annual Operating Plan (AOP) which details specific reservoir operations for the next operating year.

Synopsis of Review Results

Many of the issues raised during the review are more properly dealt with during the development of the AOP. These include annual surplus determinations in the Lower Basin; the probability of spills from Lake Powell, including the release of beach/habitat building flows from Glen Canyon Dam; storage equalization between Lakes Powell and Mead; and factors for determining 602(a) storage.

The Operating Criteria were purposely designed to be flexible so that during the development of the AOP, variations in hydrologic conditions and changing demands for water use, including environmental demands and possible mitigation measures, could be accommodated. The process for developing the AOP is open to the public and all interested parties.

Reclamation regularly applies the NEPA process to activities constituting a major federal action significantly affecting the quality of the human environment. The appropriate level of

NEPA compliance for the review of the Operating Criteria will be determined by Reclamation. At this time, Reclamation recommends preparation of a NEPA categorical exclusion document for this review.

With respect to other environmental issues, Reclamation is in various stages of consultation with the Fish and Wildlife Service under Section 7 of the Endangered Species Act on most Colorado River mainstem facilities. When a Section 7 consultation results in the Service providing Reclamation with specific recommendations such as specific flow recommendations to remove or prevent jeopardy to listed species or their critical habitat, they are incorporated into Reclamation's operations, and if appropriate, included in the AOP.

Reclamation has programmed and expended funds for fish and wildlife mitigation and enhancement for impacts associated with previous activities where appropriate. Reclamation will continue to use this approach. Any changes associated with the long-range Operating Criteria will also be evaluated to determine if there are any mitigation requirements or enhancement opportunities.

Regarding the issue of water marketing and banking, Reclamation has initiated a rule making process focused on water banking in groundwater aquifers or off-mainstem storage reservoirs in the Lower Basin. This administrative rule is considered a responsibility of the Secretary of the Interior and focuses only on the three Lower Basin states. Reclamation believes that water marketing and banking would not require a change to the current Operating Criteria, as this issue lends itself to the AOP process.

Throughout the course of the review of the Operating Criteria, Reclamation has encouraged public participation and developed a thorough administrative record. Based on the results of the review and the analysis of public comments, it is proposed that the Operating Criteria not be modified at this time.

Analysis of Issues

Issue #1: Application of the Administrative Procedure Act (APA)

Background

The APA was signed into law in 1946 by President Truman. The purposes of the Act are: (1) to require agencies to keep the public informed on organization, procedures and rules, (2) to provide for public participation in the rule making process, (3) to prescribe uniform standards of conduct for rule making and adjudicatory proceedings, and (4) to restate the law of judicial review. The law primarily deals with rule making. The definition in the law of a rule in part is as follows: ''* * * the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency. * * *'' Rule making has two parts, formal and informal.

Analysis and Response

The Coordinated Long-Range Operating Criteria is a document generated from a requirement in the 1968 Colorado River Basin Project Act. It describes how the Secretary of the Interior will meet some of the commitments under the Act. The review of the Coordinated Long-Range Operating Criteria is not a rulemaking exercise and is therefore not subject to the rulemaking provisions of the APA.

Nevertheless, the Bureau of Reclamation is encouraging full public participation in this process and has developed a thorough administrative record of this review.

Issue #2

Surplus declarations are referenced in the 1964 Supreme Court decree (Arizona v. California) and are a part of the 1970 Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs. The decree apportions surpluses (50 percent to California, 46 percent to Arizona, and 4 percent to Nevada), while the Operating Criteria define surpluses as existing when there is sufficient storage in Lake Mead to supply greater than 7.5 million acre-feet (MAF) for Lower Basin consumptive uses. Guidelines for determining when surplus conditions exist have never been formally adopted.

Background

In the past, Reclamation has performed computer modeling studies of alternative surplus guidelines to determine the effects of various levels of surplus use. Because the shortage risks of surplus use (Arizona) fall on other than the benefactor (California), impacts and differences in risks of future shortages and reservoir drawdown have been keenly debated. All modeling strategies have as their foundation the principle of reducing system spills by allowing greater use in the Lower Basin, thus drawing down the reservoirs and thereby avoiding flood control releases. This greater drawdown then allows the high flows of flood years to be captured by the reservoir system. While the amount of system spills is thus reduced, the degree of drawdown affects the risk of shortages to users during possible future drought conditions. Resolving the balance between risk of shortages and spills is the heart of the surplus issue.

Until 1996, Lower Basin consumptive uses were less than their allocation of 7.5 MAF, and California uses were met through unused apportionments of Arizona and Nevada rather than surplus declarations. However, with the implementation of the Arizona groundwater banking program, total Lower Basin use now exceeds 7.5 MAF and water above this amount can only be delivered through surplus declarations.

The 1996 Annual Operating Plan (AOP) committed to meet all reasonable beneficial consumptive uses, and later in the year when the annual Lower Basin use was greater than 7.5 MAF, a surplus was declared. The 1997 AOP contains an explicit determination of surplus, based on the current hydrologic situation and a lack of impacts from this single decision. As a result of 1997 system flood control operations and hydrologic conditions, the 1998 AOP will almost certainly contain an explicit surplus determination.

However, these determinations have relied solely on an annual examination of reservoir conditions in the Colorado River Basin rather than specific, long-term strategies which examine the potential for problems in the future. Drought periods in the basin can extend for many years and with the large volume of reservoir storage, many years could be required before negative impacts of surplus determinations are observed. Much of the current debate is focused on the risk of certain things happening in the future.

Analysis and Response

The comments received addressed three key topics relating to surplus determinations: (1) the establishment of guidelines, (2) the forum for establishing these guidelines, and (3) how surpluses will affect the probability of spills from Lake Powell.

Establishment of Guidelines.—The comments all agreed that surplus and shortage guidelines should be established, but varied in how firm or detailed these guidelines should be. The most flexible approach would be the annual determination of surplus/normal/shortage conditions through the AOP process, deciding on the condition of the reservoir system on a year-by-year basis. The most rigid approach would be the revision of the Operating Criteria to include specific guidelines which then

would be applied each year to produce a determination.

Flexible guidelines have the advantage of being easily modified as consumptive use demands and hydrologic conditions change throughout the basin. For some parties, near-term surpluses could be more liberal than when Upper Basin uses increase and the likelihood of surplus deliveries are reduced. Flexible guidelines could be adopted without the more formal process of incorporating guidelines into the Operating Criteria.

Modifying the Operating Criteria to include surplus guidelines offers the advantage of clearly specifying under what conditions surpluses would be declared. All interests would then understand exactly what impacts could be expected under ranges of hydrologic conditions. Contingency plans could be implemented to mitigate adverse impacts and agreements could be formed to help meet consumptive use demands during non-surplus periods.

Forum for Establishing Guidelines.—Most commentors felt that the AOP would be the most appropriate mechanism for preparing surplus/shortage guidelines. The less formal nature of the AOP meetings was viewed as positive for attempting to resolve this difficult issue. However, the issue has been addressed for the last five years in the AOP meetings, and no definite guidelines have been produced.

Probability of Spills from Lake Powell.—The release of beach/habitat building flows from Glen Canyon Dam was a contentious topic during the completion of the Glen Canyon Dam Environmental Impact Statement. The 1968 Colorado River Basin Project Act directed the Secretary of the Interior to avoid anticipated spills while the 1992 Grand Canyon Protection Act directed the Secretary to operate the dam to improve the environmental conditions in the Grand Canyon. In 1995, an agreement was reached between interested parties which attempts to meet the intents of both the 1968 and 1992 Acts by providing these high flows during high reservoir storage conditions when required for dam safety purposes.

Surplus determinations which explicitly drop the level of Lake Mead and through equalization drop the level of Lake Powell would likely reduce the probability of these powerplant bypasses. Commentors responded with concern for this possibility recommending that if surpluses were declared, measures should be taken to keep the probability of bypasses the same as at the present. The impacts of high spring flows are currently believed to be very important and this potential effect should be addressed as surplus guidelines are developed.

The Bureau of Reclamation believes that surplus/shortage criteria should (1) be specific guidelines that can be used to predict measurable effects in the future, (2) be developed through the AOP process, and (3) include a discussion of the potential effects on Lake Powell spills along with possible mitigation measures.

Issue #3

Section 602(a)(3) of the 1968 Colorado River Basin Project Act discusses the quantification of a reservoir storage volume in the Upper Basin. This storage is intended to supplement the unregulated flow of the Colorado River at Lees Ferry during drought periods as part of the 1922 Colorado River Compact deliveries to the Lower Basin. The intent of this provision is to avoid impairment of Upper Basin consumptive uses.

Background

The 1968 Act contains several provisions which can be viewed as accomplishing the intent of the Article III (e) provision of the Colorado River Compact, that of the Upper Basin not withholding water that the Lower Basin requires for consumptive use demands. Through a combination of avoiding spills, equalizing storage between Lakes Powell and Mead, and the 602(a) storage volume, Upper Basin water was to be transferred to Lake Mead for use in the Lower Basin. When Upper Basin storage falls below this 602(a) storage level, storage equalization provisions of the 1968 Act are disregarded.

By statute, the 602(a) storage volume was to be quantified taking into account historic stream flows, the most critical period of record, and probabilities of water supply. Since the purpose of this storage is to help provide Lower Basin deliveries, it is quantified as the difference between depleted flow at Lees Ferry and the Lower Basin delivery requirements over some period of drought. Upper Basin depletion levels significantly affect the storage calculation. Using the most critical period of natural flow, the 602(a) volume is currently estimated to be about 10 million acre-feet, which includes preservation of the 5.2 million acre-feet minimum power pool in Lake Powell. In the future, when Upper Basin consumptive uses increase, it has been assumed that Lake Powell could be completely drained to provide Lower Basin deliveries.

Controversy exists regarding the probability attached to the depleted flow assumptions with respect to both the rarity of the critical flow period and the projected depletion increases in the Upper Basin. These are the principle reasons that 602(a) storage has never been formally determined and agreed to by the Basin States. However, in the computer modeling of long-range operations of the reservoir system, some estimate or procedure must be used to model this portion of the applicable statutes. Currently, the Bureau of Reclamation uses the observed critical 12-year period (1953–1964) as the basis for the storage calculation. Reflecting the lack of a formal determination, each year's Annual Operating Plan has contained language stating that current reservoir storage in Upper Basin reservoirs exceeds the storage required under Section 602 under any reasonable range of assumptions which may be applied. The current Upper Basin depletion level is the prime reason that this statement is true.

Analysis and Response

The relationship between the 602(a) volume and surplus/shortage criteria has been raised in previous Annual Operating Plan discussions. Some parties have argued that both less or more severe drought periods should be used in the modeling, thus changing the Upper Basin risk of shortages.

Formally specifying or changing the risks associated with the 602(a) storage level will likely require a legal opinion on the issue of avoiding impairment of Upper Basin consumptive uses. Since these uses presently do not significantly restrict Lower Basin surpluses and require much less than full Lake Powell storage to meet Lower Basin deliveries, this issue perhaps is not ripe for resolution. Reclamation recommends delaying implementing guidelines or changing the current 602(a) modeling assumptions until current assumptions or practices create unacceptable impacts.

Issue #4a

The Bureau of Reclamation should conduct an environmental analysis under the National Environmental Policy Act (NEPA) of any changes to the Operating Criteria.

Background

Letters of comment to the Operating Criteria review expressed concern over the long-term effects of the Operating Criteria on downstream resources as it relates to cumulative effects and spill frequency. Several letters indicated that the current Operating Criteria do not give equal consideration to environmental and recreational resources, and instead focus only on

traditional water and power uses. To incorporate consideration of all resources and impacts of the Operating Criteria, the commentors recommended that the Operating Criteria be evaluated through application of NEPA.

Analysis and Response

Reclamation regularly applies the NEPA process to activities constituting a federal action, and agrees that compliance with NEPA would be required for any proposed changes to the long-range Operating Criteria that are discretionary Federal Actions (Chapter 3.1 of the NEPA Handbook). The appropriate level of NEPA compliance will be determined by Reclamation for this review of the Operating Criteria.

NEPA regulations require that each agency promulgate agency-specific guidelines to supplement the Council on Environmental Quality's general regulations (40 CFR Parts 1500–1508). These classifications list those actions that: (1) have a significant impact on the environment (requiring preparation of an environmental impact statement); (2) those which are categorically excluded from the EIS process (for which a categorical exclusion (CE) is prepared); and (3) those which fall in between (1) and (2) and will usually require the preparation of an environmental assessment (EA). As a result of the analysis contained in an EA, either an EIS or a Finding of No Significant Impact (FONSI) is prepared by the agency.

The key issue in whether NEPA documentation is needed regarding this 5-year review is whether there is a Federal action or Federal discretion associated with this review. If no Federal action is being proposed or taken by Reclamation, no NEPA documentation would be required. While no changes are being proposed as the result of this review, Reclamation is making a decision in proposing no change. Because of this, Reclamation concludes that preparation of a NEPA compliance document is appropriate. Reclamation recommends that a Categorical Exclusion be prepared pursuant to Departmental Instructions 516 DM 2, appendix 1.7, which provides that a CE may be prepared for routine and continuing government business, including such things as supervision, administration, operations, maintenance and replacement activities having limited context and intensity; e.g. limited size and magnitude or short-term effects.

Issue #4b

The Operating Criteria should recognize the need to preserve and recover endangered species dependent upon the quantity, quality, and pattern of release.

Background

Construction and operation of water storage and delivery facilities on the Colorado River and its tributaries are recognized as factors contributing to the decline of certain fish and wildlife species which have been listed as threatened or endangered by the Fish and Wildlife Service (Service). Storing water during the spring runoff decreases the natural spring flow, and releasing water later in the year for consumptive use raises the base flow. These types of changes in the hydrograph have removed spawning cues, effected water temperature, clarity, the food base, and fluvial geomorphology. Physical alteration from riverine to extensive reservoir environments has occurred causing further change to habitat for these species and resulted in the establishment of exotic species of fish, wildlife, and plants that directly compete with listed species and their habitat. The control of natural flood cycles and development of the floodplain for agriculture and other purposes has significantly changed or eliminated original habitats in and along extensive parts of the lower Colorado River. The success of efforts to recover endangered species are often thought to be dependant on restoring the natural hydrograph to the degree possible. Commentors are concerned that if provisions for releases designed to recover endangered species are not incorporated into the Operating Criteria, changes to operations will not be implemented.

Analysis and Response

Reclamation is in various stages of consultation with the Service under Section 7 of the Endangered Species Act on most mainstem facilities. Conservation plans and recovery programs are also a large part of Reclamation activities in operation of the Colorado River. Operation of these facilities for endangered species would remain consistent with the original intended purpose of the project in accordance with the implementing regulations of the Endangered Species Act. When a Section 7 consultation results in the Service providing Reclamation with specific flow recommendations or other alternatives to remove or prevent jeopardy to listed species or their critical habitat, they are incorporated into Reclamation's operations, and if appropriate, are included in the Annual Operating Plan of the particular facility which was the subject of the consultation. Operations remain consistent with the ''Law of the River,'' water service contracts, and other legal obligations. Examples of facilities where consultation has been completed are Flaming Gorge Dam on the Green River in Utah, Glen Canyon Dam on the Colorado River in Arizona, and several features of the Colorado River Front Work and Levee System Program on the last 270 miles of the Colorado River in the United States.

Reclamation and the Service recently completed formal Section 7 consultation on lower Colorado River operations and maintenance (Lake Mead to the Southerly International Boundary with Mexico), and are engaged in ongoing consultation for Navajo Reservoir operations on the San Juan River in Colorado, and Aspinall Unit operations on the Gunnison River in Colorado. The Department of the Interior signed a Memorandum of Agreement in August 1995 that was further described in a Memorandum of Clarification and most recently a joint Participation Agreement to develop a long-term (50 year) Lower Colorado River Multi-Species Conservation Program (MSCP) from Lees Ferry to the Southerly International Boundary with Mexico. The overall objective of the MSCP is to develop a plan which would conserve and protect more than 100 listed and sensitive species within the Colorado River and its one hundred-year flood plain, and to the greatest extent consistent with law, accommodate current and future water and power operations.

Reclamation continues to undertake and pursue efforts for conservation and recovery of fish and wildlife and associated critical habitat under specific project authorities such as Section 8 of the Colorado River Storage Project Act and the Grand Canyon Protection Act. In addition, Reclamation has significant ongoing conservation and recovery efforts under the authority of Section 7(a)(1) of the Endangered Species Act. For example, the Lake Mohave Native Fish Rearing Program in the Lower Colorado River Basin continues to collect and rear wild larval razorback and bonytail chubs for release back into Lake Mohave to maintain the primary adult population and genetic pool for these species. Voluntary refinements to river operations have also been implemented when possible to benefit endangered species (i.e., management of reservoir levels in Mohave for endangered fish). The Upper Colorado River Recovery Implementation

Program, with an annual budget exceeding $7 million, and the San Juan River Basin Recovery Implementation Program are other examples.

Reclamation will continue to plan and implement initiatives for protection of endangered species and associated critical habitat on a project-specific basis as described, with the goal of integrating these actions to the greatest degree possible to address ecosystem level needs. Where appropriate, initiatives such as the Glen Canyon Adaptive Management Program and the MSCP will be considered and incorporated into future Annual Operating Plans and Section 7 consultations, as appropriate.

Issue #4c

Funding for mitigation of negative impacts to fish and wildlife resources should be provided.

Background

Modification of river flows due to the operation of projects authorized by the Colorado River Storage Project Act has impacted fish, wildlife, and their habitats through reduction or elimination of overbank flooding, channelization, water depletions, and changes in water quality. These projects produce revenue primarily through power production. Commentors are concerned that sufficient funds be made available for mitigation activities.

Analysis and Response

Reclamation, like all federal agencies, must have both authorization and appropriations to undertake actions and incur debt. In the Upper Colorado River Basin, Section 8 of the Colorado River Storage Project Act authorizes and directs the Secretary of the Interior to investigate, plan, construct, operate, and maintain facilities to improve conditions for and mitigate losses of fish and wildlife. Funds authorized by this section of the Act are nonreimbursable and nonreturnable, and therefore must be appropriated by Congress. Section 5(a) specifies that the Basin Fund will not be applied to Section 8 (fish and wildlife mitigation). The Grand Canyon Protection Act states that power revenues may be used for activities designed to conserve the environment downstream from Glen Canyon Dam, but does not exclude the use of other funding mechanisms.

Mitigation and enhancement activities are typically identified and proposed on a project-by-project basis through project planning and environmental compliance. Reclamation has programmed and expended funds for fish and wildlife mitigation and enhancement for impacts associated with previous activities where appropriate. Most often these activities are identified in Fish and Wildlife Coordination Act Reports and National Environmental Policy Act documents. Reclamation will continue to use this approach. Since no changes are being proposed, there is no specific mitigation or enhancement necessary for this action. Reclamation will continue to comply with NEPA and other appropriate environmental laws in identifying, planning, and carrying out mitigation and enhancement activities.

Issue #5

Is there a need to change the Operating Criteria.

Background

The Operating Criteria are to accomplish the objectives of Section 602(a) of the Colorado River Basin Project Act. Modification of the Operating Criteria can be done by the Secretary of the Interior ''* * * as a result of actual operating experiences or unforeseen circumstances * * * to better achieve the purposes specified in [Section 602(a) of the Colorado River Basin Project Act].''

Commentors stated that they believe ''* * * there are no conditions resulting from actual operating experiences or unforeseen circumstances, since the last review, that justify the need to modify the existing Criteria,'' and that the reservoirs have been operating satisfactorily under the present Operating Criteria. These comments support not changing the criteria at this time.

Others stated that we are entering a new era and that the Operating Criteria should be changed to reflect different circumstances and concerns. The Lower Basin States have reached their annual apportionment of 7.5 million acre-feet for consumptive use. Environmental and recreational issues have increased in value in the eyes of the public. There were also those who stated that the Operating Criteria need to be changed to include specific guidelines that allow the Secretary of the Interior to make surplus, shortage, and normal determinations. These comments all support a need for change.

Analysis and Response

The Operating Criteria provide guidelines for the operation of Upper Basin Reservoirs and Lake Mead. Specific operational needs are not detailed in the Operating Criteria. The specific needs have, in the past, been addressed in the Annual Operating Plan development process.

The Operating Criteria may be modified from time to time as a result of actual operating experiences or unforeseen circumstances. With the issues of surplus and flood control in our current operations and possibly emerging over the next several years, the operational experiences needed to determine if changes to the Operating Criteria are necessary will be acquired. Under the present Operating Criteria, surpluses have been declared for use in the United States as well as in Mexico.

With the above in mind, the evaluation of operational experiences over the next several years will determine whether or not to change the Operating Criteria. But in the interim, the recommendation is not to change the Operating Criteria.

Issue #6

Water marketing and banking.

Background

Several years ago the Bureau of Reclamation advanced draft regulations for administering Colorado River water entitlements in the Lower Basin States of Arizona, California, and Nevada. The draft regulations contained provisions for water banking and water marketing in the Lower Basin. Because there was not consensus with the states regarding the draft regulations, they have been held in abeyance while the three states attempt to reach some agreement on numerous issues, including water marketing and banking. This negotiation process among the states is continuing. Many people believe that some form of water banking and marketing will be essential to meeting future water needs in the Lower Colorado River Basin.

Analysis and Response

Reclamation has initiated a rule making process focused on water banking in groundwater aquifers or off-mainstem storage reservoirs in the Lower Basin. This administrative rule is considered a responsibility of the Secretary of the Interior under the Boulder Canyon Project Act, and focuses only on the three Lower Basin States. Reclamation continues to work with the states and to encourage them to cooperatively develop a proposal for water marketing and banking in the Lower Basin.

Reclamation believes that the limited water marketing and banking currently under consideration would not require a change to the current Operating Criteria.

Proposed Decision

The Department has considered issues arising from the review of the Operating

Criteria. After a careful review of the issues, solicitation of involved party's responses to Reclamation's analysis, and consultation with the Governor's representatives of the seven Basin States, the Department proposes no modifications to the Operating Criteria at this time.

Dated: October 1, 1997.

Stephen V. Magnussen,

Acting Commissioner, Bureau of Reclamation.

[FR Doc. 97–26500 Filed 10–6–97; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–383]

Commission Decision Not To Review a Final Initial Determination, and Schedule For Filing of Written Submissions on the Issues of Remedy, the Public Interest, and Bonding, and Appeals of ALJ Order No. 96

Certain Hardware Logic Emulation Systems and Components Thereof;

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination issued by the presiding administrative law judge on August 1, 1997, finding a violation of section 337, 19 U.S.C. § 1337, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3116.

SUPPLEMENTARY INFORMATION: This patent-based section 337 investigation was instituted on March 8, 1996, based upon a complaint and motion for temporary relief filed on January 26, 1996, by Quickturn Design Systems, Inc. (''Quickturn''). 61 FR 9486 (March 8, 1996). The respondents are Mentor Graphics Corporation (''Mentor'') and Meta Systems (''Meta'') (collectively ''respondents''). After an 11-day evidentiary hearing, in April and May of 1996, the presiding administrative law judge (''ALJ'') issued an initial determination (''TEO ID'') granting Quickturn's motion for temporary relief.

On August 5, 1996, the Commission determined not to modify or vacate the TEO ID and issued a temporary limited exclusion order and a temporary cease and desist order against domestic respondent Mentor. The Commission imposed a bond of 43 percent of entered value on respondents' importations and sales of emulation systems and components thereof during the remaining pendency of the investigation. The Commission set complainant's bond at $200,000.

Beginning on April 7, 1997, the ALJ held a pre-hearing conference and a 14-day evidentiary hearing concerning permanent relief issues and several sanctions-related motions. Closing arguments were held on June 25 and 26, 1997. On August 1, 1997, the ALJ issued an initial determination (''Final ID''), finding that respondents violated section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) by infringing claims of all five of Quickturn's asserted patents. The ALJ found: (1) There has been importation and sale of the accused products; (2) Quickturn practices the patents in controversy and satisfies the domestic industry requirements of section 337; (3) the claims in issue are valid; (4) the accused products directly infringe the claims in issue; (5) components of the accused products contributorily infringe the claims in issue; and (6) respondents have induced infringement of the claims in issue. Based on these findings, the ALJ concluded there was a violation of section 337. The ALJ recommended issuance of a permanent exclusion order and a cease and desist order.

Having examined the record in this investigation, including the Final ID, the petition for review, and the responses thereto, the Commission has determined not to review the Final ID; thus, the Commission has found a violation of section 337.

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see the Commission Opinion, In the Matter of Certain Devices for Connecting Computers via Telephones Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December, 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, and (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

On August 1, 1997, the ALJ also issued Order No. 96 in the investigation finding that respondents have engaged in discovery abuses and abuse of process justifying the imposition of evidentiary and monetary sanctions. Pursuant to rule 210.25(d) of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.25(d), the Commission has specified below the schedule for the filing of petitions appealing Order No. 96 and responses thereto.

Written Submissions

The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the August 1, 1997, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on October 16, 1997. Reply submissions must be filed no later than the close of business on October 23, 1997. No further submissions on these issues will be

permitted unless otherwise ordered by the Commission.

Parties to the investigation also may file written submissions concerning Order No. 96. Any written submissions appealing Order No. 96 must be filed no later than close of business on November 6, 1997. Reply submissions must be filed no later than the close of business on November 13, 1997.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and sections 210.25 and 210.45–210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.25, 210.45–210.51).

Copies of the public versions of the Final ID, Order No. 96, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: October 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26649 Filed 10–6–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 21–97]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Tuesday, October 14, 1997, 9:30 a.m. to 5:00 p.m.

SUBJECT MATTER:

(1) Oral Hearings and Hearings on the Record on Objections to Individual Proposed Decisions on Claims of Holocaust Survivors Against Germany;

(2) Issuance of Individual Final Decisions on Claims of Holocaust Survivors Against Germany.

STATUS: Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC, October 3, 1997.

Judith H. Lock,

Administrative Officer.

[FR Doc. 97–26717 Filed 10–3–97; 3:44pm]

BILLING CODE 4410–01–U

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics

Agency Information Collection Activities; Proposed collection; comment request

ACTION: Extension of a currently approved collection. Capital punishment report of inmates under sentence of death.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until December 8, 1997. This process is in accordance with the Paperwork Reduction Act of 1995.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the 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 collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Dr. Jan M. Chaiken, Director, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531. If you need a copy of the collection instrument with instructions, or have additional information, please contact Tracy L. Snell at (202) 616–3288, or via facsimile at 202–307–0128.

Overview of this information collection:

(1) Type of information collection. Extension of a currently approved collection.

(2) The title of the Form/Collection: Capital Punishment Report of Inmates under Sentence of Death.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NPS–8 Report of Inmates Under Sentence of Death; NPS–8A Update Report of Inmates Under Sentence of Death; NPS–8B Status of Death Penalty—No Statute in Force; and NPS–8C Status of Death Penalty—Statute in Force. Corrections Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections and Attorneys General. Others: The Federal Bureau of Prisons. Approximately 104 respondents (two from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates under sentence of death in

their jurisdiction and in their custody will be asked to provide information for the following categories: condemned inmates' demographic characteristics, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal and current status if no longer under sentence of death, method of execution, and cause of death by other than by execution. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, State officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of responses and the amount of time estimated for an average response: 310 responses at 1 hour each for the NPS–8; 3,054 responses at ½ hour each of the NPS–8A; and 52 responses at ½ hour each for the NPS–8B or NPS–8C.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,863 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street NW., Washington, DC 20530.

Dated: October 2, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–26552 Filed 10–6–97; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Sunshine Act Meeting

NAME AND COMMITTEE CODE: Special Emphasis Panel in Materials Research #1203.

DATE AND TIME: October 27, 1997, 8 am–5 pm.

PLACE: Room 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

TYPE OF MEETING: Closed.

TYPE OF PROPOSAL: Career Proposals in Polymers.

CONTACT PERSON: Dr. Andrew J. Lovinger, Senior Staff Associate, Division of Materials Research, Room 1065, 703–306–1839.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: To review and evaluate proposals submitted to the Directorate as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26679 Filed 10–3–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSB Public Service Award Committee; Notice of Sunshine Act Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

DATE AND TIME: Tuesday, October 28, 1997; 8:30 a.m.–1:00 p.m. (PST).

PLACE: Stanford University, Stanford, California.

TYPE OF MEETING: Closed.

CONTACT PERSON: Mrs. Susan E. Fannoney, Executive Secretary, Room 1220, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: 703/306–1096.

PURPOSE OF MEETING: To provide advice and recommendations in the selection of the NSB Public Service Award recipient.

AGENDA: To review and evaluate nominations as part of the selection process for awards.

REASON FOR CLOSING: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26681 Filed 10–3–97; 2:25 pm]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Special Emphasis Panel in Physics (1208).

DATE: October 28–30, 1997.

PLACE: Room 112/114 East Bridge, California Institute of Technology 1201 E. California Boulevard, Pasadena, California.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. David Berley, Program Manager, Laser Interferometer Gravitational Observatory, Physics Division, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1892.

PURPOSE OF MEETING: To review the technical aspects and management of the Laser Interferometer Gravitational-Wave Observatory (LIGO) project.

AGENDA: An overview of the project. Detailed examination of the technical aspects of the project and the management of the technical systems.

REASON FOR CLOSING: The Project plans being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26683 Filed 10–3–97; 2:52 pm]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Sunshine Act Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Special Emphasis Panel in Bioengineering and Environmental Systems (#1189).

DATE AND TIME: October 29–30, 1997; 8:30 am–5:00 pm.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 580, Arlington, VA 22230.

TYPE OF MEETING: Closed.

CONTACT PERSON: Fred G. Heineken, Program Director, Biotechnology Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: To review and evaluate CAREER proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26684 Filed 10–3–97; 2:49 pm]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME AND COMMITTEE CODE: Special Emphasis Panel in Polar Programs (#1209).

DATE AND TIME: October 30th and 31st, 1997: 8:00 am to 5:00 pm.

PLACE: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Odile de La Beaujardiere, Program Director, Arctic Natural Sciences, Office of Polar Programs, Room 740, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1029.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: to review and evaluate Arctic Natural Sciences multidisciplinary proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of the proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officr.

[FR Doc. 97–26685 Filed 10–3–97; 2:45 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company; 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. DPR–23 issued to the Carolina Power & Light Company (CP&L or the licensee) for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBR) located in Darlington County, South Carolina.

By letter dated August 27, 1996, as supplemented by letters dated December 18, 1996, January 17, February 18, March 27, April 6, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, September 10, October 2 (RNP RA/97–0216), and October 2, 1997 (RNP RA/97–0207), the licensee applied for full conversion from the current HBR Technical Specifications (CTS) to a set of improved Technical Specifications (ITS) based on NUREG–1431, ''Standard Technical Specifications Westinghouse Plants,'' Revision 0, dated September 1992 (including approved travellers used in the issuance of Revision 1, dated April 1995). A ''Notice of Consideration of Issuance and Opportunity for Hearing'' regarding conversion to the ITS was published in the **Federal Register** on October 29, 1996 (61 FR 55830). An ''Environmental Assessment and Finding of No Significant Impact'' regarding the conversion to ITS was published in the **Federal Register** on September 25, 1997 (62 FR 50409).

One of the ITS conversion changes proposed by the licensee in its August 27, 1996, application, and addressed in the April 29, and October 2, 1997, supplements, requires, as a part of ITS Limiting Condition for Operation (LCO) 3.6.4, that the pressure in containment be maintained greater than or equal to −0.8 psig. CTS require that containment pressure be maintained greater than or equal −1.0 psig; therefore, the ITS LCO is more restrictive than the CTS with regard to this paramater. This change in minimum allowable containment pressure is needed to make the ITS LCO consistent with a new licensee analysis of an inadvertent containment spray event.

In its letter dated October 2, 1997, the licensee provided justification for Commission issuance of the proposed change in minimum allowable containment pressure on an exigent basis. As defined in 10 CFR 50.91(a)(6), exigent circumstances exist when the licensee and the Commission must act quickly and time does not exist for the Commission to publish a **Federal Register** notice allowing 30 days for prior public comment and the Commission also determines that the proposed amendment involves no significant hazards considerations. The NRC staff has reviewed the licensee's October 2, 1997, letter and determined that exigent circumstances exist in that—

(1) Earlier issuance of this more restrictive change would be consistent with the most recent analysis and would enhance safety.

(2) As described below, there appear to be no significant hazards considerations associated with this change.

The licensee's ITS conversion application was prepared in accordance with appropriate industry guidance as provided in Nuclear Energy Institute Guidance document 96–06, ''Improved Technical Specifications Conversion Guidance,'' dated August 1996. That guidance did not address the need for specific no significant hazards discussions other than for less restrictive changes. Therefore, the exigent circumstances could not reasonably have been avoided in that the licensee was not aware of the need for a specific no significant hazards discussion regarding the change in minimum allowable containment pressure.

Before issuance of the ITS conversion amendment, including the proposed change to ITS 3.6.4, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine 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 amendments 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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change provides a requirement of −0.8 psig for the minimum allowable internal containment atmospheric pressure. This requirement is determined to be more restrictive than the current Technical Specifications requirement of −1.0 psig with respect to plant operation. The minimum allowable containment internal atmospheric pressure is not assumed to be an initiator of an analyzed event and the new requirement is consistent with a current analysis relative to mitigation of the inadvertent actuation of a containment spray event. This change has no effect on any other accident or transient previously evaluated. The new requirement being proposed is an assumption in an analysis which enhances assurance that process variables, structures, systems, and components are maintained consistent with the safety analyses and licensing basis of the unit. Therefore, this change does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical alteration of plant systems, structures, or components or changes in parameters governing normal plant operation other than the minimum allowable containment atmospheric pressure. This change is consistent with assumptions made in the inadvertent containment spray event and has no other effect on other safety analyses or the licensing basis. The new requirement is a more restrictive Limiting Condition for Operations resulting from an analysis that enhances safe operation. Therefore, this [change] does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The imposition of the new requirement for the minimum allowable containment atmospheric pressure maintains the margin of plant safety by restricting operations to be consistent with an analysis of an inadvertent actuation of the containment spray system that utilizes analytical methods currently acceptable to the NRC. Therefore, this change does not involve a 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 14 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 14-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 14-day notice period, provided that its final determination is that the amendments involve 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 Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 6, 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 Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550. 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 the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards determination. If a hearing is requested, 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 Mr. William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602, 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 August 27, 1996, as supplemented by letters dated December 18, 1996, January 17, February 18, March 27, April 6, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, September 10, October 2 (RNP RA/97–0216), and October 2, 1997 (RNP RA/97–0207), which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 3rd day of October, 1997.

For the Nuclear Regulatory Commission.

David C. Trimble,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26642 Filed 10–6–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–22–ISFSI ASLBP No. 97–732–02–ISFSI]

Private Fuel Storage, LLC; Notice of Reconstitution of Board

Pursuant to the authority contained in 10 CFR § 2.721, the Atomic Safety and Licensing Board in the Private Fuel Storage proceeding, with the above-identified Docket Number, is hereby reconstituted by appointing Administrative Judge Peter S. Lam in place of Administrative Judge Thomas D. Murphy.

As reconstituted, the Board is comprised of the following Administrative Judges: G. Paul Bollwerk, III, Chairman, Dr. Jerry R. Kline, Dr. Peter S. Lam.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR § 2.701 (1980). The address of the new member is: Dr. Peter S. Lam, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Rockville, Maryland, this 1st day of October 1997.

B. Paul Cotter, Jr.

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 97–26508 Filed 10–6–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of October 6, 13, 20, and 27, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 6

Wednesday, October 8

3:30 p.m. Affirmation Session (Public Meeting)

a. Changes to Paragraph (h) of 10 CFR Part 50.55a, ''Codes and Standards''

b. Sequoyah Fuels Corp. & General Atomics: Docket No. 40–8027—EA; LBP–95–18 and LBP–96–24, Memoranda and Orders (Approving Settlement) (Tentative)

Week of October 13—Tentative

Tuesday, October 14

10:00 a.m. Briefing on EEO Program (Public Meeting) (Contact: Ed Tucker, 301–415–7382)

1:00 p.m. Briefing on Severe Accident Master Integration Plan (Public Meeting) (Contact: Charles Ader, 301–415–5622)

Wednesday, October 15

10:00 a.m. Briefing on PRA Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of October 20—Tentative

Tuesday, October 21

10:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of October 27—Tentative

Wednesday, October 29

10:00 a.m. Briefing on Proposed Steam Generator Generic Letter and Regulatory Guide (Public Meeting)
11:30 a.m. Affirmation Session (Public Meeting) (if needed)
1:00 p.m. Briefing on Site Decommissioning Plan (SDMP) (Public Meeting)

Note: 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.

Dated: October 3, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–26691 Filed 10–3–97; 2:37 pm]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

Time and Date: 2:00 p.m., October 8, 1997.

Place: Carrier Ballroom, 2nd Floor, Statler Hotel, 11 East Avenue, Ithaca, New York. The Statler Hotel is located on the Cornell University campus, directly adjacent to the School of Industrial and Labor Relations.

Status: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

Matters To Be Considered: During a half-day skills-building session, the National Partnership Council members and faculty from Cornell's renowned School of Industrial and Labor Relations will present an overview of the life cycle of partnerships. Participants will hear about and discuss lessons learned and best practices in sustaining partnerships.

CONTACT PERSON FOR MORE INFORMATION: Michael Cushing, Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–2930.

SUPPLEMENTARY INFORMATION: We invite interested persons and organizations to submit written comments. Mail or deliver your comments to Michael Cushing at the address shown above.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26458 Filed 10–6–97; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39159; File No. SR–CBOE–97–46]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Fractional Changes to Bids and Offers in Stocks

September 30, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 11, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 30.33, which governs the permissible fractional variation for bids or offers in stocks. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to expand the number of CBOE securities traded in sixteenths, *i.e.*, 1/16 of $1.00, to include all securities trading above $.25 per share.[3] Exchange Rule 30.33, *Fractional Changes for Bids and Offers,* currently requires bids and offers in stocks (and other instruments that may be traded on the Exchange and to which Chapter 30 of the CBOE rules applies)[4] with a price of $10.00 or less to be made at a variation of at least 1/16 of $1.00.[5]

The change will, therefore, affect the bidding and offering in covered securities selling over $10.00 per share.

The Exchange believes that by increasing the number of stocks and other instruments eligible to be traded in sixteenths, the Exchange will be better able to compete for listings in instruments, such as warrants. In fact, the Exchange's proposal is identical to a proposal of the American Stock

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Bids and offers in stocks with prices of less than $.25 per share may be varied by as little as 1/32 of $1.00 per share.

[4] The Commission notes that the CBOE does not currently trade stocks. However, the Commission notes that the CBOE does trade equity derivative products that will be affected by the rule change; those products include equity (and equity index) linked notes and index warrants.

[5] In 1995, the Commission approved an expansion of sixteenths trading to permit all CBOE securities selling under $10.00 to trade in sixteenths. (Securities selling under $.25 could be traded in variations of 1/32 of $1.00.) *See* Securities Exchange Act Release No. 35538 (Mar. 27, 1995), 60 FR 16895 (April 3, 1995) (order approving SR–CBOE–95–18). Prior to the approval of that filing, sixteenths trading was permitted for securities selling under $5.00 and above $.25.

Exchange (''Amex'') and similar to a proposal of the Nasdaq Stock Market (''Nasdaq'') and the New York Stock Exchange (''NYSE'') which were recently approved by the Commission.[6] The Exchange believes that trading in sixteenths will improve the market for covered securities trading above $10 by promoting greater liquidity and providing for superior executions of retail and professional orders. Also, the proposal is responsive to the recommendations of the Division of Market Regulation in its Market 2000 study that the exchanges and Nasdaq convert to a minimum variation of one-sixteenth as soon as possible.[7]

On March 18, 1997, a representative of the CBOE discussed the proposed expansion of trading in sixteenths with the Intermarket Trading System (''ITS'') participants and with the Securities Industry Automation Corporation (''SIACS''). The ITS Operating Committee voted unanimously to instruct SIAC to make necessary enhancements to the ITS host system to accommodate the proposed expanded sixteenths trading. SIAC also agreed to coordinate with the ITS participants regarding any required testing and changes to the participants' internal systems.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[8] that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitation and clearing transactions in securities, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange represents that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comment were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–97–46 and should be submitted by October 28, 1997 21 days from date of publication.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6[9] and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitation and clearing transactions in securities and to protect investors and the public interest.[11]

Recently, there has been a movement within the industry to reduce the minimum trading and quotation increments imposed by the various self-regulatory organizations (''SROs''). The Amex Nasdaq and NYSE have recently reduced their minimum increments.[12] In addition, several third market makers have begun quoting securities in increments smaller than the primary markets. The proposed rule change will allow the CBOE the flexibility it needs to address this development and remain competitive with these markets. Nevertheless, the Commission notes that any further change in the minimum increments constitutes (1) a change in a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the CBOE, or (2) a change in an existing order-entry of trading system of an SRO, or (3) both.

Therefore, the Exchange is still obligated to file such proposed changes with the Commission.[13]

The Commission also believes the proposed rule change will likely enhance the quality of the market for the affected CBOE-listed activities. Allowing the CBOE to quote affected securities in finer increments will facilitate quote competition.[14] This should help produce more accurate pricing of such securities and can result in tighter quotations.[15] In addition, if the quoted markets are improved by reducing the minimum increment, the change could result in added benefits to the market such as reduced transaction costs.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.[16] The proposal

[6] Securities Exchange Act Release No. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (approving an Amex proposal to reduce the minimum trading increment to 1/16 for certain Amex–listed equity securities); Securities Exchange Act Release No. 38678 (May 27, 1997), 62 FR 30363 (June 6, 1997) (approving a Nasdaq rule change to reduce the minimum quotation increment to 1/16 for certain Nasdaq-listed securities) and Securities Exchange Act Release No. 38897 (Aug. 1, 1997), 62 FR 42847 (Aug. 8, 1997) (approving a NYSE rule change to reduce the minimum quotation increment to 1/16 for certain NYSE-listed securities).

[7] Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developments* at 18 (Jan. 1994) (''Market 2000 Study'').

[8] 15 U.S.C. § 78f(b)(5).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[12] *See supra* note 5.

[13] These changes, however, may become effective upon filing if they meet certain statutory requirements. *See* 15 U.S.C. 78s(b)(3)(A)(i) and 17 CFR 240.19b–4(e).

[14] The rule change is consistent with the recommendation of the Division of Market Regulation (''Division'') in its Market 2000 Study, in which the Division noted that the 1/8 minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. *See* SEC, Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* 18–19 (Jan. 1994).

[15] A study that analyzed the reduction in the minimum tick size from 1/8 to 1/16 for securities listed on the Amex priced between $1.00 and $5.00 found that, in general, the spreads for those securities decreased significantly while trading activity and market depth were relatively unaffected. *See* Hee-Joon Ahn, Charles Q. Chao, and Hyuk Choe, *Tick Size, Spread, and Volume*, 5 J. Fin Intermediation 2 (1996).

[16] A prior proposal by another exchange to reduce its minimum fractional change was published for the full statutory comment period without any comments being received by the Commission. Securities Exchange Act Release No. 38571 (May 5, 1997) (approving a proposed rule change by the

provides the CBOE with the ability to quickly modify its trading increment to meet changing market conditions. This will enable the CBOE to quote competitively with other markets. Waiting the full statutory review period for the proposed rule change could place the CBOE at a significant competitive disadvantage to other markets. Therefore, the Commission believes it is consistent with Section 6(b)(5) and Section 19(b)(2) of the Act to grant accelerated approval to the proposed rule change.[17]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–CBOE–97–46) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26523 Filed 10–6–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39162; File No. SR–CHX–97–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Chicago Stock Exchange, Inc., Relating to the Execution of Stopped Orders Under the Enhanced SuperMAX Program

September 30, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 16, 1997, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rule 37(e) of Article XX relating to the execution of stopped orders under the CHX's Enhanced SuperMAX program. The text of the proposed rule change is available at the Office of the Secretary, the CHX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 1995, the Commission approved a proposed rule change that allows specialists on the Exchange, through the Exchange's MAX system, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.[3] That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under the rule.[4] The CHX now proposes to amend the Enhanced SuperMAX program, a program first adopted under CHX Rule 37 of Article XX in July 1995.[5]

Currently under the Enhanced SuperMAX program, certain orders are ''stopped'' at the ITS BBO[6] and are executed with reference to the next primary market sale. The Enhanced SuperMAX program also includes a time-out feature whereby if there are no executions in the primary market after the order has been stopped for a designated time period, the order is executed at the stopped price at the end of such period. Such period, known as a time out period, is pre-selected by a specialist on a stock-by-stock basis based on the size of the order, may be changed by a specialist no more frequently than once a month and may be no less than 30 seconds.

The Exchange believes the proposed rule change will simplify the pricing algorithm used by Enhanced SuperMAX. Under the new algorithm, an agency market order eligible for Enhanced SuperMAX will continue to be ''stopped'' if executing the order at the ITS BBO would create a double up-tick (for a buy order) or a double down-tick (for a sell order) and the spread between the ITS Bid and ITS Offer is ¼ point or more. Under the proposal, once stopped, a buy order will be executed as follows:

If the next primary market sale is equal to or greater than the primary market offer, the order will be executed at the stopped price.

If there is no primary market sale within the time out period or the next primary market sale is less than the primary market offer, the order will be executed at one minimum variation better than the stopped price.

Sell orders will receive price improvement in a similar manner. Specifically, sell orders will be executed at the stopped price if the next primary market sale is equal to or less than the primary market bid. Sell orders will be executed at one minimum variation better than the stopped price if the next primary market sale is greater than the primary market bid or if there is no primary market sale before the expiration of the time-out period.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

Amex to reduce the minimum trading differential from ⅛ to ⅟₁₆ for equity securities priced at or above $10.00).

[17] 15 U.S.C. §§ 78f(b)(5) and 78s(b)(2).

[18] 15 U.S.C. § 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995) (order approving File No. SR–CHX–95–08).

[4] *Id.*

[5] *See* Securities Exchange Act Release No. 36027 (July 27, 1995), 60 FR 39465 (August 2, 1995) (order approving File No. SR–CHX–95–15).

[6] CHX defines ''ITS BBO'' as the best offer or best bid available among the following exchanges: American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES''). *See* CHX Rule 37(a), Article XX.

[7] 15 U.S.C. 78(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from September 16, 1997, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and rule 19b–4(e)(6)[9] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR–CHX–97–23 and should be submitted by October 28, 1997.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(e)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26521 Filed 10–6–97; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39174; File No. SR–DCC–97–11]

Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Order Granting Accelerated, Temporary Approval of a Proposed Rule Change Relating to Margin Requirements for Repurchase Agreements

September 30, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 16, 1997, Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') and on September 24, 1997, amended the proposed rule change (File No. SR–DCC–97–11) as described in Items I and II below, which items have been primarily prepared by DCC. 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 through March 31, 1998.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to extend the temporary approval for DCC's rules regarding the collection of margin for overnight repurchase and reverse repurchase agreements (''overnight repos'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DCC included statements concerning the purpose of and basis for the proposed rule change and any comments received by DCC on the proposed rule change.

The text of these statements may be examined at the places specified in Item IV below. DCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DCC seeks an extension of the temporary approval of its rules relating to the collection of margin for overnight repos. On April 2, 1997, the Commission granted approval of DCC's overnight repo margining rules through September 30, 1997.[3]

Prior to the proposed rule change, DCC calculated each participant's margin requirement for all repos, including overnight repos, at the end of each business day and required margin to be deposited by 11:00 a.m. the next business day. DCC does not believe that this procedure is appropriate for overnight repos because overnight repos terminate on the following day. As a result, DCC amended its procedures for calculating and collecting margin for overnight repos.[4]

These procedures require each participant which engages in overnight repos to deposit with DCC as core margin either $1 million or a greater amount as determined by DCC at the end of each week based upon the participant's daily overnight repo exposures during the eight prior weeks.[5] If DCC determines as a result of any weekly calculation that a participant is required to maintain a higher core margin amount on deposit with DCC, DCC will notify the participant of such higher core margin requirement by 3:00 p.m. on the date of the calculation, and the participant is required to deposit by 11:00 a.m. on the following business day margin whose value equals or exceeds the participant's additional margin requirement. Such deposit must be in cash or U.S. Treasury securities.

In addition to the weekly calculation described above, DCC calculates on each business day each participant's mark-to-market exposure from overnight repos. If a participant's exposure from overnight repos exceeds 65 percent of the participant's core margin requirement, DCC requires the participant to deposit additional margin equal to the amount of such excess. Such additional margin must be

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DCC.

[3] Securities Exchange Act Release No. 38471 (April 2, 1997), 62 FR 17257.

[4] *See id.* for a detailed description of the proposal.

[5] Overnight repos are defined as repo agreements whose off-date is the immediately succeeding business day following the on-date for such transactions. Term repos are defined as repos agreements whose off-date is two or more business days following the on-date for such transactions.

deposited with DCC no later than 5:00 p.m. on the applicable business day. If additional margin is required, DCC may apply towards a participant's exposures on overnight repos excess margin maintained by the participant with DCC which is not then being used to collateralize other margin obligations to DCC. However, DCC may not apply a participant's core margin amount maintained with DCC towards other margin obligations to DCC arising from options transactions or term repros.

In connection with the proposed rule change, DCC agreed that during the temporary approval period it will submit to the Commission on a monthly basis reports detailing the operation of the new margining system for overnight repos. DCC instituted the new margining system on July 1, 1997, and has been providing reports to the Commission since that time. In response to a request from the Commission, DCC has amended the format of the report to provide additional information to the Commission. The first report incorporating the revised format was filed by DCC with the Commission in September 1997.

DCC believes the proposed extension of the temporary approval of the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations promulgated thereunder because the proposed rule change will better enable DCC to safeguard the funds and securities under its possession and control by amending DCC's procedures to assure that it has adequate collateral to address a participant's default or insolvency.

B. Self-Regulatory Organization's Statement on Burden on Competition

DCC does not believe that the proposed rule change will impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[7] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that DCC's proposed rule change is consistent with DCC's obligations under the Act because the proposal establishes: (1) a minimum core margin requirement to reflect DCC's exposure to each participant's overnight repo activity and (2) an intraday margin requirement that is triggered if a participant's mark-to-market exposure is valued at more than 65 percent of the core requirement. Therefore, the Commission believes that the proposal should provide to DCC margin in an amount that will assist DCC in meeting its obligation to safeguard securities and funds.

Currently, DCC has operated its new margining system for only three months. Therefore, the Commission believes that it is appropriate to extend temporary approval of the proposal in order that the Commission and DCC will have opportunity to further monitor the effectiveness of the new system in practice. Accordingly, the Commission is temporarily approving the proposed rule change through March 31, 1998. During this temporary approval period, DCC should continue to submit on a monthly basis reports detailing its analysis of its overnight repo margining system.

DCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because accelerated approval will allow DCC to continue to use its overnight repo margining procedures without interruption when the current temporary approval period expires on September 30, 1997.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the File No. SR–DCC–97–11 and should be submitted by October 28, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DCC–97–11) be, and hereby is, approved through March 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26520 Filed 10–6–97; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

State of Michigan

[Amendment #3]

Declaration of Disaster #2965

In accordance with information received from the Federal Emergency Management Agency dated September 19, 1997, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster to October 7, 1997.

All other information remains the same, i.e., the deadline for filing applications for economic injury is April 13, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 26, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–26512 Filed 10–6–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster #2982; State of New Jersey

As a result of the President's major disaster declaration on September 23, 1997, I find that Atlantic County in the State of New Jersey constitutes a disaster area due to damages caused by severe storms and flooding which occurred August 20–21, 1997. Applications for loans for physical

damages may be filed until the close of business on November 22, 1997, and for loans for economic injury until the close of business on June 23, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Burlington, Camden, Cape May, Cumberland, Gloucester, and Ocean in the State of New Jersey may be filed until the specified date at the above location.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 298206 for physical damage and 961100 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 26, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–26513 Filed 10–6–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region III—National Advisory Council; Public Meeting

The Small Business Administration—Region III—Washington National Advisory Council, located in the geographical area of Washington, DC, will hold a public meeting from 8:00 am to 5:00 pm, on Thursday, October 23, 1997, and from 8:00 am until 11:00 am, on Friday, October 24, at the Scottsdale Plaza Resort, 7200 North Scottsdale Road, Scottsdale, AZ, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Toi Tolson, at the U.S. Small Business Administration, 409 3rd Street, S.W., Washington, DC 20416, telephone (202) 205–7648.

Dated: October 1, 1997.

Eugene Carlson,

Associate Administrator, Office of Communications & Public Liaisons.

[FR Doc. 97–26514 Filed 10–6–97; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

North Florida District Office; Name

AGENCY: U.S. Small Business Administration.

ACTION: Notice of name change for two District Offices.

SUMMARY: The U.S. Small Business Administration (SBA) has changed the names of its two District Offices in Florida.

Old name	New name
Jacksonville District Office, 7825 Baymeadows Way, Suite 100–B, Jacksonville, FL 32256–7504.	North Florida District Office, 7825 Baymeadows Way, Suite 100–B, Jacksonville, FL 32256–7504
Miami District Office, 1320 South Dixie Highway, Coral Gables, FL 33146–2911.	South Florida District Office, 1320 South Dixie Highway, Coral Gables, FL 33146–2911

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Bradley Douglas, 202–205–6808.

Dated: September 10, 1997.

Bradley Douglas,

Associate Administrator for The Office of Field Operations.

[FR Doc. 97–26515 Filed 10–6–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Petitions for Waivers of Compliance and Notice of Technical Conference

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received requests for waivers of compliance with certain requirements of its safety standards. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioners' arguments in favor of relief.

The American Short Line Railroad Association (Waiver Petition Docket Number PB–97–12)

The American Short Line Railroad Association (ASLRA) seeks a permanent waiver of compliance from certain provisions of the *Railroad Power Brake and Drawbars* regulations, 49 CFR Section 232.23, concerning operations requiring the use of two-way EOT devices.

On January 2, 1997, FRA published the Final Rule for Two-Way End-of-Train Devices with an effective date of July 1, 1997. On March 4, 1997, ASLRA filed a petition for reconsideration seeking a delay until December 1, 1997, as the date for the rule to become effective on Class II and Class III railroads, and seeking elimination of the tonnage limitation contained in the rule's definition of local and work trains. On May 29, 1997, FRA granted relief on the effective date for railroads that reported two million or fewer man-hours in 1995, which includes most, if not all, Class II and Class III railroads. FRA declined to eliminate the tonnage limitation from the rule's definition of local and work trains.

ASLRA feels there is still a serious problem in the rulemaking that is a hardship for small railroads in particular and has no significant safety value in the context of what two-way EOT's are designed to accomplish which is improving the safe movement of heavy trains over heavy grades.

The Final Rule requires that a train be equipped with an operable two-way EOT if: (1) The train is operating with greater than 4,000 trailing tons over a section of track with an average grade of one percent or greater over a distance of three continuous miles; or (2) the train is operating with 4,000 trailing tons or less over a section of track with an average grade of two percent or greater over a distance of two continuous miles. The Final Rule defines a train as ''one or more locomotives coupled with one or more railcars, except during switching operations or where the operation is that of classifying cars within a railroad yard for the purpose of making or breaking up trains.'' The literal result of the Final Rule is that a train consist of a single locomotive hauling as little as one car must be equipped with an operable two-way EOT, if such train operates over a two percent grade for two continuous miles.

ASLRA does not believe that FRA intended to impose such unnecessary, impractical and costly requirements when crafting the rule, or that

mandating the use of two-way EOT's in these low tonnage trains is not supported either by Congressional intent or by meaningful safety data.

ASLRA believes this requirement will significantly burden a number of small railroads with added expense and requests that FRA issue a general waiver with the following conditions: (1) The general waiver would apply to railroads which had two million or fewer man hours in 1995; (2) It would exempt train operations involving not more than 15 loaded cars or not more than 30 empty cars from the two-way EOT requirement; (3) Advance written notification to FRA by any small railroad wishing to claim the coverage of this general waiver would be required.

ASLRA concludes that the 15 loaded/30 empty car general waiver request will not compromise safety and is within the specific language of the statute and consistent with the requirements of the Small Business Regulatory Enforcement Act of 1996.

McCloud Railway Company (Waiver Petition Docket Number PB–97–3)

The McCloud Railway Company seeks a permanent waiver of compliance from certain provisions of the Railroad Power Brakes and Drawbars regulations, 49 CFR Part 232, section 23, concerning the requirements of two-way EOT devices.

Title 49 CFR 232.23(e)(6) states: ''Local trains as defined in paragraph (a)(3) of this section that do not operate over heavy grades'' are excepted from the requirements for the use of a two-way EOT device. The McCloud Railway Company operates short trains that meet the requirements of a ''local train'' as defined in Section 232(a)(3), but they operate over ''heavy grades'' as defined in Section 232.23(a)(1). Because they operate over ''heavy grades'', they are required to equip all of their trains with a two-way EOT device.

Since the McCloud Railway Company operates with short train lengths, their operating personnel cannot think of any instances where a two-way EOT device will provide a safer or more effective operation. Therefore, they seek relief from having to equip their trains with a two-way EOT device with the following restrictions: (1) Trains would be limited to 10 loaded cars per locomotive with a maximum of 20 loaded cars per train; except when trains operate with more than 50 percent of the cars empty, the train would be limited to 28 cars. (2) All locomotives must be equipped with properly functioning dynamic braking.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number PB–97–3 or PB–97–12) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Technical Conference

In order to further explore the issues attendant to the ASLRA and McCloud Railroad petitions, FRA will hold a technical conference in which all interested parties are invited to participate. The technical conference, which will be an informal meeting in which a free exchange of ideas will be encouraged, is hearby set for 10:00 a.m. on November 4, 1997, in Room 6200, at the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. An opportunity for the presentation of oral comments will also be afforded to any interested party at that time.

Parties desiring to participate in the technical conference or to provide oral comment on the petitions should notify the Docket Clerk at the mailing address listed above. The Docket Clerk may also be reached at 202–632–3198 or by fax at 202–632–3709.

Issued in Washington, D.C. on October 1, 1997.

James T. Schultz,

Associate Administrator for Safety.

[FR Doc. 97–26550 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3436

Applicant: South Orient Railroad Company, LTD., Mr. Roy D. Williams, Chief Operating Officer, 210 South Main Street, Brownwood, Texas 76801.

The South Orient Railroad Company, LTD. seeks approval of the proposed temporary discontinuance of the traffic control system, on the single main track, between Birds Siding, milepost 0.0 and Rickers, milepost 134.5, Texas, on the Dublin Subdivision, for a period of six months.

The reason given for the proposed changes is that the railroad is for sale.

BS–AP–No. 3437

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S Assets, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410.

The Consolidated Rail Corporation seeks approval of the proposed modification of ''IU'' Interlocking, milepost 283.7, on the Indianapolis Line and milepost 0.0, on the St. Louis Line, at Indianapolis, Indiana, on the Indianapolis Division, involving Main Tracks No. 1 and No. 2, the Amtrak Depot Track, and the Louisville Secondary Track. The proposed changes are associated with relocation of the control of ''IU'' Interlocking to the Indianapolis, Indiana dispatchers' office and includes the discontinuance and removal of switch No. 61 and signal L68 on the depot track, and the discontinuance and removal of the following signals: R48, L48, L34, R58, R74, L74, RA108, L108, R46, L32, L54, R60, L50, R62, LA76, RA110, R126, R78, R86, L78, L122, RB116, R114, RB110, RD116, and LB76.

The reason given for the proposed changes is to retire facilities no longer needed for present operation and to improve safety of train operation through ''IU'' Interlocking.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be

furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on October 1, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 97–26543 Filed 10–6–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–43; Notice 2]

American Honda Motor Company, Inc., Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 122

American Honda Motor Co., Inc., of Torrance, California (''Honda''), applied for a temporary exemption from the fade and water recovery requirements of Federal Motor Vehicle Safety Standard No. 122 *Motorcycle Brake Systems.* The basis of the application was that an exemption would facilitate the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.

Notice of receipt of the application was published on July 31, 1997, and an opportunity afforded for comment (62 FR 41127). This notice grants the application.

Honda seeks an exemption of one year for its 1998 CBR1100XX motorcycle ''from the requirement of the minimum hand-lever force of five pounds in the base line check for the fade and water recovery tests.'' It wishes to evaluate the marketability of an ''improved'' motorcycle brake system setting which is currently applied to the model sold in Europe. The difference in setting is limited to a softer master cylinder return spring in the European version. Using the softer spring results in a ''more predictable (linear) feeling during initial brake lever application.'' Although ''the change allows a more predictable rise in brake gain, the on-set of braking occurs at lever forces slightly below the five pound minimum'' specified in Standard No. 122. Honda considers that motorcycle brake systems have continued to evolve and improve since Standard No. 122 was adopted in 1972, and that one area of improvement is brake lever force which has gradually been reduced. However, according to Honda, the five-pound minimum specification ''is preventing further development and improvement'' of brake system characteristics. This limit, when applied to the CBR1100XX, ''results in an imprecise feeling when the rider applies low-level front brake lever inputs.''

The machine is equipped with Honda's Linked Brake System (LBS) which is designed to engage both front and rear brakes when either the brake lever or the brake pedal is used. The LBS differs from other integrated systems in that it allows the rider to choose which wheel gets the majority of braking force, depending on which brake control the rider uses.

According to Honda, the overall braking performance remains unchanged from a conforming motorcycle. If the CBR1100XX is exempted, it will meet ''the stopping distance requirement but at lever forces slightly below the minimum.''

Specifically, Honda asked for relief from the first sentence of S6.10 *Brake application forces,* which reads:

> Except for the requirements of the fifth recovery stop in S5.4.3 and S5.7.2 (S7.6.3 and S7.10.2) the hand lever force is not less than five and not more than 55 pounds and the foot pedal force is not less than 10 and not more than 90 pounds.

Upon review of this paragraph, NHTSA determined that granting Honda's petition would require relief from different provisions of Standard No. 122, although S6.10 relates to them. Paragraph S6 only sets forth the test conditions under which a motorcycle must meet the performance requirements of S5. A motorcycle manufacturer certifies compliance with the performance requirements of S5 on the basis of tests conducted according to the conditions of S6 and in the manner specified by S7. In short, NHTSA believed that granting Honda's application would require relief from the performance requirements of S5 that are based upon the lever actuation force test conditions of S6.10 as used in the test procedures of S7.

These relate to the baseline checks under which performance is judged for the service brake system fade and fade recovery tests (S5.4), and for the water recovery tests (S5.7). According to the test procedures of S7, the baseline check stops for fade (S7.6.1) and water recovery (S7.10.1) are to be made at 10 to 11 feet per second per second (fpsps) for each stop. The fade recovery test (S7.6.3) also specifies stops at 10 to 11 fpsps. Test data submitted by Honda with its application show that, using a hand lever force of 2.3 kg (5.1 pounds), the deceleration for these stops is 3.05 to 3.35 meters per second per second, or 10.0 to 11.0 fpsps. This does not mean that Honda cannot comply under the strict parameters of the standard, but the system is designed for responsive performance when a hand lever force of less than five pounds is used. For these reasons, NHTSA interprets Honda's application as requesting relief from S5.4.2, S5.4.3, and S5.7.2.

Honda argued that granting an exemption would be in the public interest and consistent with objectives of traffic safety because it:

> * * * Should improve a rider's ability to precisely modulate the brake force at low-level brake lever input forces. Improving the predictability, even at very low-level brake lever input, increases the rider's confidence in the motorcycle's brake system.

No comments were received on the notice regarding the petition.

The distinctive motorcycle brake system setting which Honda seeks to evaluate in the United States is a ''new motor vehicle safety feature'' that can be evaluated in the field, as contemplated under the temporary exemption authority. Further, the level of safety provided should be at least equal to the level provided by Standard No. 122. NHTSA notes that Honda does not seek an exemption from the stopping distances specified in Column I of Table I (S7.3.1). Instead, Honda wishes approval to allow modulating the hand brake lever at a force of less than the five pound minimum specified in Standard No. 122. It asserts that the lower force to modulate the brake lever would improve the rider's control over the brake force. This improved control, and thus predictability over the brake's function, would also improve the rider's confidence in the brakes and motorcycle.

NHTSA concurs with Honda that new technology that may lead to greater rider control over the brake force thus resulting in reduced stopping distances and better crash avoidance is in the public interest, and consistent with efforts to improve traffic safety.

In consideration of the foregoing, it is hereby found that an exemption would facilitate the field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of Motor Vehicle Safety Standard No. 122, and that an exemption will be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301 *Motor Vehicle Safety.* Accordingly, American Honda Motor Company, Inc.

is hereby granted NHTSA Temporary Exemption 97–1, expiring September 1, 1998, from the following requirements incorporated in 49 CFR 571.122 Motor Vehicle Safety Standard No. 122 *Motorcycle Brake Systems:* S5.4.1 *Baseline check—minimum and maximum pedal forces,* S5.4.2 *Fade,* S5.4.3 *Fade recovery,* S5.7.2 *Water recovery test,* and S6.10 *Brake actuation forces.* As provided in 49 CFR § 555.6, under this grant of temporary exemption no more than 2,500 motorcycles exempted from Standard No. 122 may be sold in the United States in the period for which the exemption is granted.

(Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: October 1, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–26491 Filed 10–2–97; 9:33 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 33388 (Sub–Nos. 1–7)]

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail, Inc. and Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice of Availability of the Environmental Assessments for Three Norfolk Southern Railway Company (NS) Rail Line Constructions and Four CSX Transportation, Inc. (CSX) Rail Line Constructions Prior to the Surface Transportation Board's Decision on the Acquisition and Division of the Consolidated Rail Corporation (Conrail).

SUMMARY: The Surface Transportation Board (Board) gives notice of the availability of the environmental assessments (EA) and public comment period for three NS rail line constructions and four CSX rail line constructions. Although the EAs recommend several mitigation measures to off-set specific environmental effects, the EAs generally conclude that there will be no significant environmental impacts associated with the construction of these rail lines.

DATES: Written comments on the environmental impacts of Finance Docket No. 33388 (Sub-Nos. 1–7) are due October 27, 1997.

ADDRESSES: If you wish to file comments on the EAs, send an original and 10 copies to: Vernon A. Williams, Secretary, Surface Transportation Board, 1925 K Street, NW, Suite 700, Washington, DC 20423–0001. Mark the lower left corner of the envelope: Attention: Dana White, Environmental Comments, Finance Docket No. 33388 (Sub-Nos. 1–7).

FOR FURTHER INFORMATION CONTACT: Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001; (202) 565–1552. TDD for the hearing impaired: (202) 565–1695. Copies of the EAs may also be obtained by contacting Ms. White.

SUPPLEMENTARY INFORMATION: On April 10, 1997, CSX, NS and Conrail filed their notice of intent to file an application seeking the Board's authorization for: (1) The acquisition by CSX and NS of control of Conrail, and (2) the division of Conrail's assets. Shortly afterwards, NS and CSX requested and received approval from the Board to seek the Board's authority to construct and operate seven rail line connections prior to the Board's decision on the acquisition and division of Conrail.

The seven rail line constructions are each relatively short (a total length of under 4 miles), would provide connections between two rail carriers, and would take place within existing rights-of-way. Early authorization to construct these connections, CSX and NS contended, would allow them to provide efficient service in competition with each other. However, no construction can occur until the Board completes its environmental review of each of the construction projects. Further, the Board advised CSX and NS that they were proceeding at their own risk in expending resources prior to the Board's decision on the acquisition transaction.

In seven separate EAs, the Board considered the environmental aspects of these proposed constructions and the railroads' proposed operations over these lines. The operational implications of the acquisition as a whole, including operations over the roughly 4 miles of line embraced by the seven connection projects, will be examined in the environmental impact statement being prepared to assess the impacts of the entire acquisition transaction.

On October 7, 1997, the Board served the EAs on Federal, state and local agencies and members of the affected communities. Although the EAs recommend several mitigation measures to off-set specific environmental effects, the EAs generally conclude that there will be no significant environmental impacts. There is a 20-day public comment period ending October 27, 1997. The Board will consider the findings of the EAs as well as any comments on the EAs in its decision to approve or deny the construction of each of these lines.

The following is a list of the EAs, the locations of the proposed rail line constructions, the railroads, and their sub-docket numbers within the primary Finance Docket Number 33388 for the proposed acquisition:

ENVIRONMENTAL ASSESSMENTS FOR SEVEN RAIL LINE CONSTRUCTIONS

Location	Railroad	Finance docket 33388
Crestline, OH	CSX	(Sub No. 1)
Willow Creek, IN	CSX	(Sub No. 2)
Greenwich, OH	CSX	(Sub No. 3)
Sidney Junction, OH.	CSX	(Sub No. 4)
Sidney, IL	NS	(Sub No. 5)
Alexandria, IN	NS	(Sub No. 6)
Bucyrus, OH	NS	(Sub No. 7)

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26542 Filed 10–6–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 573]

Rail Service in the Western United States

AGENCY: Surface Transportation Board.

ACTION: Notice of proceeding and public hearing.

SUMMARY: The Surface Transportation Board (Board) is instituting a proceeding and will hold a public hearing on October 27, 1997, at its offices in Washington, DC, to provide interested persons the opportunity to report on the status of rail service in the western United States and to review proposals for solving the service problems that exist.

DATES: Persons wishing to appear at the hearing and make a statement must submit their request to speak at the hearing, and their requested time allotment, by October 9, 1997. The Board will issue a schedule for the hearing, along with a list of speakers

and their allotted times, by October 16, 1997. Speakers' written statements must be filed with the Board by October 23, 1997.

ADDRESSES: Send requests to speak and requested time allotments (an original and 10 copies) referring to STB Ex Parte No. 573 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Surface Transportation Board (Board) is instituting a proceeding on its own motion and will hold a public hearing beginning at 10:00 a.m., on October 27, 1997, at its offices at 1925 K Street, N.W., Washington, DC, to provide an opportunity for interested persons, including carriers, shippers, and employees, to report on the status of rail service in the western United States and to review proposals for solving service problems. The Board has been made aware of railroad service problems in this area of the country [recently involving the Union Pacific Railroad Company/Southern Pacific Transportation Company (UP/SP)] through formal filings and public accounts, and, more recently, through informal communications between affected persons and the Board's Office of Compliance and Enforcement (OCE) about specific UP/SP service problems, which OCE has worked with UP/SP to resolve. Based on this information, we believe it is appropriate to hold a public hearing on the issue of rail service in the western part of the country, problems in the delivery of that service, and solutions, both governmental and non-governmental, that have been offered or might be offered to remedy these service problems. The focus of this proceeding is on the immediate resolution of existing problems.

This proceeding and this public hearing are being conducted separate and apart from the ongoing oversight proceeding in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company,* STB Finance Docket No. 32760 (Sub-No. 21). There, the focus is on whether the conditions we imposed in approving the application in Finance Docket No. 32760 have been successful in resolving the competitive problems that we found would exist as a result of our approval of the UP/SP control transaction in the absence of those conditions. Parties to the oversight proceeding have, however, commented on service problems on the UP/SP system, and both UP/SP and The Burlington Northern and Santa Fe Railway Company, in their most recent quarterly reports, filed October 1, 1997, in the oversight proceeding, have separately put forth proposals that, in their view, would lead to a resolution of the existing service problems. Given the immediacy of these service problems and the national, as well as regional, interest in their resolution, we are instituting this proceeding to focus specifically on the rail service problems that have arisen in the western part of the country. [1]

We encourage interested persons to coordinate the presentation of their points of view by selecting of a single individual to appear at the hearing on behalf of their common interests so that the opportunity for input at the hearing can be maximized. Persons wishing to appear and make a statement at the hearing should submit a request for time to speak on or before October 9, 1997. The Board notes that, in the interest of a focused hearing, it must necessarily limit the number of persons allowed to speak. At this hearing, we intend to concentrate more on operational, resource, and customer service matters than on legal issues, and it would be helpful if speakers are individuals who are able to address such matters. The Board will issue a schedule for the October 27, 1997 hearing, along with a list of speakers and their allotted times, by October 16, 1997. Speakers' written statements of their presentations must be filed with the Board by October 23, 1997.

Notice of the October 27, 1997 hearing will be published in the **Federal Register**.

Decided: October 2, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26579 Filed 10–6–97; 8:45 am]

BILLING CODE 4915–00–U

[1] To ensure that all parties to the oversight proceeding are aware of the proceeding we are instituting by this notice, we will serve a copy of this notice on all parties on the service list in the oversight proceeding.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33469]

Application of the National Railroad Passenger Corporation Under 49 U.S.C. 24308(a)—Union Pacific Railroad Company and Southern Pacific Transportation Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Order and request for comments.

SUMMARY: The Board is seeking comments from interested persons on the application of the National Railroad Passenger Corporation (Amtrak) under 49 U.S.C. 24308(a), formerly section 402(a) of the Rail Passenger Service Act (the Act), for an order determining under the law the nature and extent of the duty of the Union Pacific Railroad Company (UP) and its affiliate, Southern Pacific Transportation Company (SP) (collectively, UP/SP), to allow Amtrak to use UP/SP's tracks and facilities for the carriage of express. The Board is also ordering UP/SP to continue to make its tracks and facilities available to Amtrak, as directed herein, while this proceeding is pending.

DATES: Written notices of intent to participate are due by October 14, 1997. Shortly thereafter, we will serve a preliminary service list and request for written corrections. By October 31, 1997, we will serve any necessary corrections to the service list. Opening comments are due by November 10, 1997. Reply comments are due by November 25, 1997.

ADDRESSES: Send an original and 10 copies of notices of intent to participate and comments, referring to ''STB Finance Docket No. 33469,'' to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423. Opening and reply comments must be served on the persons identified as ''parties of record'' on the service list.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: This proceeding raises questions about the definition of ''express'' traffic and the extent to which freight railroads are required to allow Amtrak to use their facilities to carry express. Freight railroads must permit Amtrak to operate over their lines. The provisions of 49 U.S.C. 24305(a)(1) and 24305(c)(2) authorize Amtrak to operate intercity

and commuter rail passenger transportation and to transport mail and express. In addition, the provisions of 49 U.S.C. 24306(a) and 24101(c)(1)(B) direct Amtrak to seek to increase its revenues from the transportation of mail and express. The statute, however, does not define ''express.''

Historically, in addition to its passenger service, Amtrak has carried what it and UP/SP appear to agree is express traffic. In recent months, however, Amtrak has taken steps that it indicates are necessary to improve its financial condition by carrying additional volumes of freight that it describes as express. Amtrak's financial condition is well known.

UP/SP has resisted Amtrak's efforts to expand its freight operations. UP/SP's position is that the type of traffic that Amtrak contemplates now handling falls into the category of general freight rather than express as intended under the law. UP/SP also argues that the expanded freight operations that Amtrak contemplates would create operational and logistical problems for the railroads over whose tracks Amtrak operates, as well as the towns and cities through which Amtrak operates. The recent operational difficulties that have been experienced by UP/SP are well known, as are the concerns of many towns and cities about train traffic in general.

Because Amtrak and UP/SP could not resolve the issue privately, by application filed September 16, 1997, under 49 U.S.C. 24308(a), formerly section 402(a) of the Act,[1] Amtrak seeks an order that: (1) requires UP/SP to continue to make available to Amtrak the facilities necessary for it to continue to transport express on its trains while this proceeding is pending; and (2) establishes a procedural schedule ''leading ultimately to entry of a final order determining that Amtrak's transport of express traffic is necessary to carry out the purposes of the Act, and requiring UP/SP to make available to Amtrak the facilities and services needed to allow Amtrak trains to transport express.''

In its application, Amtrak states that its existing general agreement governing its relationship with UP/SP, which was scheduled to expire on September 30, 1997, has been extended through October 31, 1997. However, Amtrak asserts, UP/SP is unwilling to extend beyond September 30, 1997, a ''provision in Amtrak's agreements with UP/SP that gives Amtrak the right to carry express on Amtrak's trains to the extent authorized by the Act.''

UP/SP filed a reply on September 23, 1997. In its reply, UP/SP takes issue with Amtrak's contentions that the freight operations that Amtrak contemplates are operationally feasible, and that they are consistent with the express service provisions of the Act. UP/SP states in that reply that it does not object to entry of an order preserving the status quo while Amtrak's application is being reviewed, as long as the order does not allow Amtrak to effect a ''blanket authorization for unlimited expansion of its commodity-hauling operation.''

On September 26, 1997, Amtrak sought leave to file a tendered response to UP/SP's reply, which UP/SP has opposed. Amtrak asserts that it should be permitted to file the response because it could not have reasonably anticipated the arguments that UP/SP would be advancing in its reply. We do not find that assertion credible; indeed, given the extensive relief that Amtrak has sought, UP/SP's reply raises the types of arguments we would have expected it to present. Nevertheless, we will accept and consider Amtrak's response, and UP/SP's opposition to it, in the interest of developing a complete record.

Discussion and Conclusions

Under 49 U.S.C. 24308(a)(2), we have authority to prescribe the terms and compensation for Amtrak's use of facilities owned by, or receipt of services to be provided by, freight railroads in connection with Amtrak's operation over their track, if (1) the parties cannot agree and (2) such prescription is necessary to carry out the purposes of the Act. Here, it is apparent that the parties cannot agree, as Amtrak has asked us to declare the nature and extent of UP/SP's duty to make its facilities available to Amtrak for the carriage of express, which is an important issue that bears on the fundamental purposes of the Act.

Accordingly, we are commencing a proceeding to resolve this dispute.[2] Because of the potentially broad impact of any ruling that we might issue in this matter, we are publishing this notice in the **Federal Register** soliciting comments from persons that may be affected: other railroads and railroad employees, potential users, and, particularly insofar as operational matters are concerned, cities and towns and the Secretary of Transportation.

As noted, this dispute revolves around the meaning of the statutory term ''express'' in the Act, and whether there are limits on the type and quantity of freight traffic that Amtrak may carry consistent with the statutory authorization to carry express. Amtrak argues that there are no ''defined limits'' to its authority to transport express (Response at 2),[3] and that UP/SP is improperly taking the position that: (1) The Act does not give Amtrak the right to transport carload or truckload shipments of express; (2) certain commodities transported by Amtrak do not constitute express;[4] and (3) Amtrak may be subjected to overall footage limits on individual trains carrying express cars.

UP/SP argues that Amtrak's efforts to solicit carload traffic (such as carloads of beer), and to expand considerably the length of its trains, are inconsistent with the statutory intent that transportation of mail and express traffic be ancillary to Amtrak's provision of passenger service. UP/SP also argues that expansion of Amtrak's non-passenger services would produce serious operational and logistical problems at the various cities and towns through which UP/SP operates.[5]

Commenters should address these issues. In addition to the operational concerns and the commodity/train length issues raised by UP/SP, commenters should address the legislative intent in enacting the Act, and, in particular, the extent to which Congress intended that Amtrak's express services be ancillary to its passenger services. We must note that we expect all commenters to express their fully developed positions in their opening comments, and not to back-load their filings by reserving their major points to their reply comments.

Amtrak has asked us that, while this proceeding is pending, we issue an interim order that will require UP/SP to

[1] Section 402(a) was originally codified at 45 U.S.C. 562(a). In Pub. L. No. 103–272, 108 Stat. 745, enacted on July 5, 1994, section 402(a) was recodified in its present form as 49 U.S.C. 24308(a). In section 205 of the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, enacted December 29, 1995, references to the ''Interstate Commerce Commission'' in this and other statutory provisions were replaced with references to the Surface Transportation Board.

[2] After we resolve this matter, we may also be called upon to address other issues relating to the facilities that UP/SP must provide to Amtrak, such as the incremental cost of access and the terms of payment. At this point, however, we are focusing only on the narrow issue raised. We expect that any final compensation methodology that we may prescribe would be made retroactive to October 1, 1997.

[3] Amtrak asserts that passenger trains historically operated ''with 30 to 40 mail and express cars,'' and that, ''As recently as 1959, intercity passenger trains derived as much as 46% of their revenue from mail and express. * * *''

[4] Amtrak asserts that Board precedent does not limit the commodities that can qualify as express.

[5] In its response, Amtrak asserts that its anticipated expansion of operations will not produce operational problems.

continue to make its facilities available to Amtrak for handling express traffic so that Amtrak will be able ''to continue to serve shippers for whom it currently transports both carload and other shipments, and for whom it has commitments to do so after October 1.'' Amtrak's objective is to expand its freight business so that it can obtain increased revenues during the pendency of the proceeding. In its application, Amtrak indicates that it wants us to facilitate this objective by preserving the status quo, which, in Amtrak's view, means accepting its position that there are not and have never been any limits on its authority to carry what it determines to be express. Response at 5–6.[6] In its response, Amtrak indicates that it will accept an interim 18-car train limit on the number of cars in its trains, on the ground that UP/SP has already agreed that 18-car trains are operationally feasible and have been typically operated in the past. In its most recent filing, UP/SP disputes Amtrak's statements about the feasibility of 18-car trains at certain locations, such as Reno, Nevada, and Oakland, California.

We cannot, in an interim order, direct UP/SP to allow Amtrak access for whatever traffic Amtrak declares is express. The limits on Amtrak's freight traffic authority are precisely what we are being asked to resolve in the case, and that is the issue on which we are now seeking public comment. Typically in these proceedings,[7] we require that the parties maintain the status quo pending our resolution of the matter. However, because of the variety of potential combinations in the Amtrak operations that have been or might have been conducted in the past at each of the numerous stations that Amtrak serves (regarding, for example, train consist issues), an order simply directing the parties to maintain the ''factual'' status quo would likely produce uncertainty and continued litigation. Therefore, we will establish a numerical equipment limitation for the interim that appears to be consistent with the representations of both parties. Except where it is operationally infeasible, UP/SP generally may not limit Amtrak's access to less than 18 cars. Consistent with Amtrak's representation that it does not need to operate more than 600 feet of express cars during the interim period, however, UP/SP may limit Amtrak to 9 express cars per train. Thus, the trains that UP/SP must permit Amtrak to operate over UP/SP's lines may be as long as 18 cars, and may contain as many as 9 express cars. This interim order, we stress, is not intended to prejudge, in any way, the matters on which we have sought comment, but is simply designed as a practical solution while the case is pending.

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

It is ordered:

1. On or after September 30, 1997, UP/SP will preserve on an interim basis the current provisions in the parties' agreement governing express and the practices thereunder as provided in this decision and will provide services, tracks, and facilities to Amtrak in accordance with those provisions and practices.

2. A proceeding is instituted to investigate the extent of UP/SP's obligation under the Act to allow Amtrak to use UP/SP's lines and facilities for the carriage of express.

3. Commenters shall comply with the procedural schedule set out earlier.

4. Amtrak's request for leave to file its response is granted.

5. This decision is effective on its date of service.

Decided: September 29, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26541 Filed 10–6–97; 8:45 am]

BILLING CODE 4915–00–P

[6] In support of its argument that the Board must order UP/SP to open its facilities, on an interim basis, to whatever Amtrak decides to characterize as express, Amtrak states that it has already purchased or committed to obtain additional equipment, and has entered into agreements with customers to carry additional freight. The Board notes in this regard that any party that takes action assuming in advance that a difficult legal issue will be resolved in its favor assumes whatever risks are associated with such action.

[7] *See Application of the National Railroad Passenger Corp. Under 49 U.S.C. 24308(a)—Order to Require Service and Set Compensation Terms,* STB Finance Docket No. 32911 (STB served Apr. 30, 1996).

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 29, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0052.

Form Number: IRS Forms 990–PF and 4720.

Type of Review: Extension.

Title: Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation (990–PF); and Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code (4720).

Description: Internal Revenue Code (IRC) section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990-PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Form 4720 is used by foundations and/or persons to report prohibited activities in detail and pay the tax on them.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 52,214.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
990–PF	140 hr., 52 min	27 hr., 35 min	32 hr., 2 min	16 min.
4720	39 hr., 42 min	16 hr., 1 min	22 hr., 57 min	1 hr., 37 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 10,533,927 hours.

OMB Number: 1545–0393.

Form Number: IRS Letter 109C.

Type of Review: Extension.

Title: Return Requesting Refund Unlocatable or Not Filed; Send Copy.

Description: The code requires tax returns to be filed. It also authorizes IRS to refund any overpayment of tax. If a taxpayer inquiries about their non-receipt of refund and no return is found, this letter is sent requesting the taxpayer file another return.

Respondents: Business of other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 18,223.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,513.

OMB Number: 1545–1282.

Form Number: Revision.

Type of Review: Extension.

Title: Enhanced Oil Recover Credit.

Description: The enhanced oil recovery (EOR) credit is 15% of qualified costs paid or incurred during the year. The purpose is to get more oil from the wells. The IRS uses the information on the form to ensure that the credit is correctly computed.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 10,000.

Estimated Burden Hours Per Respondent/Recordkeeping:

Recordkeeping—5 hr., 59 min.
Learning about the law or the form—1 hr., 0 min.
Preparing and sending the form to the IRS—1 hr., 8 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 81,100 hours.

OMB Number: 1545–1444.

Form Number: IRS Form 8844.

Type of Review: Revision.

Title: Empowerment Zone Employment Credit.

Description: Employers who hire employees who live and work in one of the 9 designated empowerment zones can receive a tax credit for the first $15,000 of wages paid to each employee. The credit is applicable from the date of designation through the year 2004.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—8 hr., 37 min.
Learning about the law or the form—1 hr., 35 min.
Preparing and sending the form to the IRS—1 hr., 48 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 360,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–26465 Filed 10–6–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 29, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0086.

Form Number: Customs Forms 214, 214A, 214B, 214C, and 216.

Type of Review: Extension.

Title: Application for Foreign Trade Zone Admission and Status Designation (CFs 214, 214A, 214B, 214C); and Application of Foreign-Trade Zone Activity Permit (CF 216)

Description: Customs Forms 214, 214A, 214B, and 214C, Application for Foreign-Trade Zone Admission and/or Status Designation, are used by business firms which bring merchandise into a foreign trade zone, to register the admission of such merchandise to zones and to apply for the appropriate zone status. This information is collected pursuant to 19 CFR 146.32. Customs Form 216, Application for Foreign-Trade Zone Activity Permit, is used by business firms to request approval to manipulate, manufacture, exhibit or destroy merchandise in a foreign trade zone in accordance with 19 CFR 146.52.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Recordkeepers: 8,675.

Estimated Burden Hours Per Recordkeeper: 17 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 62,675 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–26466 Filed 10–6–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 30, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information

collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 154–0096.

Form Number: IRS Forms 1042 and 1042–S.

Type of Review: Revision.

Title: Annual Withholding Tax Return for U.S. Source of Income of Foreign Persons (1042); and Foreign Person's U.S. Source of Income Subject to Withholding.

Description: Form 1042 is used by withholding agents to report tax withheld at source on certain income paid to nonresident alien individuals, foreign partnerships, and foreign corporations to the IRS. Form 1042–S is used by withholding agents to report income and tax withheld to payees. A copy of each Form 1040–S is filed magnetically or with Form 1042 for information reporting purposes. The IRS uses this information to verify that the correct amount of tax has been withheld and paid to the United States.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 22,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
1042	10 hr., 31 min	2 hr., 8 min	4 hr., 15 min	32 min.
4720	5 hr., 1 min	3 hr., 33 min	4 hr., 43 min	16 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 22,063,680 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–26467 Filed 10–6–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Office; Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on October 28 and 29, 1997, of the following debt management advisory committee: The Bond Market Trade Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff on October 28, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On October 29, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on October 28 and will be open to the public. The remaining sessions on October 28 and the committee's reporting session on October 29, will be closed to the public pursuant to 5 U.S.C. App. § 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. § 10(d) and vested in me by the Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of the Assistant Secretary for Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b.

Dated: October 1, 1997.

Gary Gensler,

Assistant Secretary (Financial Markets).

[FR Doc. 97–26490 Filed 10–6–97; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: American Mercury Insurance Company

AGENCY: Financial Management Service, Fiscal Service Department of the Treasury.

ACTION: Surety companies acceptable on federal bonds CHANGE OF NAME American Fidelity Insurance Company.

SUMMARY: Dept. Circ. 570, 1997—Rev., Supp. No. 1)

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch (101) 874–7102.Q02

SUPPLEMENTARY INFORMATION: American Fidelity Insurance Company, an Oklahoma corporation, has formally changed its name to American Mercury Insurance Company, effective August 1, 1997. The Company was last listed as an acceptable surety on Federal bonds at 62 FR 35550, July 1, 1997.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to American Mercury Insurance Company, Oklahoma City, Oklahoma. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of

$3,850,000 established for the Company as of July 1, 1997, remains unchanged until June 30, 1998.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, at page 35551 to reflect this change.

The Circular may be viewed and downloaded through the Internet (http://www/fms.treas.gov/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 847–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00499–7.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A14, Hyattsville, MD 20782.

Dated: September 18, 1997.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 97–26459 Filed 10–6–97; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–44

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–44, LIFO Conformity Requirement.

DATES: Written comments should be received on or before December 8, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: LIFO Conformity Requirement.

OMB Number: 1545–1559.

Revenue Procedure Number: Revenue Procedure 97–44.

Abstract: Revenue Procedure 97–44 permits automobile dealers that comply with the terms of the revenue procedure to continue using the LIFO inventory method despite previous violations of the LIFO conformity requirements of Internal Revenue Code section 472(c) or (e)(2).

Current Actions: There are no changes being made to the revenue procedure this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 29, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer

[FR Doc. 97–26559 Filed 10–6–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TREASURY

Internal Revenue Service

Notice of Open Meeting of the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC) in response to a recommendation made by the United States Congress. The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program (IRP).

There will be a meeting of IRPAC on Tuesday and Wednesday, October 28–29, 1997. The meeting will be held in Room 3313 of the Internal Revenue Service Main Building, which is located at 1111 Constitution Avenue, NW., Washington, DC. A summarized version of the agenda along with a list of topics that are planned to be discussed are listed below.

Summarized Agenda for Meeting on October 28–29, 1997

Tuesday, October 28, 1997

9:30 Public Meeting Opens
11:30 Break for Lunch
1:00 Public Meeting Continues
4:30 Adjourn for the Day

Wednesday, October 29, 1997

9:30 Public Meeting Reconvenes

12:00 Adjourn

The topics that will be covered are as follows:

(1) Information Reporting for Small Estates.

(2) State Reporting on Form 1099–MISC.

(3) Issues Relating to Forms 5498, 1099–R and 1099–MSA.

(4) Usage of Individual Taxpayer Identification Numbers (ITIN's).

(5) Publication 515 Regarding Individual Retirement Account (IRA) Distributions.

(6) Introduced Business and Form W–9 Sharing.

(7) Foreign Withholding Final Regulations.

(8) Taxpayer Relief Act of 1997.

(9) Elimination of the Centralized IRP Call-Site at the Martinsburg Computing Center.

(10) Information Reporting for Disregarded Entities.

(11) Martinsburg Computing Center Update.

(12) Electronic Financial Tax Payment System (EFTPS).

(13) Tip Reporting.

(14) TIN Matching for the Private Sector.

(15) Electronic Filing of Information Returns.

(16) Century Date Change.

(17) Form W–2c Requirement for Address Corrections.

(18) Procurement Card Reporting.

(19) December/January Mutual Fund Dividends for Foreign Shareholders.

(20) Direct Deposit Message on Form 1099.

Note: Last minute changes to these topics are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Office of Specialty Taxes, who is the executive responsible for information reporting payer compliance. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance, reducing burden, and improving customer service. IRPAC is currently comprised of 19 representatives from various segments of the information reporting payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two public meetings each year.

DATES: The meeting will be open to the public, and will be in a room that accommodates approximately 80 people, including members of IRPAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. In order to get your name on the building access list, *notification of intent to attend this meeting must be made with Ms. Thomasine Matthews no later than Thursday, October 23, 1997. Ms. Matthews can be reached at 202–622–4214 (not a toll-free number).* Notification of intent to attend should include your name, organization and phone number. If you leave this information for Ms. Matthews in a voice-mail message, please spell out all names. A draft of the agenda will be available via facsimile transmission the week prior to the meeting. Please call Ms. Matthews on or after Monday, October 20, 1997 to have a copy of the agenda faxed to you. Please note that a draft agenda will not be available until Monday, October 20, 1997.

ADDRESSES: If you would like to have IRPAC consider a written statement at a future IRPAC meeting (not the October 1997 meeting), please write to Kate LaBuda at IRS, Office of Specialty Taxes, CP:EX:ST:PC, Room 2013, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: To give notification of intent to attend this meeting, call Ms. Thomasine Matthews at 202–622–4214 (not a toll-free number). For general information about IRPAC call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: September 24, 1997.

Kate LaBuda,

(Acting) Director Office of Payer Compliance Office of Specialty Taxes.

[FR Doc. 97–26018 Filed 10–6–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 62, No. 194

Tuesday, October 7, 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39129; File No. SR-NYSE-97-16]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Amendments to NYSE Rule 79A

Correction

In notice document 97–25991 beginning on page 51497 in the issue of Wednesday, October 1, 1997, make the following correction:

On page 51498, in the third column, under the title ''Solicitation of Comments'', the third paragraph ''[insert date 21 days from date of publication].'' should read ''October 22, 1997''.

BILLING CODE 1505-01-D

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 101 and 102

Procedures and Rules Governing Summary Judgment Motions and Advisory Opinions

Correction

In rule document 96–31457 beginning on page 65180, in the issue of Wednesday, December 11, 1996, make the following correction:

§ 101.39 [Corrected]

On page 65182, in the second column, in the first paragraph, in the first line, ''The question'' should read ''(a) The question''.

BILLING CODE 1505-01-D

federal register

Tuesday
October 7, 1997

Part II

Environmental Protection Agency

40 CFR Parts 9, 60, and 63

National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 60, and 63

[IL–64–2–5807; FRL–5898–5]

RIN 2060–AE76

National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant. In addition, the new source performance standard for primary aluminum plants is amended and most of the requirements are incorporated in the final national emission standards. This action also adds Method 315 for the measurement of extractable organic matter to appendix A of part 63 and Method 14A for the measurement of total fluoride (TF) to appendix A of part 60.

The major hazardous air pollutants (HAPs) emitted by the facilities covered by this rule include hydrogen fluoride (HF) and polycyclic organic matter (POM). Polycyclic aromatic hydrocarbons (PAHs) are included in the chemical group POM. Polycyclic aromatic hydrocarbons have been reported to produce carcinogenic, reproductive, and developmental effects as well as toxic effects on blood, the liver, eyes, and the immune system. The final rule will result in a 50 percent reduction in fluoride and POM emissions from the current level of 11,000 tons per year (tpy); a substantial reduction in emissions of nonHAP pollutants, such as particulate matter, also will be achieved.

These standards implement section 112(d) of the Clean Air Act as amended (the Act) and are based on the Administrator's determination that primary aluminum plants may reasonably be anticipated to emit several of the HAPs listed in section 112(b) of the Act from the various process operations found within the industry.

EFFECTIVE DATE: October 7, 1997. See the **SUPPLEMENTARY INFORMATION** section concerning judicial review.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 7, 1997.

ADDRESSES: *Docket.* The docket for this rulemaking containing the information considered by the EPA in development of the final rule is Docket No. A–92–60. This docket is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW., Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

Background Information Document. A background information document, titled ''National Emission Standards for Hazardous Air Pollutants (NESHAP) for Primary Aluminum Reduction Plants—Background Information for Promulgated Standards, Summary of Public Comments and Responses,'' has been prepared summarizing the significant public comments made on the proposed rule and the Administrator's response to those comments. This document is available in the docket for this rulemaking and also is available for downloading from the Technology Transfer Network under the Clean Air Act Amendments, Recently Signed Rules.

FOR FURTHER INFORMATION CONTACT: Steve Fruh, Policy, Planning, and Standards Group, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2837, electronic mail address, ''fruh.steve@epamail.epa.gov''.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those that emit or have the potential to emit HAPs listed in section 112(b) of the Act. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Primary aluminum reduction plants.
Federal government: Not affected	
State/local/tribal government: Not affected.	

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.840 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

This NESHAP for primary aluminum reduction plants was proposed on September 26, 1996 (61 FR 50586). This notice promulgating a NESHAP for primary aluminum reduction plants constitutes final administrative action concerning that proposal. Under section 307(b)(1) of the Clean Air Act, judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 8, 1997. Under section 307(d)(7)(B) of the Act, only an objection to this rule which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the Act, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding brought by EPA to enforce these requirements.

Technology Transfer Network

The Technology Transfer Network is one of the EPA's electronic bulletin boards. The Technology Transfer Network provides information and technology exchange in various areas of air pollution control. The service is free except for the cost of a phone call. Dial (919) 541–5472 for up to a 14,400 bps modem. The Technology Transfer Network is also accessible through the Internet at ''http://ttnwww.rtpnc.epa.gov.'' If more information on the Technology Transfer Network is needed, call the HELP line at (919) 541–5384.

Outline

The following outline is provided to aid in reading this preamble to the final rule.

I. Statutory Authority
II. Purpose
III. Background
A. Primary Aluminum Source Category
B. NESHAP for Source Categories

C. Health Effects of Pollutants
IV. Summary of Final Rule and Changes Since Proposal
A. Applicability
B. Emission Limits and Standards
C. Incorporation of the NSPS
D. Emission Averaging
E. Compliance Provisions
F. Emission Monitoring
G. Test Methods
H. Time Limit for Approval or Disapproval of Submissions
I. Notification, Reporting, and Recordkeeping Requirements
J. Display of OMB Control Numbers
V. Summary of Impacts
VI. Summary of Responses to Major Comments
A. Subcategories
B. Format of the Standard
C. Achievability of Emission Limits
D. Incorporation of the NSPS
E. Time Limit for Approval by the Regulatory Authority
F. Relationship to Other Rules
G. Reduced Sampling Frequency
H. Approval of Alcan Cassette Method (Method 14A)
I. Estimates of Costs for Control and Monitoring
J. Exceeding an Operating Parameter Limit
K. Pitch Storage Tanks
VII. Administrative Requirements
A. Docket
B. Executive Order 12866
C. Enhancing the Intergovernmental Partnership Under Executive Order 12875
D. Unfunded Mandates Reform Act
E. Regulatory Flexibility
F. Submission to Congress and the General Accounting Office
G. Paperwork Reduction Act
H. Clean Air Act

I. Statutory Authority

The statutory authority for this rule is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended; 42 U.S.C., 7401, 7412, 7414, 7416, and 7601.

II. Purpose

The Clean Air Act was created in part ''to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.'' [See section 101(b)(1).] Section 112 of the Act establishes a technology-based program to reduce stationary source emissions of HAPs from new and existing sources.

Section 112(d) of the Act requires the regulations to reflect the maximum degree of reduction in emissions of HAPs that is achievable taking into consideration the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the maximum achievable control technology (MACT). The goal of the section 112(d) MACT standards is to apply such control technology to reduce emissions and thereby reduce the hazard of HAPs emitted from stationary sources.

This final rule is technology based, i.e., based on MACT. In essence, these MACT standards ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. At the same time, this approach provides a level economic playing field, ensuring that facilities that use cleaner processes and good emission controls are not disadvantaged relative to competitors with poorer controls.

III. Background

A. Primary Aluminum Source Category

Section 112(c) of the Act requires the EPA to list each category of major and area sources, as appropriate, emitting one or more of the HAPs listed in section 112(b) of the Act. The term ''major source'' is defined by the Act to mean:

> * * *Any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs.

On July 16, 1992 (57 FR 31576), the EPA published a list of major and area sources for which NESHAP are to be promulgated, and primary aluminum production was one of the 174 categories of sources listed. The listing was based on the Administrator's determination that primary aluminum plants may reasonably be anticipated to emit several of the listed HAPs in sufficient quantity to be designated as major sources. The EPA schedule for promulgation of the MACT standards was published on December 3, 1993 (58 FR 63941), and requires that rules for the primary aluminum source category be promulgated by November 15, 1997.

The primary aluminum source category includes facilities engaged in producing primary aluminum by electrolytically reducing alumina. The NESHAP for primary aluminum production applies to all primary aluminum production plants because all of these sites are major sources.

B. NESHAP for Source Categories

The control of HAPs is achieved through the promulgation of technology-based emission standards under section 112(d) and design, equipment, work practice, or operational standards under section 112(h) for categories of sources that emit HAPs. Emission reductions may be accomplished through the application of measures, processes, methods, systems, or techniques including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitution of materials, or other modifications; (2) enclosing systems or processes to eliminate emissions; (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage, or fugitive emissions point; (4) design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h); or (5) a combination of the above. (See section 112(d)(2).)

A statutory minimum or baseline level of HAP emission control that the EPA can select to be MACT for a particular source category is defined under section 112(d)(3) of the Act and is referred to as the ''MACT floor.'' For new sources, the MACT floor is the level of HAP emission control that is achieved in practice by the best controlled similar source. The statute allows standards under a NESHAP for existing sources to be less stringent than standards for new sources. The determination of MACT floor for existing sources depends on the nationwide number of existing sources within the source category. The floor is based on the average emission limitation achieved by the best-performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the best-performing 5 sources for categories or subcategories with fewer than 30 sources.

Once the MACT floors are determined for new and existing sources in a source category, the EPA must establish standards under a NESHAP that are no less stringent than the applicable MACT floors. The Administrator may promulgate standards that are more stringent than the MACT floor when such standards are determined by the EPA to be achievable taking into consideration the cost of implementing the standards as well as any non-air quality health and environmental impacts and energy requirements.

Section 112(d) of the Act requires EPA to establish emission standards for

each category or subcategory of major and area sources. Section 112(d)(1) of the Act provides that the Administrator may distinguish among classes, types, and sizes of sources within a category in establishing such standards. In establishing subcategories, EPA considers factors such as air pollution control engineering differences, process operations (including differences between batch and continuous operations), emission characteristics, control device applicability, and opportunities for pollution prevention.

C. Health Effects of Pollutants

Available emission data, collected in conjunction with development of the standard, show that the pollutants that are listed in section 112(b)(1) and are emitted by primary aluminum plants include HF, a gaseous inorganic compound, and POM. Following is a summary of the potential health effects caused by emission of pollutants that will be reduced by the standard.

Short-term inhalation exposure to gaseous HF and related fluoride compounds can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. Long-term inhalation exposure to low levels of HF by humans has been reported to result in irritation and congestion of the nose, throat, and bronchi while damage to liver, kidney, and lungs has been observed in animals. Occupational studies have not specifically implicated inhaled fluoride as a cause of cancer, and the Agency has not classified HF with respect to potential carcinogenicity.

There is generally a lack of information on human health effects associated with exposures to HF at current ambient air concentrations near primary aluminum plants. In their comments on the proposed rule, the aluminum industry asserted that there was no evidence of adverse effects on human health or the environment from HF emissions from aluminum production at the industry's current level of emission control.

Emission test results reveal that primary aluminum reduction plants emit POM, which includes a combination of PAHs such as anthracene, benzo(a)pyrene, and naphthalene, among others. Several of the PAH compounds, including benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene, are probable human carcinogens. Cancer is the major concern from exposure to these PAHs. Specifically, long-term exposure to benzo(a)pyrene has been reported to result in toxic effects on skin, irritation to eyes, cataracts in humans, and toxic effects on the liver, blood, and the immune system in animal studies. Reproductive and developmental effects from benzo(a)pyrene have also been reported in animal studies.

In addition to HAPs, this final standard also would reduce emissions of particulate matter smaller than 10 microns in diameter (PM_{10}), which are controlled under the National Ambient Air Quality Standards (NAAQS). The health effects of PM_{10} are described in EPA's criteria documents that support the NAAQS. For example, particles addressed by the PM_{10} standard have been associated with aggravation of existing respiratory and cardiovascular disease and increased risk of premature death.

The EPA does recognize that the degree of adverse effects to health can range from mild to severe. The extent and degree to which the health effects may be experienced depends upon: (1) The ambient concentrations observed in the area (e.g., as influenced by emission rates, meteorological conditions, and terrain), (2) the frequency of and duration of exposures, (3) characteristics of exposed individuals (e.g., genetics, age, pre-existing health conditions, and lifestyle), which vary significantly with the population, and (4) pollutant-specific characteristics (e.g., toxicity, half-life in the environment, bioaccumulation, and persistence).

IV. Summary of Final Rule and Changes Since Proposal

Changes have been incorporated into the final NESHAP for primary aluminum reduction plants in response to comments on the proposed rule. The principal changes made since proposal are summarized below.

A. Applicability

As proposed, the final standard applies to emissions of HF, measured using TF as a surrogate, and POM (as measured by methylene chloride extractables) from each affected source associated with primary aluminum reduction and located at a major source.

Under the proposed standard, affected sources included each new and existing potline of reduction cells, anode bake furnace, and paste production plant, except for one off-site anode bake furnace that is subject to the State MACT determination established by the applicable regulatory authority. No changes were made to the final standard affecting the applicability of the rule to these affected sources.

In response to public comments, the applicability of the proposed rule was revised to include new pitch storage tanks. The control technology and standards applicable to this affected source are summarized in section IV.B of this document.

Following proposal, the EPA's Office of Solid Waste (OSW) received information that one primary aluminum plant has recently installed a new process designed to recycle spent potliner from aluminum reduction cells. Spent potliner is listed as a hazardous waste under the Resource Conservation and Recovery Act. This process vitrifies the waste into a glass material and recovers sodium fluoride and calcium fluoride for use in the aluminum production process. Although the process is not defined as an affected source under the final MACT rule, the Office of Air Quality Planning and Standards (OAQPS) and OSW are working in cooperation with the State agency and the plant to evaluate potential air emissions (e.g., emission testing will be performed in the near future) and to determine whether additional emission control requirements beyond those currently required by the State are needed.

B. Emission Limits and Standards

No changes were made to the control options serving as the basis of the proposed standards. The emission control technology selected as the basis of the standards is discussed in section III.C of the proposal preamble document (61 FR 50588, September 26, 1996).

Three changes were made to the emission limits and standards in §§ 63.843 and 63.844 of the proposed rule. The POM emission limit for the VSS2 subcategory was reduced from 3.7 lbs/ton to 3.6 lbs/ton based on data received for the MACT floor potline from that subcategory. Section 63.843(b)(3) of the proposed rule concerning use of an alternative control device for paste production plants was revised to encourage pollution prevention options. Section 63.844 of the proposed rule also was revised to include new paragraph (d) containing provisions for new pitch storage tanks. No other changes were made to the proposed limits and standards for potlines or anode bake furnaces. These limits are summarized in Tables 1 and 2 of the proposal preamble document (61 FR 50588–50589, September 26, 1996).

No changes were made to the proposed equipment standard developed under section 112(h) of the Act that required a dry coke scrubber for the paste production plant. The EPA

concluded that it was not feasible or practicable to develop a defensible quantitative emission limit because there were too few POM data available. However, the available information and engineering judgement indicated that the best POM control technology in use for paste plants was the dry coke scrubber, which was determined to represent MACT.

The proposed provisions in § 63.843(b)(3) that qualify alternatives to the dry coke scrubber for paste production plants were revised in response to public comments to encourage pollution prevention measures, such as reducing the quantity of POMs used in paste production. The control efficiency standard that was proposed was replaced with POM emission limits for batch and continuous mixers in terms of pounds of POM per ton of paste. With this approach, an affected plant would not be penalized for using pollution prevention measures that reduce uncontrolled emissions. This change will encourage innovative or pollution prevention measures, such as reducing the quantity of POMs used in the paste operation. The alternative limit in lb/ton does not preclude plants from petitioning for other alternative means of emission limitation under section 112(h)(3) of the Act based on demonstrating an equivalent or greater emission reduction. A detailed discussion is provided in section VI.B of this document.

Section 63.844 of the proposed rule was revised to include new paragraph (d) establishing standards for new pitch storage tanks. New paragraph (d) requires that each new pitch storage tank be equipped with an emission control system designed and operated to reduce inlet emissions of POM by 95 percent or greater. Compliance and monitoring provisions are summarized in sections IV.E and IV.F of this document.

C. Incorporation of the NSPS

In response to comments on this issue, the EPA incorporated the provisions of the new source performance standard (NSPS) in subpart S of part 60 into a new section (§ 63.845) of the final rule and added appropriate definitions from the NSPS. Also, the NSPS was amended to allow the owner or operator to comply with either the NSPS or with the special provisions that were incorporated into § 63.845. With this change, any modified, reconstructed, or new potroom group that would have triggered the NSPS may now use the special provisions in the NESHAP to demonstrate compliance. Sampling and monitoring were streamlined by using the MACT requirements and by developing a single emission limit for a potline rather than overlapping limits for both the potline and the affected potroom group. The NSPS opacity limit was also incorporated.

D. Emission Averaging

Only one change was made to the emission limits in § 63.845 of the proposed NESHAP pertaining to emission averaging for potlines and anode bake furnaces. The POM limits for the VSS2 subcategory were reduced based on data collected for the MACT floor potline from that subcategory. The proposed limits are summarized in Tables 3 and 4 of the proposal preamble document (61 FR 50591, September 26, 1996). This section is renumbered as § 63.846 in the final rule.

The final standard contains provisions allowing the owner or operator to demonstrate compliance through averaging emissions of TF from all existing potlines, POM from existing Soderberg potlines, and TF and POM from existing anode bake furnaces (i.e., averaging is not allowed for new sources). Averaging between pollutants (TF and POM) is not allowed. The final standard also limits averaging to like sources (i.e., TF emissions from a potline can be averaged only with TF emissions from another potline at the same plant site). Emission averaging would not be allowed in any State that selects to exclude this option from its approved permitting program.

Monthly TF and quarterly POM limits for each group of potlines (two or more lines) are included in the rule. Under this approach, the owner or operator samples TF and/or POM emissions from at least three runs each month/quarter for each potline in the group to determine the average emissions from each potline. A minor revision was made to the wording in § 63.845(d)(2) of the proposed NESHAP (§ 63.846(d)(2) of the final rule) to clarify that monthly average potline emissions are determined from *each* potline from at least three runs *per potline* each month for TF secondary emissions and/or the quarterly average emissions from at least one run each month for POM emissions using the procedures and methods in §§ 63.847 and 63.849 of the final rule (emphasis added). As proposed, the sum of emissions from each potline is divided by total aluminum production from all of the potlines for the month (or for the quarter for POM) to determine the emissions in lb/ton for comparison to the applicable emission limit.

Section 63.846(d) of the NESHAP describes the requirements for an emission averaging implementation plan. The proposed standard required that unless an operating permit application has been submitted, the owner or operator must develop and submit an implementation plan for emission averaging to the applicable regulatory authority for review and approval. This language was revised to remove the misleading phase, ''unless an operating permit application has been submitted'' to clarify that each owner or operator desiring to participate in emission averaging must develop and submit an implementation plan. Paragraph (d)(2) of this section clearly states that the owner or operator must include the specified information in an implementation plan or in the application for an operating permit.

The language in § 63.845(d)(1) of the proposed NESHAP pertaining to the deadline for submission of the plan also was revised. Section 63.846(d)(1) of the final rule clarifies that the plan is to be submitted 6 months before the facility intends to comply with the emission averaging limits rather than 6 months before the applicable compliance date.

The content of the implementation plan is described in § 63.846(d)(2) of the final rule. The proposed rule required that this information include the emission sources to be averaged, the applicable limit assigned to each averaging group, the specific control technology or measure to be used for each source in the group, the results of an initial performance test, the operating parameters to be monitored (with additional information if an alternative parameter is monitored), and a demonstration that compliance with each of the applicable limits will be achieved under representative operating conditions. A clarifying change was made in the final rule to delete the requirement for submission of the results of an initial performance test to determine the TF or POM emissions and emission reduction from each source in the averaging group. This provision was replaced with a requirement for a test plan to measure TF or POM emissions in accordance with the performance test requirements in § 63.847. Section 63.847 requires a performance test to be conducted during the first month following the applicable compliance date.

As proposed, the owner or operator may submit a request to revise the plan, or if emission averaging is not selected initially, the owner or operator may submit a request to implement emission averaging after the compliance date.

This standard is not the first NESHAP to include provisions permitting emission averaging. However, the mechanism by which EPA has previously permitted owners and operators to average emissions has been to define the affected source governed by the standard broadly enough such that it includes all emission points to be averaged. Under this model, which was first employed in the Hazardous Organics NESHAP (''HON''), 59 FR 19402, 19425–34, April 22, 1994, compliance by particular units within a broadly defined source is only an element in determining the overall compliance with the standard by the aggregate source. For this type of standard, conformity of the quantitative standard to the MACT floor provision in section 112(d)(3) is determined for the source as a whole, and averaging or trading between discrete emission points within the source presents no potential conflict with the MACT floor provision.

The HON approach to averaging affords substantial flexibility, by permitting averaging of dissimilar emission points and differing pollutants. However, there are also potential disadvantages to this approach to averaging. Heterogeneous emission points are deemed to be part of one affected source, rather than discrete sources that can be subcategorized and regulated in relatively homogeneous groups. New sources often must be defined more narrowly than existing sources in order to ensure that state-of-the-art controls are required for technically discrete new units.

The final primary aluminum NESHAP takes a different approach to averaging from the HON approach. In this standard, owners or operators are permitted to average across sources in determining overall compliance with the standard. In the HON rulemaking, EPA expressed concern that averaging across sources could be incompatible with the MACT floor provisions. However, upon further analysis, EPA has decided that averaging across affected sources is neither expressly permitted nor expressly precluded by the Clean Air Act. Thus, in construing the statute, EPA has focused instead on identifying those circumstances in which averaging across sources would be fully consistent with the overall statutory intent.

In general, EPA has concluded that it is permissible to establish within a NESHAP a unified compliance regimen that permits averaging or trading across affected sources subject to the standard under certain conditions. Averaging across affected sources is permitted only if it can be demonstrated that the total quantity of any particular HAP that may be emitted by that portion of a contiguous major source that is subject to the NESHAP will not be greater under the averaging mechanism than it would be if each individual affected source complied separately with the applicable standard. Under this rigorous test, the practical outcome of averaging is equivalent in every respect to compliance by the discrete sources, and the statutory policy embodied in the MACT floor provisions is therefore fully effectuated. A construction of the Act which permits EPA to establish a unified compliance regimen in these limited circumstances promotes economic efficiency and has no adverse environmental consequences. In a NESHAP incorporating such a unified compliance regimen, EPA would construe compliance with the overall regimen to constitute compliance for each of the affected sources.

Strict limits on the scope and nature of averaging across sources are necessary to ensure that no HAP is emitted by that portion of a major source subject to a NESHAP in quantities that are greater than those that would result from compliance by each discrete affected source within the facility. These limits include: (1) No averaging can be permitted between differing pollutants, (2) no averaging can be permitted between sources that are not part of the same major source, (3) no averaging can be permitted between sources within the same major source that are not subject to the same NESHAP, (4) statistical discounts must be derived and applied to account for the variability in emissions by the sources to be averaged, and (5) no averaging can be permitted between existing sources and new sources.

This NESHAP fully satisfies each of these criteria. Accordingly, EPA has concluded that the averaging of emissions across affected sources permitted by this NESHAP is consistent with the Clean Air Act. In addition, EPA notes that the provision in this NESHAP that requires each facility that intends to utilize emission averaging to submit an implementation plan provides additional assurance that the necessary criteria will be adhered to.

E. Compliance Provisions

Compliance with the standard must be demonstrated at startup for new sources and in 2 to 4 years from the effective date of the final rule for existing sources. All existing plants would be allowed at least 2 years. An extension for a fourth year may be granted by the regulatory authority under section 112(i)(3)(B) of the Act.

Few changes were made to § 63.846 of the proposed rule concerning requirements for performance tests. Following approval of a site-specific test plan, § 63.847 of the final rule requires the owner or operator to conduct an initial performance test during the first month following the compliance date. A clarification was made to § 63.846(d) of the proposed rule (§ 63.847(c) of the final rule) that not all of the primary emission control devices have to be sampled during the first month of compliance. If valid emission test results are available for the control device from tests during the preceding 12 months, those results can be used to determine the contribution of the primary control system to the total emissions for the initial performance test.

Section 63.847(d), which contains instructions for determining compliance, also includes clarifying revisions. Sections 63.847(d)(1) of the final standard clarifies that to determine compliance for TF emissions from potlines, the owner or operator must compute and record the average of at least three runs each month for secondary emissions and at least three runs each year for the primary control device. Section 63.847(d)(2) clarifies that to determine compliance for POM emissions from Soderberg potlines, the average of at least three runs each quarter (one run per month) for secondary emissions and at least three runs each year for the primary control system is required. Compliance with the applicable emission limits for anode bake plants is determined by the average of at least three runs each year. Section 63.847(d)(3) clarifies that the provisions for previous control device tests include anode bake furnaces as well as potlines.

Section 63.847(e) of the final rule also includes minor changes to clarify the equations used to determine compliance. Editorial changes were made to correct misnumbering of Equations 1 and 2. In Equation 1, the definition of Q_{sd} was clarified to read as the volumetric flow rate of effluent gas ''corresponding to the appropriate subscript location'' with units of dry standard cubic meters per hour (dscm/hr) or dry standard cubic feet per hour (dscf/hr). The instructions for determining the aluminum rate (P) in §§ 63.846(e)(6) and (e)(7) also were revised. Sections 63.847(e)(6) and (e)(7) of the final rule require the owner or operator to determine the aluminum production rate by dividing the number of hours in the calendar month into the weight of aluminum tapped from the

potline during the calendar month that includes the three runs of a performance test. The rate of green anode material introduced into the furnace is determined by dividing the number of operating hours in the calendar month into the weight of green anode material used during the calendar month in which the performance test was conducted.

No changes were made to the proposed performance test provisions for paste production in § 63.847(f) of the final rule. Initial compliance with the equipment standards for new and existing plants is demonstrated through site inspections(s) and review of site records by the applicable regulatory authority.

A new paragraph, § 63.847(g), was added to describe compliance provisions for new pitch storage tanks. The owner or operator may elect one of two methods of demonstrating compliance: (1) Submit a design evaluation documenting that the control device being used achieves the required control efficiency for POM (95 percent or more) during a reasonably expected maximum filling rate; or (2) submit the results of a performance test. Specific information to be included under either method of compliance is described in the rule. The owner or operator also would include a description of the parameters to be monitored to ensure the control device is being properly operated and maintained, an explanation of the criteria used to select that parameter, and the frequency with which monitoring will be performed.

Section 63.846(g) of the proposed rule was renumbered as § 63.847(h) in the final rule to accommodate the addition of the preceding paragraph. Minor changes were made to clarify the wording in paragraph (h), which requires that the owner or operator determine the parametric operating limits and monitoring frequency for each control device. Section 63.847(h)(1) of the final rule clarifies that for potlines and anode bake furnaces, the owner or operator must determine upper and/or lower operating limits, as appropriate, for each monitoring device ''for the emission control system'' from the values recorded during each of the runs performed during the initial performance test and from historical data from previous performance tests. The wording of § 63.847(h)(2) also was clarified to require the owner or operator of a paste production plant to specify parameters to be monitored and operating limits for the emission control device (rather than the emission capture and control devices). References to the part 70 operating permit were deleted.

F. Emission Monitoring

Few changes were made since the proposal in the emission monitoring requirements of § 63.848. The final standard requires the owner or operator to perform monthly sampling of TF secondary emissions from each potline using Methods 13 and 14 (40 CFR part 60, appendix A) or an approved alternative method. Emissions of POM from Soderberg potlines are monitored by performing quarterly sampling of POM using Method 315 or an approved alternative method. The monthly average for TF and the quarterly average for POM are computed using the results of at least three runs per month for secondary emissions of TF and at least one run per month (three runs per quarter) for POM from Soderberg potlines, the aluminum production rate, and the most recent compliance test for the primary control system. Sections 63.848(a) and (b) clarify that the duration of each run for secondary emissions must cover a complete operating cycle. Under § 63.848(b), the primary control system for POM emissions must be sampled over an 8-hour period, unless site-specific factors dictate an alternative sampling time, subject to the approval of the regulatory authority. Annual sampling of TF using Method 13 and POM (for Soderberg potlines) using Method 315 is required for the primary emission control system for potlines. Annual sampling of TF using Method 13 and POM using Method 315 is required for the anode bake furnace stack.

Section 63.848(d) of the rule provides an alternative to monthly monitoring of TF or POM secondary emissions from each potline by allowing the owner or operator to conduct a monthly performance test for one potline using reference test methods and to monitor similar potline(s) using approved alternative methods. In response to public comment, the criteria for similar potlines were revised to require that their structure, operability, type of emissions, and volume and concentration of emissions be substantially equivalent.

Section 63.848(d) provides that a similar potline is to be monitored using an alternative method meeting the requirements in the rule. An approved alternative may include an HF continuous emission monitor (CEM). Because the Alcan cassette method is included in the final rule as Method 14A, references to this method as an approved alternative for monitoring similar potlines were unnecessary and were deleted from the rule.

To show that another method is an acceptable alternative, the owner or operator must develop a correlation with results from the applicable methods in the rule (such as Methods 13, 14, and 315) to the satisfaction of the regulatory authority. For fluoride measurements, the alternative method must account for or include gaseous fluoride and cannot be based on measurement of particulate matter or particulate fluoride alone because HF, the HAP of interest, is in gaseous form. The final rule also requires the owner or operator to derive an alternative limit for the HF CEM or other alternative monitoring method. The owner or operator must demonstrate that the alternative method and limit will result in a level of emission control that is the same as or better than the level that would have otherwise been achieved. After demonstrating that the potlines are similar, EPA methods must be used to monitor one potline, and the other similar potlines must be monitored using an approved alternative procedure.

Under § 63.848(e) of the final standard, the owner or operator of a plant that demonstrates consistent compliance with an applicable emission limit and low variability may apply for a reduced sampling frequency, such as quarterly sampling instead of monthly sampling. This section of the proposed rule was changed after proposal to provide a simplified procedure to obtain reduced sampling frequency, including removal of the requirement to publish the approval of reduced sampling in the **Federal Register**. This reduced sampling provision was clarified to apply only to the monthly sampling requirement for TF from potroom roofs. If a facility achieves a long-term average over 24 months of sampling that is no more than 60 percent of the applicable limit and no monthly average exceeds 75 percent of the limit, then monthly sampling for TF can be reduced to quarterly sampling.

Proposed provisions governing excess emissions also were revised. Under the final rule, if emissions in excess of the applicable TF limit occur while performing quarterly sampling (under an approved alternative), the owner or operator must return to monthly sampling for at least 12 months and may reduce to quarterly sampling when: (1) The average of all tests performed over the most recent 24-month period does not exceed 60 percent of the applicable limit and (2) no more than one monthly performance test in the most recent 24-month period exceeds 75 percent of the

applicable limit. If emissions in excess of the applicable TF limit occur while performing quarterly sampling (under an approved alternative), the owner or operator must return to the monthly sampling schedule until another request for an alternative sampling frequency is approved.

The final standard requires the monitoring of control device parameters. For example, plants with dry alumina scrubbers must perform a daily visual inspection of the stack and install devices to monitor the flow of alumina and air. The control device parameters are evaluated from data collected during the initial performance test and from historical performance tests to determine upper and/or lower limit(s), as appropriate, for each process parameter. The owner or operator may redetermine the upper and/or lower operating limits, as appropriate, based on historical data and other information and submit an application to the regulatory authority to change the applicable limit(s). A corrective action program is triggered if the control device is operating outside of the acceptable range for the specified parameters. Failure to initiate corrective actions within 1 hour after exceeding the limit is a violation. A violation also occurs if the operating limit for a parameter is exceeded more than six times in any 6-month reporting period. For the purpose of determining the number of exceedances, no more than one exceedance will be attributed in any given 24-hour period.

A clarification was made to § 63.848(f) with respect to the selection of monitoring parameters and frequency. Whenever practicable, the EPA expects the owner or operator to install a continuous parameter monitoring system as defined in the general provisions and this subpart. At a minimum, the owner or operator must submit a description of the parameters and a rationale for selecting the operating limits and monitoring frequency. A discussion of how the selected parameters would relate to emission controls must be included.

The owner or operator also must install devices to measure the daily weight of aluminum produced and the weight of anodes placed in the furnace for an operating cycle. The total weight of all anodes placed in the furnace may be measured, or the number of anodes placed in the furnace and a representative weight may be measured to determine the total weight.

G. Test Methods

Section 63.849 of the final rule adds Method 14A to appendix A of 40 CFR part 60 as an approved alternative method for measuring TF from potroom roofs. Minor changes were made to Method 315 (added to appendix A of 40 CFR part 63) as a result of public comment. For example, section 6.1 of Method 315 was revised to acknowledge that the use of grease for sampling train components is not recommended because many greases are soluble in methylene chloride. Section 6.2 of Method 315 was revised to include the use of Teflon® bristle brushes and tetrafluoroethylene (TFE) wash bottles. A Buchner fritted funnel was substituted for Allihin tubes in section 6.3.8 and other sections.

Section 63.849(e) of the final rule was clarified in terms of procedures and criteria to qualify an alternative test method. The alternative method must be evaluated from simultaneous sampling using a reference test method. Approval is granted only if the owner or operator demonstrates that the level of emission control from an alternative method and alternative emission limit is the same as or better than the level that would have otherwise been achieved.

H. Time Limit for Approval or Disapproval of Submissions

The proposed rule was revised to add a new section (§ 63.851) that places a 60-day limit on the amount of time for the regulatory authority to indicate the need for additional time to review the applications and requests for changes allowed under this rule or to approve or disapprove applications and requests for changes allowed under the rule. The 60-day period begins after the owner or operator has been notified that the submission is complete. This provision applies to the compliance test plan, an application to change control device parameter operating limits, requests for alternative monitoring for similar potlines, requests for approval of alternative methods for sampling and analysis, and requests for reduced sampling frequency.

I. Notification, Reporting, and Recordkeeping Requirements

Notification, reporting, and recordkeeping requirements for MACT standards are included in the NESHAP general provisions (40 CFR part 63, subpart A). Section 63.850 of the final standard incorporates all of these provisions, except that the existing performance specifications for CEM are not applicable to an HF CEM because such specifications have not yet been developed for that device.

The notification requirements include one-time notifications of applicability, intent to construct or reconstruct, anticipated startup date, actual startup date, date of performance test, compliance status, compliance approach (if applicable), and the intent to use an HF CEM (if applicable) for each affected source. The notification of special compliance obligations was deleted because it does not apply to this source category. The proposed rule also was revised to indicate that the notification of the intent to use an HF CEM was a one-time event per affected source.

The owner or operator is required to submit a report of performance test results (which can be sent as part of the compliance status notification), an annual summary of all subsequent tests, and semiannual reports of excess emissions, if any excess emissions occurred. If excess emissions are reported, quarterly reports are required until compliance has been demonstrated for 1 year. A startup, shutdown, and malfunction plan also would be required with semiannual reports of events that are not managed according to the plan. The plan must also include the corrective actions to be taken if the limit for a control device's operating parameter is exceeded.

Recordkeeping requirements for all MACT standards are established in § 63.10(b) of the general provisions. In addition to these requirements, the standard requires plants to maintain records of information needed to determine compliance. Section 63.850(e)(4)(ii) of the final rule clarifies that the owner or operator must maintain the daily production rate of green anode material placed in the anode bake furnace (rather than the production rate for each operating cycle). A new recordkeeping requirement was also added in response to public comment. Section 63.850(e)(4)(xv) requires records documenting the portion of TF that is captured and measured as particulate matter and the portion that is captured and measured as gaseous. This requirement provides potentially useful information to EPA and the States at no additional cost.

All records must be retained for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. The records for the most recent 2 years must be retained onsite; records for the remaining 3 years may be retained offsite but still must be readily available for review. The files may be retained on microfilm, on microfiche, on a computer, or on computer or magnetic disks.

J. Display of OMB Control Numbers

In a separate rulemaking action taken in conjunction with the final rule adopting a NESHAP for primary aluminum reduction plants, EPA is amending the table of currently approved information collection request (ICR) control numbers issued by the Office of Management and Budget (OMB) for various regulations. This separate amendment updates the table to accurately display those information requirements contained in the NESHAP. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

The ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act [5 U.S.C. 553(b)(B)] to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

V. Summary of Impacts

Nationwide emissions from primary aluminum potlines are estimated at 6,400 tpy of TF. After implementation of the final standards, these emissions will decrease by almost 50 percent to 3,400 tpy. Polycyclic organic matter emissions will be reduced by about 45 percent, from 3,200 tpy to 1,800 tpy. TF emissions from the anode bake furnaces are estimated at 700 tpy; POM emissions are estimated at 555 tpy. After control of all bake furnaces, TF emissions will be reduced by 97 percent, and POM emissions will be reduced by 84 percent. Polycyclic organic matter emissions from paste production plants, estimated at 147 tpy at baseline, will be reduced by about 130 tpy, to about 16 tpy—an 89 percent reduction from current levels. Emissions of other HAPs included in the TF and POM emissions will also be reduced, as will non-HAP pollutants such as PM. For example, PM emissions will be reduced by 16,000 tpy.

The generation of solid waste and wastewater will be reduced when at least one plant replaces its wet scrubber system with a dry alumina scrubber. The dry alumina scrubber captures fluorides and other pollutants and returns them to the reduction cell. The proposed rule is estimated to have no significant effect on energy consumption.

The total capital cost of the proposed rule is estimated as about $160 million, with a total annualized cost of $40 million per year. As discussed in section VI.I of this document, cost estimates supplied by the industry's trade association were much higher than the EPA estimates. The major cost impacts for potlines are expected to come from the installation of dry alumina scrubbers for the primary control system at one plant and from work practices, operating procedures, maintenance and repair, and equipment modifications at most plants. A few plants may incur capital costs to replace or upgrade hoods or doors and to install automated equipment for improved emission control.

The cost estimates for paste production assume that the 18 plants without dry coke scrubbers for controlling POM emissions will each install one. However, some plants may be able to meet the performance standard with dry alumina scrubbers or other control devices, or they may be able to utilize many of the components of their existing system. The estimated cost for control of anode bake furnaces assumes that the 5 of 17 plants without a dry alumina scrubber must each install one.

Currently, about one-third of existing potlines are sampled for TF regularly. Because of the flexibility provided in the rule, many plants are expected to take advantage of the use of HF CEMs and Alcan cassettes for similar potlines, both of which are much less expensive than manual sampling using Methods 13 and 14. The nationwide capital cost estimate of $7 million for monitoring equipment includes new Method 14 manifolds, HF CEMs, and Alcan cassettes. The total annualized cost of monitoring (including capital recovery) is estimated as about $4 million per year after all plants are subject to the rule. These costs may be reduced significantly as plants qualify for reduced sampling frequency (e.g., quarterly instead of monthly). The CEM will have value as a process monitoring tool in addition to its use for monitoring to determine compliance.

The market price increase calculation indicated that implementing the controls will result in a primary aluminum market price increase of less than 1 percent. As a result of the low market price increase and relatively inelastic demand, the corresponding changes in output, employment, and total revenue were also low (all less than 1 percent). Therefore, the economic impact analysis estimates that the rule will not result in significant economic impacts for the primary aluminum industry.

VI. Summary of Responses to Major Comments

The EPA proposed the NESHAP for primary aluminum reduction plants on September 26, 1996 (61 FR 50586). The proposed regulatory text of the rule, the Basis and Purpose Document, and the Technical Support Document that presented information used in developing the proposed rule were made available to the public for review and comment. A 60-day comment period from September 26, 1996, to November 25, 1996, was provided to accept written comments from the public on the proposed rule. The opportunity for a public hearing was provided to allow interested people to present oral comments to the EPA on the rulemaking. However, the EPA did not receive a request for a public hearing, so a public hearing was not held.

The EPA received a total of 15 comment letters regarding the proposed NESHAP for primary aluminum reduction plants. A copy of each comment letter is available for public inspection in the docket for the rulemaking (Docket No. A–92–60; see the **ADDRESSES** section of this document for information on inspecting the docket). The EPA has had follow-up discussions with various commenters regarding specific issues initially raised in their written comments that were submitted to the Agency during the comment period. Copies of correspondence and other information exchanged between the EPA and the commenters during the post-comment period are available for public inspection in the docket for the rulemaking.

All of the comments received by the EPA were reviewed and carefully considered by the Agency. Changes to the rule were made when the EPA determined it to be appropriate. A summary of responses to selected major comments received on the proposed rule is presented below. Additional discussion of the EPA's responses to public comments is presented in the Background Information Document (see the **ADDRESSES** section of this preamble).

A. Subcategories

Comment: Several commenters supported the subcategories that were developed for potlines, and two commenters questioned the number of and basis for the subcategories. Specific questions were raised about the subcategories for the older vintage

prebake potlines (CWPB2), for potlines producing high-purity aluminum (CWPB3), and for the vertical stud Soderberg potlines (VSS2).

Response: The development of subcategories is discussed in detail in the Basis and Support Document. In general, the subcategories are based primarily on differences in the process operation, process equipment, emissions, and the applicability of control devices.

A distinction was made between the larger and more modern prebake potlines in CWPB1 and the smaller and older potlines in CWPB2. The CWPB2 potlines have somewhat higher emissions than the CWPB1 potlines because they are more difficult to control and there are more opportunities for fugitive emissions to escape. A major factor is that these smaller potlines require more frequent anode changes and more frequent opening of the reduction cells, both of which result in more fugitive emissions' escaping from the cells.

The potlines in the CWPB3 subcategory that produce high-purity aluminum can do so only because they use wet scrubbers as the primary control device and do not return the contaminants removed with the pollution control residue back to the process. In contrast, the potlines in the CWPB1 subcategory use dry alumina scrubbers as the primary control device and return pollution control residue, including contaminants and fluorides, back to the process. If the CWPB3 potlines were forced to install dry alumina scrubbers, an adequate quantity of high-purity aluminum could not be produced and their market would be lost.

A distinction was made between two types of vertical stud Soderberg potlines (VSS1 and VSS2) because of differences in the applicability of control devices. The VSS1 group of potlines uses wet roof scrubbers to control fugitive emissions from the cells, and the VSS2 group of potlines uses work practices and equipment maintenance to control the escape of fugitive emissions from the cells (i.e., they focus on pollution prevention for emission control). A major concern in requiring the installation of wet roof scrubbers on the VSS2 potlines was that other plants with wet roof scrubbers had reported operational problems in cold weather (i.e., freezing conditions), and the VSS2 potlines operate in the cold climate of northern Montana. Consequently, the technology was judged not to be adequately demonstrated for the VSS2 potlines. Another concern was that roof scrubbers could provide a disincentive for the VSS2 potlines to continue their efforts to prevent the escape of emissions because the emissions would be subsequently controlled by the scrubbers. Currently, the VSS2 potlines have much lower levels of fugitive emissions in terms of the quantity that actually escapes from the reduction cells compared to the VSS1 potlines, which rely in large part on the roof scrubbers for additional fugitive emission control.

B. Format of the Standard

Comment: Two State commenters asked that EPA consider developing work practice standards for potlines, and some commenters also suggested that an emission limit be developed for paste plants instead of an equipment standard.

Other commenters supported the development of an equipment standard for paste plants. Commenters also asked that EPA consider alternatives for the paste plant that would allow and encourage pollution prevention, as well as other control alternatives that might be equivalent to or better than the equipment standard that was proposed (dry coke scrubber).

Response: Section 112(h) of the Act only allows development of a design, equipment, work practice, or operational standard when it is not feasible or practicable to establish an emission standard. Consequently, a work practice standard was not developed for potlines because there was an extensive database on TF emissions on which to base an emission standard. An emission standard allows the owner or operator to meet the emission limit using any combination of control techniques, including work practices, upgrading equipment, process modifications, pollution prevention, etc. It also provides flexibility for developing innovative controls or pollution prevention measures in the future that may be more cost effective by not mandating work practice techniques. The owner or operator will find it necessary to have adequate work practices in place to meet the emission limits in the rule; consequently, it is not necessary to develop a work practice standard.

The first choice was also the development of an emission standard for paste production plants; however, there were too few POM data (only two data points) to develop defensible and achievable limits. One reason for this is that the control technology is relatively new, and there were no data collected by EPA test methods prior to this rulemaking. Therefore, the development of a quantitative standard was not feasible or practicable. The problem was also complicated by the numerous variations in the design and operation of paste plants. However, the available information and engineering judgement indicated that the best POM control technology in use for paste plants was the dry coke scrubber, which was determined to represent MACT. For these reasons, an equipment standard requiring the use of a dry coke scrubber or equivalent alternative control for paste production was developed under section 112(h) of the Act.

Comments were received from both the industry and States asking for consideration of control techniques, including pollution prevention, that might provide a level of control equivalent to or better than a dry coke scrubber. After consideration, EPA decided that a streamlined approach could be used to implement more efficiently section 112(h)(3) of the Act, which allows the development of an alternative means of emission limitation if it achieves an emission reduction at least equivalent to that achieved by the design, equipment, work practice, or operational standard. An emission limit for POM in lb/ton of paste was developed from the limited data associated with two of the best controlled plants in the industry. Although the limit may represent a level of emission control more stringent than the equipment standard that was determined to be MACT, an alternative standard in lb/ton of paste will provide opportunity for pollution prevention measures (such as reducing the quantity of POM used in paste production). The alternative standard also provides the opportunity to qualify other types of emission controls that might be developed in the future that are more efficient than the dry coke scrubber.

The alternative limit in lb/ton does not preclude plants from petitioning for other alternative means of emission limitation under section 112(h)(3) of the Act based on demonstrating an equivalent or greater emission reduction. However, it provides one method to implement the provisions for alternative standards more efficiently. As required in section 112(h)(4) of the Act, when EPA has sufficient data to replace both parts of the current standard for paste production plants with a quantitative emission limit, EPA will revise that standard accordingly.

C. Achievability of Emission Limits

Comment: Several commenters expressed concern that the emission limits for anode bake furnaces might not be achievable and requested that the rule acknowledge that these limits may

need to be increased as more data are collected. One commenter questioned the achievability of the POM limit for HSS potlines, and another commenter supported the HSS limits and submitted additional data for the MACT floor potlines to show that it had been achieved. One commenter questioned the POM limits for VSS2 potlines because the limits were based on data from VSS1 potlines.

Response: The data for anode bake furnaces support that the proposed emission limits for both new and existing sources are achievable. Opportunities for improved control other than the installation of dry alumina scrubbers are available, and each owner or operator should investigate these opportunities thoroughly. For example, careful cleaning of recycled anodes to remove fluorides has been demonstrated to reduce fluoride emissions from anode bake furnaces. Careful control and optimization of combustion conditions improve destruction of POM compounds and reduce POM emissions.

The EPA believes that the data show that the POM limit is achievable for the HSS subcategory by plants using the MACT floor technology. Note that the control technology used for the primary system for the MACT floor plant is a dry alumina scrubber, whereas the plant concerned about the achievability uses an electrostatic precipitator. Improvements may be needed in the electrostatic precipitator primary control system and in the potline's capture system to reduce fugitive emissions to achieve the same level of control achieved by the MACT floor plant.

The proposed POM limit for the VSS2 subcategory was based on data from VSS1 potlines because there were no valid data available for POM emissions from VSS2 potlines. Following proposal, POM data were collected for the MACT floor VSS2 potline, and a commenter for the company asked that EPA consider their data in establishing the POM limit. The EPA analyzed the new POM data and concluded that the POM limit for the VSS2 subcategory should be reduced from 3.7 lbs/ton to 3.6 lbs/ton. The emission test reports and EPA's analysis are documented in the rulemaking docket. [See Docket Item IV-B–1.] The EPA appreciates the effort of the company to perform emission testing and to provide data that improve the technical basis of the POM limit for VSS2 potlines.

D. Incorporation of the NSPS

Comment: Several commenters recommended that the NSPS for primary aluminum plants (40 CFR part 60, subpart S) be removed and any necessary provisions be incorporated into the NESHAP. These commenters believed that the higher TF limits in the amended NSPS should be incorporated instead of the lower limits in the original NSPS because the amendment concluded that the original emission limits were not achievable 100 percent of the time. In addition, the NESHAP general provisions (40 CFR part 63, subpart A) require that control equipment be operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions at least to the level required by all relevant standards. Therefore, these commenters concluded that this requirement overlaps the ''exemplary operation'' requirement of the NSPS, and by complying with the general provisions, a source qualifies for the higher limits in the NSPS. State agency commenters thought that the more stringent limits in the original NSPS should be used for incorporation into the NESHAP.

Some commenters stated that the opacity requirements of the NSPS were a monitoring provision and not an emission limit. They pointed out that the proposed NESHAP contained more provisions than the NSPS to ensure the control equipment was operating properly, such as monitoring the air and alumina flow to the dry alumina scrubbers and a daily visual inspection of the control equipment rather than only a monthly observation of opacity, which the NSPS requires. Consequently, they believed the opacity standard in the NSPS could be removed without any loss of stringency. Another commenter stated that the NSPS opacity limit was not applicable for wet emission control systems because of interferences and observer error and recommended that facilities with wet emission control systems be allowed to develop an alternative opacity limit if they could demonstrate that the mass emission limit for TF was being met. State agency commenters stated that the opacity standard should be retained when the NSPS is incorporated into the NESHAP.

In general, State agency commenters agreed that the NSPS could be incorporated into the NESHAP, but only if all of the NSPS provisions are retained. These include the lower emission limits in the original NSPS, retention of the modification and reconstruction provisions of part 60, and maintenance of the opacity limits.

Response: The EPA had stated in the original proposal when requesting comments on this issue that incorporating the NSPS into the NESHAP should result in a standard that would be no less stringent than if both standards remained in place. Following the receipt of comments and no indication that anyone was opposed to incorporation of the NSPS, EPA conducted additional discussions with all stakeholders. Representatives from each of the 14 States that have primary aluminum reduction plants were contacted and were provided the opportunity to discuss the issues and provide comments. Similar discussions were held with the Aluminum Association and industry representatives, who also provided comments.

Based on these discussions, a general consensus was reached on how the NSPS could be incorporated into the NESHAP. First, the NSPS was amended to allow an affected facility to comply either with the NSPS or with the special provisions incorporated into the NESHAP. Second, the NSPS requirements were included in a separate section of the NESHAP, and these provisions apply only to emissions of TF. They apply only to Soderberg potlines and prebake potlines in the CWPB2 and CWPB3 subcategories because other types of existing potlines are subject to TF emission limits under the NESHAP that are more stringent than the NSPS limits. Anode bake furnaces are not included because the NESHAP limits for existing bake furnaces are equivalent to those in the NSPS, and the NESHAP limits for new bake furnaces are much more stringent than those in the NSPS.

The result of these discussions was general agreement that the definitions of ''modification'' and ''reconstruction'' should be incorporated so that any new, modified, or reconstructed potroom group would trigger the NSPS provisions that have been included in the NESHAP. In other words, any potroom group that would have become subject to the NSPS because of the part 60 provisions would become subject to the special provisions incorporated into subpart LL of part 63. This was accomplished by adding definitions for ''potroom group modification'' and ''potroom group reconstruction'' that matched the requirements in part 60. The modification would occur if there was an increase in the total or overall TF emissions from the potroom group (i.e., changes that result in a decrease in emissions in one part of the potroom group and an increase in another part of the group are not modifications if total emissions from the group do not increase).

The EPA decided not to incorporate only the lower NSPS limits as suggested

by some commenters or only the higher limits recommended by other commenters. Instead, both sets of limits were incorporated into the NESHAP with the same language as that used in the amended NSPS. In other words, the lower limits apply unless the owner or operator can meet the exemplary operation requirements as stated in the NSPS, in which case the upper limits would apply. This requires that the owner or operator demonstrate that exemplary operation and maintenance procedures were used with respect to the emission control system and that control equipment was operating properly at the potline during the performance test.

Additional insight into proper operation and maintenance is given in the proposal preamble for the amended NSPS (45 FR 44203), which lists these items as basic to good control of emissions from prebake plants:

(1) Hood covers should fit properly and be in good repair;

(2) The hood exhaust rate should be increased for individual pots when hood covers are removed (if there is an adjustable air damper system);

(3) Hood covers should be replaced as soon as possible after each potroom operation;

(4) Dust entrainment should be minimized during materials handling operations and sweeping of the working aisles;

(5) Only tapping crucibles with functional air return systems should be used; and

(6) The primary control system should be regularly inspected and properly maintained.

For horizontal stud Soderberg potlines, Items (4) through (6) apply, but Items (1) through (3) are replaced by the following because of differences in pot design:

(1) Side and end doors should fit properly and be in good repair;

(2) The exhaust rate should be increased for individual pots when a side or end door is open (if there is an adjustable air damper system); and

(3) Side and end doors should be closed as soon as possible after each potroom operation.

The following variations apply to vertical stud Soderberg potlines:

(1) An ore cover should be maintained on the pot;

(2) The collector skirt and burner should be in good repair; and

(3) Tap holes should not be opened too far in advance of the tap.

Another issue was related to the fact that the NSPS limits apply to a potroom group, whereas the NESHAP limits apply to a potline. Because of many variations in the configuration of potrooms and potlines in the industry, limits for both would result in a somewhat confusing situation of duplicative emission limits and other requirements for certain reduction cells and unnecessary requirements associated with monitoring, reporting, and recordkeeping for both potroom groups and the potline. To resolve this issue, a method was devised in the NESHAP to combine the limit for the NSPS potroom group with that for the NESHAP potline based on the production capacity of the reduction cells that would be subject to each set of limits. The result is a single TF emission limit for the entire potline that maintains equivalent stringency, and it has the additional advantage of allowing the use of the NESHAP potline requirements for monitoring, reporting, and recordkeeping to avoid unnecessary duplication.

The opacity issue was resolved by incorporating the 10 percent limit for potroom groups from the NSPS into the NESHAP. However, the provisions in part 60 that allow the development of an alternative opacity limit when the facility demonstrates that the mass emission limits are being met were also included in the NESHAP. The alternative opacity limit cannot exceed 20 percent. Historically, opacity has been measured routinely for the discharge stacks of primary control systems. However, the EPA has no indication that the opacity of a potroom group roof monitor has been measured using Method 9.

The EPA decided that additional provisions for anode bake furnaces were not necessary because the NESHAP requires that existing furnaces be controlled at levels equivalent to what the NSPS would have required for new, modified, or reconstructed furnaces. This ensures that the MACT floor control technology (dry alumina scrubbers) or the equivalent will be installed on all bake furnaces to control emissions. There was no need to incorporate the NSPS opacity limit of 20 percent for bake furnaces because the MACT floor technology will achieve lower opacity levels, the NESHAP monitoring requirements for the control device are more comprehensive, there is no loss in stringency, and most States already have general opacity limits of 20 percent for stationary point sources.

In consolidating the two rules, the EPA decided to use the sampling frequency and monitoring provisions of the NESHAP. They offer several advantages over the NSPS provisions alone, there is no effect on the relative stringency or the emission reductions achieved, and they will reduce unnecessary monitoring, reporting, and recordkeeping. In addition, the NESHAP requires that any new, modified, or reconstructed potroom group be sampled for TF emissions, which is what the NSPS would have required. Sampling can be performed effectively for the potroom group with the addition of new monitoring equipment or the expansion or adaptation of existing monitoring equipment in the same potline if the sampling system is determined to be representative of the entire potline and if the relevant regulatory authority determines that the sampling system meets the requirements of the reference test methods. In addition, the sampling of that potroom group may be used to determine emissions from the total potline if they are representative of the entire potline. To be representative of the entire potline, the sampling system must not cover only or primarily new reduction cells, which would be expected to have better hooding and emission control than older cells.

E. Time Limit for Approval by the Regulatory Authority

Comment: Several industry commenters recommended that the final rule include a time limit for regulatory authority review, approval, and/or action on submissions. Examples include the compliance test plan, the implementation plan for emission averaging, an application to change control device parameter operating limits, requests for alternative monitoring for similar potlines, requests for approval of alternative methods for sampling and analysis, requests for reduced sampling frequency, and requests to modify the startup, shutdown, and malfunction plan. According to the commenters, each submission should be given automatic approval if no action or response is taken by the applicable regulatory authority within some time period (generally within 30 days of receipt).

Response: The proposed rule contained provisions for a time limit of 120 days for regulatory approval or disapproval of the implementation plan for emission averaging, and this provision was kept in the final rule. In addition, the general provisions in subpart A of 40 CFR part 63 allow the owner or operator to revise the startup, shutdown, and malfunction plan without submitting it for approval. The owner or operator must keep the previous (superseded) version and make it available upon request for a period of 5 years after the revision. With respect to other submissions, the rule was

revised to give the regulatory authority 60 days after the submission is deemed to be complete to approve or disapprove the submission. The 60-day period applies to the facility's test plan used to determine compliance, requests for changes in operating parameter limits, applications for similar potline monitoring, requests for reduced sampling frequency, and requests for alternative test methods.

F. Relationship to Other Rules

Comment: Several commenters asked about the relationship of the NESHAP to other rules. One commenter asked for discussion of how existing new source review (NSR) and prevention of significant deterioration (PSD) rules affect the NESHAP, and another asked for clarification of what TF emission limit would apply in the event of a modification under the NSPS. Another commenter believes that conversion and installation of equipment in order to comply with this rule should not trigger the NSPS. The commenter requested that the language of the preamble and the rule be changed to reflect that modifications made to affected sources to come into compliance with the primary aluminum NESHAP are exempted from NSPS applicability. Several industry commenters recommended that the final rule include a provision acknowledging that the monitoring provisions in the rule, including the approved methods and alternatives, satisfy the monitoring provisions under section 114 of the Act and the title I monitoring requirements for PM emissions. Other commenters asked that certain alternatives allowed by the rule, such as requests to change monitoring parameters or to implement emission averaging, be identified within the rule as ''administrative changes'' to the operating permit issued under the part 70 permit program.

Response: The NSR and PSD requirements are not changed or directly affected by the provisions in the NESHAP. However, the NESHAP incorporates the NSPS provisions for primary aluminum reduction plants, which will reduce duplicative monitoring, reporting, and recordkeeping requirements while maintaining equivalent stringency in the applicable emission limits. In addition, the incorporation of the NSPS includes language from part 60 that excludes from the definition of ''modification'' the addition of an emission control system that results in the reduction of air pollutants, as the commenter suggested. As several commenters suggested, the compliance assurance monitoring (CAM) rule would not apply to the sources and pollutants regulated under the NESHAP. Standards promulgated after 1990 are not subject to the CAM under the assumption that the prescribed monitoring in such rules would meet the requirements equivalent to those required for CAM. The EPA determined that it is not appropriate to specify within the NESHAP whether changes to permits should be considered administrative or as permit modifications. This is accomplished more directly through the permit writer, who can incorporate the alternatives allowed by the NESHAP into the permit. By adding the NESHAP provisions to the permit, the flexibility allowed by the NESHAP is maintained with respect to implementation of emission averaging and other provisions. In addition, the source may suggest to the permit writer that certain flexible provisions are important to the source based on the compliance approach that the source anticipates implementing.

G. Reduced Sampling Frequency

Comment: One commenter did not think there is any need for **Federal Register** publication to provide public notification of approval of reduced sampling frequency. Another commenter asked that criteria for qualifying for reduced sampling frequency be included in the rule and suggested using the approaches that had been used in other rules, with reductions in the frequency after demonstrating compliance over some period of time.

Several commenters recommended that monitoring provisions in the final rule be expanded to allow less frequent monitoring for POM upon demonstration of good emission control performance, as is allowed for TF.

State agency commenters supported the concept of reduced sampling if a facility consistently achieves compliance with an emission limit and has low variability. However, the commenters asked that EPA specify a minimum measure of acceptable variability for reduced sampling frequency to ensure consistent evaluations of these requests and to ease the burden on the regulatory authority.

Response: The EPA agrees that the provisions for qualifying for reduced sampling can be improved by making them easier to implement and that there is no need for publication in the **Federal Register**. In addition, if they are structured properly, provisions for reduced sampling frequency can be used to obtain control performance well below the emission limit, which will result in additional emission reductions.

The EPA reviewed the performance of plants that had qualified for reduced sampling under the NSPS and also examined the average performance, variability, and emission limits achieved by the MACT floor plants. Based on this review, a procedure was developed that was designed to ensure that plants that qualified for reduced sampling had low variability, consistently met the limit, and achieved an average long-term performance that was well below the limit. The proposed rule was revised to allow the monthly sampling of a potline's secondary emissions of TF to be reduced to quarterly if: (1) The overall average after 24 consecutive months of sampling was no more than 60 percent of the applicable limit and (2) no monthly average during the 24 consecutive months exceeded 75 percent of the applicable emission limit.

If an exceedance occurs while under the reduced sampling frequency, the plant must return to monthly sampling for at least 12 months. The plant can qualify for a reduction to quarterly sampling again when: (1) The average of all results over the most recent 24-month period is no more than 60 percent of the limit and (2) no more than one monthly average during the 24-month period exceeds 75 percent of the limit.

As an alternative, the facility can petition for reduced sampling based on the statistical approach given in the EPA guidance document, ''Primary Aluminum: Statistical Analysis of Potline Fluoride Emissions and Alternative Sampling Frequency'' (EPA–450/3–86–012, October 1986). A copy of this document is included in the docket (docket item II–A–10). This document also is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

Reduced sampling was not considered for POM because the sampling is already reduced relative to sampling for TF. The rule contains provisions for reducing TF sampling of secondary emissions from monthly to quarterly, and it only requires quarterly sampling for POM secondary emissions (and only annual sampling for POM from the primary control system). The quarterly sampling is necessary to ensure compliance and is particularly important for POM because of the potential risk associated with the POM compounds.

H. Approval of Alcan Cassette Method (Method 14A)

Comment: Several commenters stated that the Alcan cassette monitoring

method should be included as an approved method to determine compliance for emissions monitoring, as it is approved for demonstrating similar potlines. The final rule should also allow the method to be used in developing correlations of emissions for alternative monitoring devices, such as the HF CEM. Another commenter asked for the results of the investigation of the use of Alcan cassettes as an alternative to Methods 13 and 14, including information on accuracy, precision, and any biases.

Response: The EPA's intent to evaluate and approve the Alcan cassette method as an acceptable alternative to Method 14 was discussed in the proposal preamble. Numerous comments were received supporting the method, and no comments were received that were opposed to the method as an alternative to Methods 13 and 14. The method had been previously approved for sampling and analysis of TF for the NSPS, and additional data from comparison testing (available in the docket) confirmed it to be an acceptable alternative. Consequently, the EPA has approved the Alcan cassette method as an alternative to Method 14 and has included it as Method 14A in appendix A to 40 CFR part 60.

I. Estimates of Costs for Control and Monitoring

Comment: The industry commenters contended the capital costs of the proposed rule are higher than the EPA's estimates and asked that the estimates presented at promulgation be revised to incorporate their higher estimates of cost. The cost estimates submitted by the Aluminum Association included a capital cost estimate of $555 million and a total annual cost of $126 million compared to the EPA cost estimate of $160 million in capital and a total annual cost of $40 million. Another commenter believes the monitoring costs estimates are low and asked for information on the monitoring scenario that was used for costing.

Response: The limited information supplied with the industry's cost estimates suggests that these costs may be overstated; relevant points are discussed below. The industry's report states that the largest component of their capital cost estimate of $555 million is for removing existing primary control systems and installing dry alumina scrubbers, which they say is 60 percent of the total capital cost. The EPA worked closely with the industry to develop the MACT floor, and based on numerous discussions with the industry, only one plant was identified as likely to install new dry alumina scrubbers. This plant estimated a cost of $120 million; however, this total capital investment includes costs for controls that are not directly attributable to the MACT standard (e.g., it includes the cost of sulfur dioxide scrubbers that are required by the State but are not required by the MACT standard). In addition, there is an indication that the company's decision to install dry alumina scrubbers may not have been made only because of the impending MACT standard but also in consideration of State and local agency concerns. Another company that included the capital cost of new dry scrubbers in its estimate submitted by the Aluminum Association has subsequently confirmed that new dry scrubbers will not be installed to meet MACT. Instead, they will upgrade their existing control equipment at a much lower cost.

Included in the industry's estimate are costs for several potlines that have been idled, and it has not been determined when these potlines will operate at capacity. If they are not restarted, it is obvious that large investments to improve emission control will not be made.

Significant cost estimates are included in the industry's estimates for MACT floor potlines, which are lines that by definition are already achieving the MACT level of control (because the proposed emission limits for MACT are based on the floor). Apparently these companies included the routine capital and operating costs currently being incurred or planned for the near future, probably to meet existing State limits, and attributed this cost to MACT. The cost due to MACT is the incremental cost above what would be spent in the absence of MACT and should not include what is being spent to meet existing regulations.

The few details that are available in the industry's report indicate that some of the estimated capital investment is for improvements or modernization of the process that is not necessarily being done only to improve emission control. In addition, companies will save operating expenses through improved efficiency and operation from these improvements, and no credit (cost savings) is identified for these improvements.

The information available for the cost of dry coke scrubbers indicates that the industry's estimate is overstated by a factor of at least two. The EPA estimate is based on the actual installation cost reported by one company and was verified by another company that obtained an actual construction cost estimate prior to installing a new coke scrubber. The source of the industry's estimate is undocumented. In addition, more recent information from a few plants indicates that they may be able to improve the control efficiency of existing control equipment without installing dry coke scrubbers. The EPA cost estimate assumes that all plants without dry coke scrubbers will install one.

J. Exceeding an Operating Parameter Limit

Comment: Several industry commenters stated that an exceedance of an enforceable operating parameter limit for which the owner or operator has submitted a request for redetermination should not count toward the six allowable exceedances or automatically constitute a violation. Another commenter felt that exceedances should be a matter of enforcement discretion and any mention of what would constitute a violation should be deleted from the rule. One commenter asked for EPA's basis in deciding that a violation has occurred only after there have been six exceedances of a monitoring parameter (in any 6-month reporting period).

Response: The proposal preamble discussed at length why any single exceedance of the parametric monitoring limits should not be considered an exceedance of the emission limit and a violation of the standard. However, a limit was placed on the number of exceedances (six) allowed in a 6-month period to provide incentive to correct any problems with control devices promptly and to avoid recurring difficulties with control devices. Consequently, any exceedance of an enforceable operating parameter limit will count toward the six allowable exceedances, or will constitute a violation if a source has already had six exceedances. The fact that a facility has submitted a request for a redetermination of its operating parameter limits is no shield against enforcement of the existing permit limits. This is because the owner or operator could submit requests for redetermination to avoid a violation whenever control device monitoring indicates a problem. While the commenter is correct in pointing out that EPA may exercise prosecutorial discretion, such discretion is independent from the identification of a violation.

K. Pitch Storage Tanks

Comment: Several commenters requested that the proposed rule be clarified to indicate that pitch storage

tanks are not included as part of the paste production plant.

Response: Based on comments that pitch storage tanks are not a part of the paste production operation, the EPA reexamined this issue and determined that pitch storage tanks not located within the paste production plant should be defined as a separate affected source. Pitch storage tanks located within the boundaries of the paste production plant, such as day tanks or feed tanks that manage heated pitch, are included in the definition of paste production plant and must be controlled as required for the paste plant. An examination of the available data for pitch storage tanks that are not a part of the paste production plant indicated that the MACT floor and MACT for existing sources was no control. However, one plant was found to have installed controls on a recently constructed pitch storage tank. In addition, the EPA found that a new pitch storage tank planned for installation in Canada would be installing a catalytic oxidizer to control pitch fumes with a control efficiency of at least 95 percent. Consequently, EPA determined that new source MACT for pitch storage tanks would require at least 95 percent control of POM, and these provisions were added to the final rule.

There are several types of emission control techniques that can achieve 95 percent control or better, including combustion devices, dry scrubbers, and carbon adsorption. A question arose about the acceptability of vapor balancing, in which emissions displaced from the pitch storage tank during loading are returned to the tank truck or rail car as it is emptied. This technique would be an acceptable alternative if the owner or operator demonstrates (to the satisfaction of the applicable regulatory authority) that emissions from the transport vessel are controlled when it is refilled and that POM emissions from the pitch storage tank are ultimately controlled at 95 percent or better.

VII. Administrative Requirements

A. Docket

The docket is an organized and complete file of information considered by the EPA in the development of a rulemaking. The docket is a dynamic file because information is added throughout the rulemaking development process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in case of judicial review. [See section 307(d)(7)(A) of the Act.] The official rulemaking record, including all public comments received on the proposed rule, is located at the address in the **ADDRESSES** section at the beginning of this document.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

Although this is a significant regulatory action OMB has waived Executive Order 12866 review because there was no significant negative comment on the proposed rule.

C. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, the EPA involved State regulatory experts in the development of the rule. The EPA also coordinated with tribal governments having an interest in the rulemaking. State and local governments and tribal governments are not directly affected by the rule, i.e., they are not required to purchase control systems to meet the requirements of the rule. However, State and local governments will be required to implement the rule; i.e., incorporate the rule into permits and enforce the rule. They will collect permit fees that will be used to offset the resource burden of implementing the rule. Comments were solicited from States and tribal governments and have been considered in the development of the final rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments; enabling officials of affected small governments to have meaningful and timely input in developing EPA regulatory proposals with significant Federal intergovernmental mandates; and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annualized cost of the final standard is estimated at $40 million per year—well under the $100 million per year threshold. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct

a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. None of the 23 facilities in this industry is classified as a small entity. The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

F. 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).

G. Paperwork Reduction Act

The information collection requirements for this NESHAP have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1767.02), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, S.W., Washington, DC 20460, or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

The information collection requirements include mandatory notifications, records, and reports required by the NESHAP general provisions (40 CFR part 63, subpart A). These information collection requirements are needed to confirm the compliance status of major sources, to identify any nonmajor sources not subject to the standards and any new or reconstructed sources subject to the standards, to confirm that emission control devices are being properly operated and maintained, and to ensure that the standards are being achieved. Based on the recorded and reported information, EPA can decide which plants, records, or processes should be inspected. These recordkeeping and reporting requirements are specifically authorized by section 114 of the Act (42 U.S.C. 7414). All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B. (See 41 FR 36902, September 1, 1976; 43 FR 39999, September 28, 1978; 43 FR 42251, September 28, 1978; and 44 FR 17674, March 23, 1979.)

The annual public reporting and recordkeeping burden for collecting this information (averaged over the first 3 years after the effective date of the rule) is estimated to total 52,544 hours for the 23 respondents and to average 2,300 hours per respondent (i.e., per plant). Each respondent is required to report semiannually. The annualized cost of monitoring equipment is estimated as $390,000 per year, with an operation and maintenance cost of $39,000 per year (excluding labor hours included in the previous total).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. Clean Air Act

The NESHAP for primary aluminum reduction plants will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as residual health risks, any duplication with other air programs, the existence of alternative methods, enforceability, improvements in air emission control technology and health data, and the recordkeeping and reporting requirements.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference.

40 CFR Part 63

Air pollution control, Hazardous substances, Incorporation by reference, Primary aluminum reduction plants, Reporting and recordkeeping requirements.

Dated: September 19, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 9, 60, and 63 of title 40, chapter I of the Code of Federal Regulations are amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et. seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding new entries under the indicated heading in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories [3]	
* * * * *	
63.846(d)	2060–0360
63.847(b), (g)	2060–0360
63.848(d)(5), (e), (f)(5)(ii), (g), (k), (m)	2060–0360
63.850	2060–0360
* * * * *	

[3] The ICRs referenced in this section of the Table encompass the applicable general provisions contained in 40 CFR part 63, subpart A, which are not independent information collection requirements.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

3. The authority for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7413, 7414, 7416, 7429, 7601 and 7602.

§ 60.17 [Amended]

4. Section 60.17(a)(22) of subpart A is amended by adding the phrase ''; Method 14A, par. 7.1'' to the end of the paragraph.

5. Section 60.190 is amended by revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 60.190 Applicability and designation of affected facility.

* * * * *

(b) Except as provided in paragraph (c) of this section, any affected facility under paragraph (a) of this section that commences construction or modification after October 23, 1974, is subject to the requirements of this subpart.

(c) An owner or operator of an affected facility under paragraph (a) of this section may elect to comply with the requirements of this subpart or the requirements of subpart LL of part 63 of this chapter.

6. Appendix A to part 60 is amended by revising the appendix heading and adding, in numerical order, Method 14A to read as follows:

Appendix A To part 60—Test Methods

* * * * *

Method 14A—Determination of Total Fluoride Emissions from Selected Sources at Primary Aluminum Production Facilities

Note: This method does not include all the specifications (e.g., equipment and supplies) and procedures (e.g., sampling) essential to its performance. Some material is incorporated by reference from other methods in this part. Therefore, to obtain reliable results, persons using this method should have a thorough knowledge of at least the following additional test methods: Method 5, Methods 13A and 13B, and Method 14 of this appendix.

1.0 Scope and Application.

1.1 Analytes.

Analyte	CAS No.	Sensitivity
Total fluorides	None assigned.	Not determined.
Includes hydrogen fluoride.	007664–39–3	Not determined.

1.2 Applicability. This method is applicable for the determination of total fluorides (TF) emissions from sources specified in the applicable regulation. This method was developed by consensus with the Aluminum Association and the U.S. Environmental Protection Agency (EPA).

2.0 Summary of Method.

2.1 Total fluorides, in the form of solid and gaseous fluorides, are withdrawn from the ascending air stream inside of an aluminum reduction potroom and, prior to exiting the potroom roof monitor, into a specific cassette arrangement. The cassettes are connected by tubing to flowmeters and a manifold system that allows for the equal distribution of volume pulled through each cassette, and finally to a dry gas meter. The cassettes have a specific internal arrangement of one unaltered cellulose filter and support pad in the first section of the cassette for solid fluoride retention and two cellulose filters with support pads that are impregnated with sodium formate for the chemical absorption of gaseous fluorides in the following two sections of the cassette. A minimum of eight cassettes shall be used for a potline and shall be strategically located at equal intervals across the potroom roof so as to encompass a minimum of 8 percent of the total length of the potroom. A greater number of cassettes may be used should the regulated facility choose to do so. The mass flow rate of pollutants is determined with anemometers and temperature sensing devices located immediately below the opening of the roof monitor and spaced evenly within the cassette group.

3.0 Definitions.

3.1 Cassette. A segmented, styrene acrylonitrile cassette configuration with three separate segments and a base, for the purpose of this method, to capture and retain fluoride from potroom gases.

3.2 Cassette arrangement. The cassettes, tubing, manifold system, flowmeters, dry gas meter, and any other related equipment associated with the actual extraction of the sample gas stream.

3.3 Cassette group. That section of the potroom roof monitor where a distinct group of cassettes is located.

3.4 Potline. A single, discrete group of electrolytic reduction cells electrically connected in series, in which alumina is reduced to form aluminum.

3.5 Potroom. A building unit that houses a group of electrolytic reduction cells in which aluminum is produced.

3.6 Potroom group. An uncontrolled potroom, a potroom that is controlled individually, or a group of potrooms or potroom segments ducted to a common primary control system.

3.7 Primary control system. The equipment used to capture the gases and particulate matter generated during the reduction process and the emission control device(s) used to remove pollutants prior to discharge of the cleaned gas to the atmosphere.

3.8 Roof monitor. That portion of the roof of a potroom building where gases, not captured at the cell, exit from the potroom.

3.9 Total fluorides (TF). Elemental fluorine and all fluoride compounds as measured by Methods 13A or 13B of this appendix or by an approved alternative method.

4.0 Interferences and Known Limitations.

4.1 There are two principal categories of limitations that must be addressed when using this method. The first category is sampling bias and the second is analytical bias. Biases in sampling can occur when there is an insufficient number of cassettes located along the roof monitor of a potroom or if the distribution of those cassettes is spatially unequal. Known sampling biases also can occur when there are leaks within the cassette arrangement and if anemometers and temperature devices are not providing accurate data. Applicable instruments must be properly calibrated to avoid sampling bias. Analytical biases can occur when instrumentation is not calibrated or fails calibration and the instrument is used out of proper calibration. Additionally, biases can occur in the laboratory if fusion crucibles retain residual fluorides over lengthy periods of use. This condition could result in falsely elevated fluoride values. Maintaining a clean work environment in the laboratory is crucial to producing accurate values.

4.2 Biases during sampling can be avoided by properly spacing the appropriate number of cassettes along the roof monitor, conducting leak checks of the cassette arrangement, calibrating the dry gas meter every 30 days, verifying the accuracy of individual flowmeters (so that there is no more than 5 percent difference in the volume pulled between any two flowmeters), and calibrating or replacing anemometers and temperature sensing devices as necessary to maintain true data generation.

4.3 Analytical biases can be avoided by calibrating instruments according to the manufacturer's specifications prior to conducting any analyses, by performing internal and external audits of up to 10 percent of all samples analyzed, and by rotating individual crucibles as the ''blank'' crucible to detect any potential residual fluoride carry-over to samples. Should any contamination be discovered in the blank crucible, the crucible shall be thoroughly cleaned to remove any detected residual fluorides and a ''blank'' analysis conducted again to evaluate the effectiveness of the cleaning. The crucible shall remain in service as long as no detectable residual fluorides are present.

5.0 Safety.

5.1 This method may involve the handling of hazardous materials in the analytical phase. This method does not purport to address all of the potential safety hazards associated with its use. It is the responsibility of the user to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to performing this test method.

5.2 Corrosive reagents. The following reagents are hazardous. Personal protective equipment and safe procedures are useful in preventing chemical splashes. If contact occurs, immediately flush with copious amounts of water for at least 15 minutes. Remove clothing under shower and

decontaminate. Treat residual chemical burn as thermal burn.

5.3 Sodium Hydroxide (NaOH). Causes severe damage to eyes and skin. Inhalation causes irritation to nose, throat, and lungs. Reacts exothermically with limited amounts of water.

5.4 Perchloric Acid ($HClO_4$). Corrosive to eyes, skin, nose, and throat. Provide ventilation to limit exposure. Very strong oxidizer. Keep separate from water and oxidizable materials to prevent vigorous evolution of heat, spontaneous combustion, or explosion. Heat solutions containing HClO4 only in hoods specifically designed for $HClO_4$.

216.0 Equipment and Supplies.

6.1 Sampling.

6.1.1 Cassette arrangement. The cassette itself is a three-piece, styrene acrylonitrile cassette unit (a Gelman Sciences product), 37 millimeter (mm), with plastic connectors. In the first section (the intake section), an untreated Gelman Sciences 37 mm, 0.8 micrometer (µm) DM–800 metricel membrane filter and cellulose support pad, or equivalent, is situated. In the second and third segments of the cassette there is placed one each of Gelman Sciences 37 mm, 5 µm GLA–5000 low-ash PVC filter with a cellulose support pad or equivalent product. Each of these two filters and support pads shall have been immersed in a solution of 10 percent sodium formate (volume/volume in an ethyl alcohol solution). The impregnated pads shall be placed in the cassette segments while still wet and heated at 50°C (122°F) until the pad is completely dry. It is important to check for a proper fit of the filter and support pad to the cassette segment to ensure that there are no areas where gases could bypass the filter. Once all of the cassette segments have been prepared, the cassette shall be assembled and a plastic plug shall be inserted into the exhaust hole of the cassette. Prior to placing the cassette into service, the space between each segment shall be taped with an appropriately durable tape to prevent the infiltration of gases through the points of connection, and an aluminum nozzle shall be inserted into the intake hole of the cassette. The aluminum nozzle shall have a short section of tubing placed over the opening of the nozzle, with the tubing plugged to prevent dust from entering the nozzle and to prepare the nozzle for the cassette arrangement leak check. An alternate nozzle type can be used if historical results or scientific demonstration of applicability can be shown.

6.1.2 Anemometers and temperature sensing devices. To calculate the mass flow rate of TF from the roof monitor under standard conditions, anemometers that meet the specifications in section 2.1.1 in Method 14 of this appendix or an equivalent device yielding equivalent information shall be used. A recording mechanism capable of accurately recording the exit gas temperature at least every 2 hours shall be used.

6.1.3 Barometer. To correct the volumetric flow from the potline roof monitor to standard conditions, a mercury (Hg), aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm [0.1 inch (in)] Hg shall be used.

Note: The barometric reading may be obtained from a nearby National Weather Service Station. In this case, the station value (which is absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and the sampling point shall be made at a rate of minus 2.5 mm (0.1 in) Hg per 30 meters (m) [100 feet (ft)] elevation increase or plus 2.5 mm (0.1 in) Hg per 30 m (100 ft) elevation decrease.

6.2 Sample recovery.

6.2.1 Hot plate.

6.2.2 Muffle furnace.

6.2.3 Nickel crucible.

6.2.4 Stirring rod. Teflon'.

6.2.5 Volumetric flask. 50-milliliter (ml).

6.2.6 Plastic vial. 50-ml.

6.3 Analysis.

6.3.1 Primary analytical method. An automated analyzer having the following components or equivalent: a multichannel proportioning pump, multiposition sampler, voltage stabilizer, colorimeter, instrument recording device, microdistillation apparatus, flexible Teflon® heating bath, vacuum pump, pulse suppressers and an air flow system.

6.3.2 Secondary analytical method. Specific Ion Electrode (SIE).

7.0 Reagents and Standards.

7.1 Water. Deionized distilled to conform to ASTM Specification D 1193–77, Type 3 (incorporated by reference in § 60.17(a)(22) of this part). The $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

7.2 Calcium oxide.

7.3 Sodium hydroxide (NaOH). Pellets.

7.4 Perchloric acid ($HClO_4$). Mix 1:1 with water. Sulfuric acid (H_2SO_4) may be used in place of $HClO_4$.

7.5 Audit samples. The audit samples discussed in section 9.1 shall be prepared from reagent grade, water soluble stock reagents, or purchased as an aqueous solution from a commercial supplier. If the audit stock solution is purchased from a commercial supplier, the standard solution must be accompanied by a certificate of analysis or an equivalent proof of fluoride concentration.

8.0 Sample Collection and Analysis.

8.1 Preparing cassette arrangement for sampling. The cassettes are initially connected to flexible tubing. The tubing is connected to flowmeters and a manifold system. The manifold system is connected to a dry gas meter (Research Appliance Company model 201009 or equivalent). The length of tubing is managed by pneumatically or electrically operated hoists located in the roof monitor, and the travel of the tubing is controlled by encasing the tubing in aluminum conduit. The tubing is lowered for cassette insertion by operating a control box at floor level. Once the cassette has been securely inserted into the tubing and the leak check performed, the tubing and cassette are raised to the roof monitor level using the floor level control box. Arrangements similar to the one described are acceptable if the scientific sample collection principles are followed.

8.2 Test run sampling period. A test run shall comprise a minimum of a 24-hour sampling event encompassing at least eight cassettes per potline (or four cassettes per potroom group). Monthly compliance shall be based on three test runs during the month. Test runs of greater than 24 hours are allowed; however, three such runs shall be conducted during the month.

8.3 Leak-check procedures.

8.3.1 Pretest leak check. A pretest leak-check is recommended; however, it is not required. To perform a pretest leak-check after the cassettes have been inserted into the tubing, isolate the cassette to be leak-checked by turning the valves on the manifold to stop all flows to the other sampling points connected to the manifold and meter. The cassette, with the plugged tubing section securing the intake of the nozzle, is subjected to the highest vacuum expected during the run. If no leaks are detected, the tubing plug can be briefly removed as the dry gas meter is rapidly turned off.

8.3.2 Post-test leak check. A leak check is required at the conclusion of each test run for each cassette. The leak check shall be performed in accordance with the procedure outlined in section 8.3.1 of this method except that it shall be performed at a vacuum greater than the maximum vacuum reached during the test run. If the leakage rate is found to be no greater than 4 percent of the average sampling rate, the results are acceptable. If the leakage rate is greater than 4 percent of the average sampling rate, either record the leakage rate and correct the sampling volume as discussed in section 12.4 of this method or void the test run if the minimum number of cassettes were used. If the number of cassettes used was greater than the minimum required, discard the leaking cassette and use the remaining cassettes for the emission determination.

8.3.3 Anemometers and temperature sensing device placement. Install the recording mechanism to record the exit gas temperature. Anemometers shall be installed as required in section 6.1.2 of Method 14 of this appendix, except replace the word ''manifold'' with ''cassette group'' in section 6.1.2.3. These two different instruments shall be located near each other along the roof monitor. See conceptual configurations in Figures 14A–1, 14A–2, and 14A–3 of this method. Fewer temperature devices than anemometers may be used if at least one temperature device is located within the span of the cassette group. Other anemometer location siting scenarios may be acceptable as long as the exit velocity of the roof monitor gases is representative of the entire section of the potline being sampled.

8.4 Sampling. The actual sample run shall begin with the removal of the tubing and plug from the cassette nozzle. Each cassette is then raised to the roof monitor area, the dry gas meter is turned on, and the flowmeters are set to the calibration point, which allows an equal volume of sampled gas to enter each cassette. The dry gas meter shall be set to a range suitable for the specific potroom type being sampled that will yield valid data known from previous experience or a range determined by the use of the calculation in section 12 of this method.

Parameters related to the test run that shall be recorded, either during the test run or after the test run if recording devices are used, include: anemometer data, roof monitor exit gas temperature, dry gas meter temperature, dry gas meter volume, and barometric pressure. At the conclusion of the test run, the cassettes shall be lowered, the dry gas meter turned off, and the volume registered on the dry gas meter recorded. The post-test leak check procedures described in section 8.3.2 of this method shall be performed. All data relevant to the test shall be recorded on a field data sheet and maintained on file.

8.5 Sample recovery.

8.5.1 The cassettes shall be brought to the laboratory with the intake nozzle contents protected with the section of plugged tubing previously described. The exterior of cassettes shall carefully be wiped free of any dust or debris, making sure that any falling dust or debris does not present a potential laboratory contamination problem.

8.5.2 Carefully remove all tape from the cassettes and remove the initial filter, support pad, and all loose solids from the first (intake) section of the cassette. Fold the filter and support pad several times and, along with all loose solids removed from the interior of the first section of the cassette, place them into a nickel crucible. Using water, wash the interior of the nozzle into the same nickel crucible. Add 0.1 gram (g) [±0.1 milligram (mg)] of calcium oxide and a sufficient amount of water to make a loose slurry. Mix the contents of the crucible thoroughly with a Teflon'' stirring rod. After rinsing any adhering residue from the stirring rod back into the crucible, place the crucible on a hot plate or in a muffle furnace until all liquid is evaporated and allow the mixture to gradually char for 1 hour.

8.5.3 Transfer the crucible to a cold muffle furnace and ash at 600°C (1,112°F). Remove the crucible after the ashing phase and, after the crucible cools, add 3.0 g (±0.1 g) of NaOH pellets. Place this mixture in a muffle furnace at 600°C (1,112°F) for 3 minutes. Remove the crucible and roll the melt so as to reach all of the ash with the molten NaOH. Let the melt cool to room temperature. Add 10 to 15 ml of water to the crucible and place it on a hot plate at a low temperature setting until the melt is soft or suspended. Transfer the contents of the crucible to a 50-ml volumetric flask. Rinse the crucible with 20 ml of 1:1 perchloric acid or 20 ml of 1:1 sulfuric acid in two (2) 10 ml portions. Pour the acid rinse slowly into the volumetric flask and swirl the flask after each addition. Cool to room temperature. The product of this procedure is particulate fluorides.

8.5.4 Gaseous fluorides can be isolated for analysis by folding the gaseous fluoride filters and support pads to approximately ¼ of their original size and placing them in a 50-ml plastic vial. To the vial add exactly 10 ml of water and leach the sample for a minimum of 1 hour. The leachate from this process yields the gaseous fluorides for analysis.

9.0 Quality Control.

9.1 Laboratory auditing. Laboratory audits of specific and known concentrations of fluoride shall be submitted to the laboratory with each group of samples submitted for analysis. An auditor shall prepare and present the audit samples as a ''blind'' evaluation of laboratory performance with each group of samples submitted to the laboratory. The audits shall be prepared to represent concentrations of fluoride that could be expected to be in the low, medium and high range of actual results. Average recoveries of all three audits must equal 90 to 110 percent for acceptable results; otherwise, the laboratory must investigate procedures and instruments for potential problems.

Note: The analytical procedure allows for the analysis of individual or combined filters and pads from the cassettes provided that equal volumes (±10 percent) are sampled through each cassette.

10.0 Calibrations.

10.1 Equipment evaluations. To ensure the integrity of this method, periodic calibrations and equipment replacements are necessary.

10.1.1 Metering system. At 30-day intervals the metering system shall be calibrated. Connect the metering system inlet to the outlet of a wet test meter that is accurate to 1 percent. Refer to Figure 5–4 of Method 5 of this appendix. The wet-test meter shall have a capacity of 30 liters/revolution [1 cubic foot (ft^3)/revolution]. A spirometer of 400 liters (14 ft^3) or more capacity, or equivalent, may be used for calibration; however, a wet-test meter is usually more practical. The wet-test meter shall be periodically tested with a spirometer or a liquid displacement meter to ensure the accuracy. Spirometers or wet-test meters of other sizes may be used, provided that the specified accuracies of the procedure are maintained. Run the metering system pump for about 15 min. with the orifice manometer indicating a median reading as expected in field use to allow the pump to warm up and to thoroughly wet the interior of the wet-test meter. Then, at each of a minimum of three orifice manometer settings, pass an exact quantity of gas through the wet-test meter and record the volume indicated by the dry gas meter. Also record the barometric pressure, the temperatures of the wet test meter, the inlet temperatures of the dry gas meter, and the temperatures of the outlet of the dry gas meter. Record all calibration data on a form similar to the one shown in Figure 5–5 of Method 5 of this appendix and calculate Y, the dry gas meter calibration factor, and $\Delta H_@$, the orifice calibration factor at each orifice setting. Allowable tolerances for Y and $\Delta H_@$ are given in Figure 5–6 of Method 5 of this appendix.

10.1.2 Estimating volumes for initial test runs. For a facility's initial test runs, the regulated facility must have a target or desired volume of gases to be sampled and a target range of volumes to use during the calibration of the dry gas meter. Use Equations 14A–1 and 14A–2 in section 12 of this method to derive the target dry gas meter volume (F_v) for these purposes.

10.1.3 Calibration of anemometers and temperature sensing devices. If the standard anemometers in Method 14 of this appendix are used, the calibration and integrity evaluations in sections 10.3.1.1 through 10.3.1.3 of Method 14 of this appendix shall be used as well as the recording device described in section 2.1.3 of Method 14. The calibrations or complete change-outs of anemometers shall take place at a minimum of once per year. The temperature sensing and recording devices shall be calibrated according to the manufacturer's specifications.

10.1.4 Calibration of flowmeters. The calibration of flowmeters is necessary to ensure that an equal volume of sampled gas is entering each of the individual cassettes and that no large differences, which could possibly bias the sample, exist between the cassettes.

10.1.4.1 Variable area, 65 mm flowmeters or equivalent shall be used. These flowmeters can be mounted on a common base for convenience. These flowmeters shall be calibrated by attaching a prepared cassette, complete with filters and pads, to the flowmeter and then to the system manifold. This manifold is an aluminum cylinder with valved inlets for connections to the flowmeters/cassettes and one outlet to a dry gas meter. The connection is then made to the wet-test meter and finally to a dry gas meter. All connections are made with tubing.

10.1.4.2 Turn the dry gas meter on for 15 min. in preparation for the calibration. Turn the dry gas meter off and plug the intake hole of the cassette. Turn the dry gas meter back on to evaluate the entire system for leaks. If the dry gas meter shows a leakage rate of less than 0.02 ft^3/min at 10 in. of Hg vacuum as noted on the dry gas meter, the system is acceptable to further calibration.

10.1.4.3 With the dry gas meter turned on and the flow indicator ball at a selected flow rate, record the exact amount of gas pulled through the flowmeter by taking measurements from the wet test meter after exactly 10 min. Record the room temperature and barometric pressure. Conduct this test for all flowmeters in the system with all flowmeters set at the same indicator ball reading. When all flowmeters have gone through the procedure above, correct the volume pulled through each flowmeter to standard conditions. The acceptable difference between the highest and lowest flowmeter rate is 5 percent. Should one or more flowmeters be outside of the acceptable limit of 5 percent, repeat the calibration procedure at a lower or higher indicator ball reading until all flowmeters show no more than 5 percent difference among them.

10.1.4.4 This flowmeter calibration shall be conducted at least once per year.

10.1.5 Miscellaneous equipment calibrations. Miscellaneous equipment used such as an automatic recorder/ printer used to measure dry gas meter temperatures shall be calibrated according to the manufacturer's specifications in order to maintain the accuracy of the equipment.

11.0 Analytical Procedure.

11.1 The preferred primary analytical determination of the individual isolated samples or the combined particulate and gaseous samples shall be performed by an automated methodology. The analytical

method for this technology shall be based on the manufacturer's instructions for equipment operation and shall also include the analysis of five standards with concentrations in the expected range of the actual samples. The results of the analysis of the five standards shall have a coefficient of correlation of at least 0.99. A check standard shall be analyzed as the last sample of the group to determine if instrument drift has occurred. The acceptable result for the check standard is 95 to 105 percent of the standard's true value.

11.2 The secondary analytical method shall be by specific ion electrode if the samples are distilled or if a TISAB IV buffer is used to eliminate aluminum interferences. Five standards with concentrations in the expected range of the actual samples shall be analyzed, and a coefficient of correlation of at least 0.99 is the minimum acceptable limit for linearity. An exception for this limit for linearity is a condition when low-level standards in the range of 0.01 to 0.48 µg fluoride/ml are analyzed. In this situation, a minimum coefficient of correlation of 0.97 is required. TISAB II shall be used for low-level analyses.

12.0 Data Analysis and Calculations.

12.1 Carry out calculations, retaining at least one extra decimal point beyond that of the acquired data. Round off values after the final calculation. Other forms of calculations may be used as long as they give equivalent results.

12.2 Estimating volumes for initial test runs.

$$F_v = \frac{(F_d)(X)}{F_e} \qquad \text{Eq. 14A-1}$$

Where

F_v = Desired volume of dry gas to be sampled, ft^3.

F_d = Desired or analytically optimum mass of TF per cassette, micrograms of TF per cassette (µg/cassette).

X = Number of cassettes used.

F_e = Typical concentration of TF in emissions to be sampled, µg/ft^3, calculated from Equation 14A–2.

$$F_e = \frac{(R_e)(R_p)(4.536 \times 10^8 \mu g/lb)}{(A_r)(V_r)} \qquad \text{Eq. 14A-2}$$

Where

R_e = Typical emission rate from the facility, pounds of TF per ton (lb/ton) of aluminum.

R_p = Typical production rate of the facility, tons of aluminum per minute (ton/min).

V_r = Typical exit velocity of the roof monitor gases, feet per minute (ft/min).

A_r=Open area of the roof monitor, square feet (ft^2).

12.2.1 Example calculation. Assume that the typical emission rate (R_e) is 1.0 lb TF/ton of aluminum, the typical roof vent gas exit velocity (V_r) is 250 ft/min, the typical production rate (R_p) is 0.10 ton/min, the known open area for the roof monitor (A_r) is 8,700 ft^2, and the desired (analytically optimum) mass of TF per cassette is 1,500 µg. First calculate the concentration of TF per cassette (F_e) in µg/ft^3 using Equation 14A–2. Then calculate the desired volume of gas to be sampled (F_v) using Equation 14A–1.

$$F_e = 20.855 = \frac{(1.0 \text{ lb/ton})(0.1 \text{ tons/min})(4.536 \times 10^8 \ \mu g/lb)}{(8{,}700 \text{ ft}^2)(250 \text{ ft/min})} \qquad \text{Eq. 14A-3}$$

$$F_v = 575.40\ ft^3 = \frac{(1{,}500\ \mu g)(8\ cassettes)}{(20.855\ \mu g/ft^3)} \qquad \text{Eq. 14A-4}$$

This is a total of 575.40 ft^3 for eight cassettes or 71.925 ft^3/cassette.

12.3 Calculations of TF emissions from field and laboratory data that would yield a production related emission rate can be calculated as follows:

12.3.1 Obtain a standard cubic feet (scf) value for the volume pulled through the dry gas meter for all cassettes by using the field and calibration data and Equation 5–1 of Method 5 of this appendix.

12.3.2 Derive the average quantity of TF per cassette (in µg TF/cassette) by adding all laboratory data for all cassettes and dividing this value by the total number of cassettes used. Divide this average TF value by the corrected dry gas meter volume for each cassette; this value then becomes TF_{std} (µg/ft^3).

12.3.3 Calculate the production-based emission rate (R_e) in lb/ton using Equation 14A–5.

$$R_e = \frac{(TF_{std})(V_r)(A_r)(2.2 \times 10^{-9}\ lb/\mu g)}{(R_p)} \qquad \text{Eq. 14A-5}$$

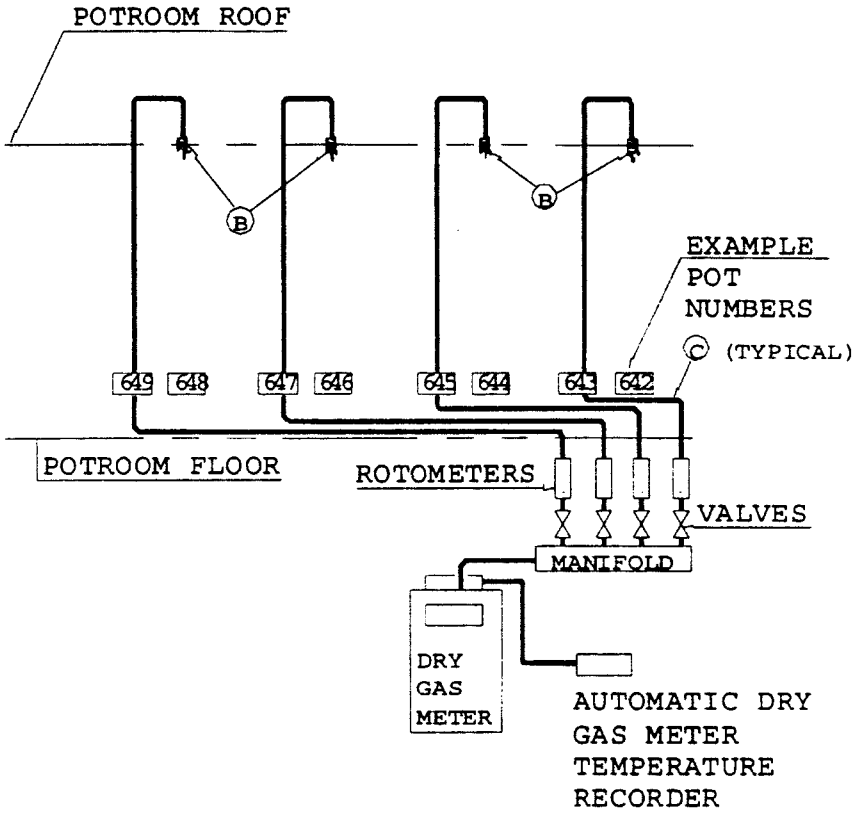
12.3.4 As an example calculation, assume eight cassettes located in a potline were used to sample for 72 hours during the run. The analysis of all eight cassettes yielded a total of 3,000 µg of TF. The dry gas meter volume was corrected to yield a total of 75 scf per cassette, which yields a value for TF_{std} of 3,000/75=5 µg/ft^3. The open area of the roof monitor for the potline (A_r) is 17,400 ft^2. The exit velocity of the roof monitor gases (V_r) is 250 ft/min. The production rate of aluminum over the previous 720 hours was 5,000 tons, which is 6.94 tons/hr or 0.116 ton/min (R_p). Substituting these values into Equation 14A–5 yields:

$$R_e = \frac{(5\ \mu g/ft^3)(250\ ft/min)(17{,}400\ ft^2)(2.2 \times 10^{-9}\ lb/\mu g)}{(0.116\ ton/min)} \qquad \text{Eq. 14A-6}$$

$$R_e = 0.41\ lb/ton\ of\ aluminum\ produced. \qquad \text{Eq. 14A-7}$$

12.4 Corrections to volumes due to leakage. Should the post-test leak check leakage rate exceed 4 percent as described in section 8.3.2 of this method, correct the volume as detailed in Case I in section 6.3 of Method 5 of this appendix.

BILLING CODE 6560–50–P



Ⓑ ALCAN CASSETTE EXAMPLE METHOD SAMPLING POINTS
Ⓒ POLYETHYLENE TUBING ENCLOSED IN CONDUIT

Figure 14A-1. Conceptual side view of arrangement of 4 cassettes for one-half of a potroom.

Note: This drawing does not reflect an equally acceptable arrangement of 8 cassettes in a cassette group located along at least 8 percent of the potroom roof.

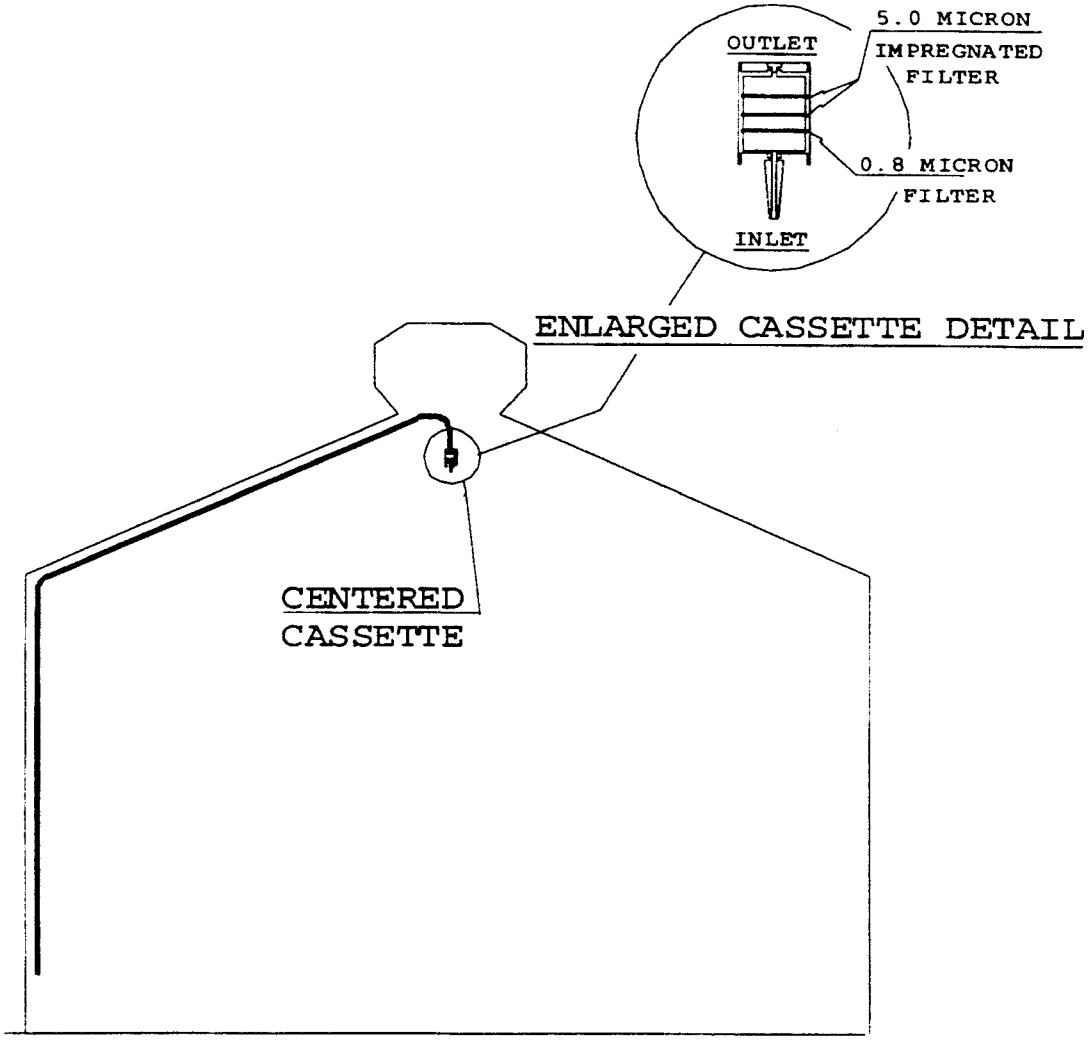


Figure 14A-2. Conceptual end view of cassette placement in a potroom roof.

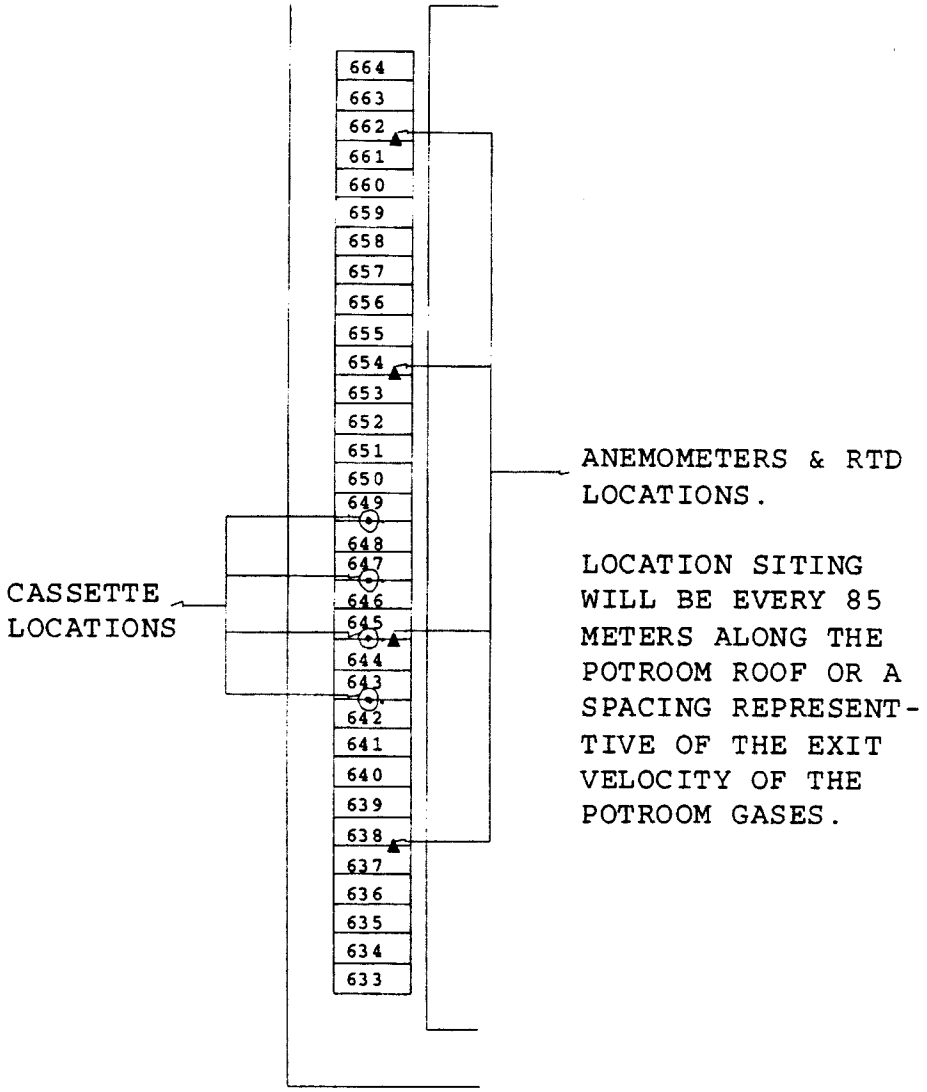


Figure 14A-3. Conceptual side view of positions of cassettes, anemometers, and RTDs in a typical half of a potroom.

Note: This drawing does not reflect other potentially acceptable arrangements.

BILLING CODE 6560–50–L

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

7. The authority citation for part 63 continues to read as follows:

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

8. Part 63 is amended by adding subpart LL to read as follows:

Subpart LL—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

Sec.
63.840 Applicability.
63.841 Incorporation by reference.
63.842 Definitions.
63.843 Emission limits for existing sources.
63.844 Emission limits for new or reconstructed sources.
63.845 Incorporation of new source performance standards for potroom groups.
63.846 Emission averaging.
63.847 Compliance provisions.
63.848 Emission monitoring requirements.
63.849 Test methods and procedures.
63.850 Notification, reporting, and recordkeeping requirements.
63.851 Regulatory authority review procedures.
63.852 Applicability of general provisions.
63.853 Delegation of authority.
63.854–63.859 [Reserved]
Table 1 to Subpart LL—Potline TF Limits for Emission Averaging
Table 2 to Subpart LL—Potline POM Limits for Emission Averaging
Table 3 to Subpart LL—Anode Bake Furnace Limits for Emission Averaging

Appendix A to Subpart LL—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart LL

Subpart LL—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

§ 63.840 Applicability.

(a) Except as provided in paragraph (b) of this section, the requirements of this subpart apply to the owner or operator of each new pitch storage tank and new or existing potline, paste production plant, or anode bake furnace associated with primary aluminum production and located at a major source as defined in § 63.2.

(b) The requirements of this subpart do not apply to any existing anode bake furnace that is not located on the same site as a primary aluminum reduction plant. The owner or operator shall comply with the State MACT determination established by the applicable regulatory authority.

(c) An owner or operator of an affected facility (potroom group or anode bake furnace) under § 60.190 of this chapter may elect to comply with either the requirements of § 63.845 of this subpart or the requirements of subpart S of part 60 of this chapter.

§ 63.841 Incorporation by reference.

(a) The following material is incorporated by reference in the corresponding sections noted. This incorporation by reference was approved by the Director of the Federal Register on October 7, 1997, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval, and notice of any change in the materials will be published in the **Federal Register**. Revisions to ''Industrial Ventilation: A Manual of Recommended Practice'' (22nd ed.) are applicable only after publication of a document in the **Federal Register** to amend subpart LL to require use of the new information.

(1) Chapter 3, ''Local Exhaust Hoods'' and Chapter 5, ''Exhaust System Design Procedure'' of ''Industrial Ventilation: A Manual of Recommended Practice,'' American Conference of Governmental Industrial Hygienists, 22nd edition, 1995, IBR approved for §§ 63.843(b) and 63.844(b); and

(2) ASTM D 2986–95A, Standard Practice for Evaluation of Air Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test, IBR approved for section 7.1.1 of Method 315 in appendix A to this part.

(b) The materials incorporated by reference are available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, 7th Floor, Washington, DC, and at the Air and Radiation Docket Center, U.S. EPA, 401 M Street, SW., Washington, DC. The materials also are available for purchase from one of the following addresses:

(1) Customer Service Department, American Conference of Governmental Industrial Hygienists (ACGIH), 1330 Kemper Meadow Drive, Cincinnati, Ohio 45240, telephone number (513) 742–2020; or

(2) American Society for Testing and Materials, 100 Bar Harbour Drive, West Conshohocken, Pennsylvania 19428, telephone number (610) 832–9500.

§ 63.842 Definitions.

Terms used in this subpart are defined in the Clean Air Act as amended (the Act), in § 63.2, or in this section as follows:

Anode bake furnace means an oven in which the formed green anodes are baked for use in a prebake process. This definition includes multiple anode bake furnaces controlled by a common control device (bake furnaces controlled by a common control device are considered to be one source).

Center-worked prebake (CWPB) process means a method of primary aluminum reduction using the prebake process in which the alumina feed is added down the center of the reduction cell.

Center-worked prebake one (CWPB1) means all existing center-worked prebake potlines not defined as center-worked prebake two (CWPB2) or center-worked prebake three (CWPB3) potlines.

Center-worked prebake two (CWPB2) means all existing center-worked prebake potlines located at Alcoa in Rockdale, Texas; Kaiser Aluminum in Mead, Washington; Ormet Corporation in Hannibal, Ohio; Ravenswood Aluminum in Ravenswood, West Virginia; Reynolds Metals in Troutdale, Oregon; and Vanalco Aluminum in Vancouver, Washington.

Center-worked prebake three (CWPB3) means all existing center-worked prebake potlines that produce very high purity aluminum, have a wet scrubber for the primary control system, and are located at the NSA primary aluminum plant in Hawesville, Kentucky.

Continuous parameter monitoring system means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters.

Horizontal stud Soderberg (HSS) process means a method of primary aluminum reduction using the Soderberg process in which the electrical current is introduced to the anode by steel rods (studs) inserted into the side of a monolithic anode.

Modified potroom group means an existing potroom group to which any physical change in, or change in the method of operation of, results in an increase in the amount of total fluoride emitted into the atmosphere by that potroom group.

Paste production plant means the processes whereby calcined petroleum coke, coal tar pitch (hard or liquid), and/or other materials are mixed, transferred, and formed into briquettes or paste for vertical stud Soderberg (VSS) and HSS processes or into green anodes for a prebake process. This definition includes all operations from initial mixing to final forming (i.e., briquettes, paste, green anodes) within the paste plant, including conveyors and units managing heated liquid pitch.

Pitch storage tank means any fixed roof tank that is used to store liquid

pitch that is not part of the paste production plant.

Polycyclic organic matter (POM) means organic matter extractable by methylene chloride as determined by Method 315 in appendix A to this part or by an approved alternative method.

Potline means a single, discrete group of electrolytic reduction cells electrically connected in series, in which alumina is reduced to form aluminum.

Potroom means a building unit that houses a group of electrolytic cells in which aluminum is produced.

Potroom group means an uncontrolled potroom, a potroom that is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.

Prebake process means a method of primary aluminum reduction that uses an anode that was baked in an anode bake furnace, which is introduced into the top of the reduction cell and consumed as part of the reduction process.

Primary aluminum reduction plant means any facility manufacturing aluminum by electrolytic reduction.

Primary control system means the equipment used to capture the gases and particulate matter evacuated directly from the reduction cell and the emission control device(s) used to remove pollutants prior to discharge of the cleaned gas to the atmosphere. A roof scrubber is not part of the primary control system.

Primary emissions means the emissions discharged from the primary control system.

Reconstructed potroom group means an existing potroom group for which the components are replaced to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new potroom group, and for which it is technologically and economically feasible to meet the applicable emission limits for total fluoride set forth in this subpart.

Reconstruction means the replacement of components of a source to such an extent that:

(1) All of the major components of the source are replaced (for example, the major components of a potline include the raw material handling system, reduction cells, superstructure, hooding, ductwork, etc.); and

(2) It is technologically and economically feasible for the reconstructed source to meet the standards for new sources established in this subpart.

Roof monitor means that portion of the roof of a potroom building where gases not captured at the cell exit from the potroom.

Secondary emissions means the fugitive emissions that are not captured and controlled by the primary control system and that escape through the roof monitor or through roof scrubbers.

Side-worked prebake (SWPB) process means a method of primary aluminum reduction using the prebake process, in which the alumina is added along the sides of the reduction cell.

Soderberg process means a method of primary aluminum reduction in which the anode paste mixture is baked in the reduction pot by the heat resulting from the electrolytic process.

Total fluorides (TF) means elemental fluorine and all fluoride compounds as measured by Methods 13A or 13B in appendix A to part 60 of this chapter or by an approved alternative method.

Vertical stud Soderberg (VSS) process means a method of primary aluminum reduction using the Soderberg process, in which the electrical current is introduced to the anode by steel rods (studs) inserted into the top of a monolithic anode.

Vertical stud Soderberg one (VSS1) means all existing vertical stud Soderberg potlines located either at Northwest Aluminum in The Dalles, Oregon, or at Goldendale Aluminum in Goldendale, Washington.

Vertical stud Soderberg two (VSS2) means all existing vertical stud Soderberg potlines located at Columbia Falls Aluminum in Columbia Falls, Montana.

§ 63.843 Emission limits for existing sources.

(a) *Potlines.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF or POM in excess of the applicable limits in paragraphs (a)(1) and (a)(2) of this section.

(1) *TF limits.* Emissions of TF shall not exceed:

(i) 0.95 kg/Mg (1.9 lb/ton) of aluminum produced for each CWPB1 potline;

(ii) 1.5 kg/Mg (3.0 lb/ton) of aluminum produced for each CWPB2 potline;

(iii) 1.25 kg/Mg (2.5 lb/ton) of aluminum produced for each CWPB3 potline;

(iv) 0.8 kg/Mg (1.6 lb/ton) of aluminum produced for each SWPB potline;

(v) 1.1 kg/Mg (2.2 lb/ton) of aluminum produced for each VSS1 potline;

(vi) 1.35 kg/Mg (2.7 lb/ton) of aluminum produced for each VSS2 potline; and

(vii) 1.35 kg/Mg (2.7 lb/ton) of aluminum produced for each HSS potline.

(2) *POM limits.* Emissions of POM shall not exceed:

(i) 2.35 kg/Mg (4.7 lb/ton) of aluminum produced for each HSS potline;

(ii) 1.2 kg/Mg (2.4 lb/ton) of aluminum produced for each VSS1 potline; and

(iii) 1.8 kg/Mg (3.6 lb/ton) of aluminum produced for each VSS2 potline.

(3) *Change in subcategory.* Any potline, other than a reconstructed potline, that is changed such that its applicable subcategory also changes shall meet the applicable emission limit in this subpart for the original subcategory or the new subcategory, whichever is more stringent.

(b) *Paste production plants.* The owner or operator shall install, operate, and maintain equipment to capture and control POM emissions from each paste production plant.

(1) The emission capture system shall be installed and operated to meet the generally accepted engineering standards for minimum exhaust rates as published by the American Conference of Governmental Industrial Hygienists in Chapters 3 and 5 of ''Industrial Ventilation: A Handbook of Recommended Practice'' (incorporated by reference in § 63.841 of this part); and

(2) Captured emissions shall be routed through a closed system to a dry coke scrubber; or

(3) The owner or operator may submit a written request for use of an alternative control device to the applicable regulatory authority for review and approval. The request shall contain information and data demonstrating that the alternative control device achieves POM emissions less than 0.011 lb/ton of paste for plants with continuous mixers or POM emissions less than 0.024 lb/ton of paste for plants with batch mixers. The POM emission rate shall be determined by sampling using Method 315 in appendix A to this part.

(c) *Anode bake furnaces.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF or POM in excess of the limits in paragraphs (c)(1) and (c)(2) of this section.

(1) *TF limit.* Emissions of TF shall not exceed 0.10 kg/Mg (0.20 lb/ton) of green anode; and

(2) *POM limit.* Emissions of POM shall not exceed 0.09 kg/Mg (0.18 lb/ton) of green anode.

§ 63.844 Emission limits for new or reconstructed sources.

(a) *Potlines.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF or POM in excess of the limits in paragraphs (a)(1) and (a)(2) of this section.

(1) *TF limit.* Emissions of TF shall not exceed 0.6 kg/Mg (1.2 lb/ton) of aluminum produced; and

(2) *POM limit.* Emissions of POM from Soderberg potlines shall not exceed 0.32 kg/Mg (0.63 lb/ton) of aluminum produced.

(b) *Paste production plants.* The owner or operator shall meet the requirements in § 63.843(b) for existing paste production plants.

(c) *Anode bake furnaces.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF or POM in excess of the limits in paragraphs (c)(1) and (c)(2) of this section.

(1) *TF limit.* Emissions of TF shall not exceed 0.01 kg/Mg (0.02 lb/ton) of green anode; and

(2) *POM limit.* Emissions of POM shall not exceed 0.025 kg/Mg (0.05 lb/ton) of green anode.

(d) *Pitch storage tanks.* Each pitch storage tank shall be equipped with an emission control system designed and operated to reduce inlet emissions of POM by 95 percent or greater.

§ 63.845 Incorporation of new source performance standards for potroom groups.

(a) *Applicability.* The provisions in paragraphs (a) through (i) of this section shall apply to any Soderberg, CWPB2, and CWPB3 potline that adds a new potroom group to an existing potline or that is associated with a potroom group that meets the definition of ''modified potroom group'' or ''reconstructed potroom group.''

(1) The following shall not, by themselves, be considered to result in a potroom group modification:

(i) Maintenance, repair, and replacement that the applicable regulatory authority determines to be routine for the potroom group;

(ii) An increase in production rate of an existing potroom group, if that increase can be accomplished without a capital expenditure on that potroom group;

(iii) An increase in the hours of operation;

(iv) Use of an alternative fuel or raw material if, prior to the effective date of this subpart, the existing potroom group was designed to accommodate that alternative use;

(v) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system that the applicable regulatory authority determines to be less environmentally beneficial; and

(vi) The relocation or change in ownership of an existing potroom group.

(2) The provisions in paragraphs (a)(2)(i) through (a)(2)(iv) of this section apply when the applicable regulatory authority must determine if a potroom group meets the definition of reconstructed potroom group.

(i) ''Fixed capital cost'' means the capital needed to provide all the depreciable components.

(ii) If an owner or operator of an existing potroom group proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new potroom group, he/she shall notify the applicable regulatory authority of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(A) Name and address of the owner or operator;

(B) The location of the existing potroom group;

(C) A brief description of the existing potroom group and the components that are to be replaced;

(D) A description of the existing air pollution control equipment and the proposed air pollution control equipment;

(E) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new potroom group;

(F) The estimated life of the existing potroom group after the replacements; and

(G) A discussion of any economic or technical limitations the potroom group may have in complying with the applicable standards of performance after the proposed replacements.

(iii) The applicable regulatory authority will determine, within 30 days of the receipt of the notice required by paragraph (a)(2)(ii) of this section and any additional information he/she may reasonably require, whether the proposed replacement constitutes a reconstructed potroom group.

(iv) The applicable regulatory authority's determination under paragraph (a)(2)(iii) of this section shall be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new potroom group;

(B) The estimated life of the potroom group after the replacements compared to the life of a comparable entirely new potroom group;

(C) The extent to which the components being replaced cause or contribute to the emissions from the potroom group; and

(D) Any economic or technical limitations on compliance with applicable standards of performance that are inherent in the proposed replacements.

(b) *Lower TF emission limit.* The owner or operator shall calculate a lower TF emission limit for any potline associated with the modified potroom group, reconstructed potroom group, or new potroom group using the following equation:

$$L_1 = f_1 \times L_{PG1} + (1 - f_1) \times L_{PL}$$

Where

L_1=the lower TF emission limit in kg/Mg (lb/ton);

f_1=the fraction of the potline's total aluminum production capacity that is contained within all modified potroom groups, reconstructed potroom groups, and new potroom groups;

L_{PG1}=0.95 kg/Mg (1.9 lb/ton) for prebake potlines and 1.0 kg/Mg (2.0 lb/ton) for Soderberg potlines; and

L_{PL}=the TF emission limit from § 63.843(a)(1) for the appropriate potline subcategory that would have otherwise applied to the potline.

(c) *Upper TF emission limit.* The owner or operator shall calculate an upper TF emission limit for any potline associated with the modified potroom group, reconstructed potroom group, or new potroom group using the following equation:

$$L_2 = f_1 \times L_{PG2} + (1 - f_1) \times L_{PL}$$

Where

L_2=the upper TF emission limit in kg/Mg (lb/ton); and

L_{PG2}=1.25 kg/Mg (2.5 lb/ton) for prebake potlines and 1.3 kg/Mg (2.6 lb/ton) for Soderberg potlines.

(d) *Recalculation.* The TF emission limits in paragraphs (b) and (c) of this section shall be recalculated each time a new potroom group is added to the potline and each time an additional potroom group meets the definition of ''modified potroom group'' or ''reconstructed potroom group.''

(e) *Emission limitation.* The owner or operator shall not discharge or cause to be discharged into the atmosphere emissions of TF from any potline

associated with the modified potroom group, reconstructed potroom group, or new potroom group that exceed the lower emission limit calculated in paragraph (b) of this section, except that emissions less than the upper limit calculated in paragraph (c) of this section will be considered in compliance if the owner or operator demonstrates that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the potline during the performance test.

(f) *Report.* Within 30 days of any performance test that reveals emissions that fall between the lower limit calculated in paragraph (b) of this section and the upper limit calculated in paragraph (c) of this section, the owner or operator shall submit to the applicable regulatory authority a report indicating whether all necessary control devices were online and operating properly during the performance test, describing the operating and maintenance procedures followed, and setting forth any explanation for the excess emissions.

(g) *Procedures to determine TF emissions.* The owner or operator shall determine TF emissions for the potline using the following procedures:

(1) Determine the emission rate of TF in kg/Mg (lb/ton) from sampling secondary emissions and the primary control system for all new potroom groups, modified potroom groups, and reconstructed potroom groups using the procedures, equations, and test methods in §§ 63.847, 63.848, and 63.849.

(2) Determine the emission rate of TF in kg/Mg (lb/ton) from sampling secondary emissions and the primary control system for potroom groups or sections of potroom groups within the potline that are not new potroom groups, modified potroom groups, or reconstructed potroom groups according to paragraphs (g)(2)(i) or (g)(2)(ii) of this section.

(i) Determine the mass emission rate of TF in kg/Mg (lb/ton) from at least one potroom group within the potline that is not a new potroom group, modified potroom group, or reconstructed potroom group using the procedures, equations, and test methods in §§ 63.847, 63.848, and 63.849, or

(ii) Use the results of the testing required by paragraph (g)(1) of this section to represent the entire potline based on a demonstration that the results are representative of the entire potline. Representativeness shall be based on showing that all of the potroom groups associated with the potline are substantially equivalent in terms of their structure, operability, type of emissions, volume of emissions, and concentration of emissions.

(3) Calculate the TF emissions for the potline in kg/Mg (lb/ton) based on the production-weighted average of the TF emission rates from paragraphs (g)(1) and (g)(2) of this section using the following equation:

$$E = f_1 \times E_{PG1} + (1 - f_1) \times E_{PL}$$

where

E=the TF emission rate for the entire potline, kg/Mg (lb/ton);

f_1=the fraction of the potline's total aluminum production rate that is contained within all modified potroom groups, reconstructed potroom groups, and new potroom groups;

E_{PG1}=the TF emission rate from paragraph (g)(1) of this section for all modified potroom groups, reconstructed potroom groups, and new potroom groups, kg/Mg (lb/ton); and

E_{PL}=the TF emission rate for the balance of the potline from paragraph (g)(2) of this section, kg/Mg (lb/ton).

Compliance is demonstrated when TF emissions for the potline meet the requirements in paragraph (e) of this section.

(4) As an alternative to sampling as required in paragraphs (g)(1) and (g)(2) of this section, the owner or operator may perform representative sampling of the entire potline subject to the approval of the applicable regulatory authority. Such sampling shall provide coverage by the sampling equipment of both the new, modified, or reconstructed potroom group and the balance of the potline. The coverage for the new, modified, or reconstructed potroom group must meet the criteria specified in the reference methods in § 63.849. TF emissions shall be determined for the potline using the procedures, equations, and test methods in §§ 63.847, 63.848, and 63.849. Compliance is demonstrated when TF emissions for the potline meet the requirements in paragraph (e) of this section.

(h) *Opacity.* Except as provided in paragraph (i) of this section, the owner or operator shall not discharge or cause to be discharged into the atmosphere from the modified potroom group, reconstructed potroom group, or new potroom group any emissions of gases that exhibit 10 percent opacity or greater.

(i) *Alternative opacity limit.* An alternative opacity limit may be established in place of the opacity limit in paragraph (h) of this section using the following procedures:

(1) If the regulatory authority finds that a potline is in compliance with the applicable TF standard for which performance tests are conducted in accordance with the methods and procedures in § 63.849 but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the regulatory authority shall notify and advise the owner or operator that he/she may petition the regulatory authority within 10 days of receipt of notification to make appropriate adjustment to the opacity standard.

(2) The regulatory authority will grant such a petition upon a demonstration by the owner or operator that the potroom group and associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the regulatory authority; and that the potroom group and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

(3) As indicated by the performance and opacity tests, the regulatory authority will establish an opacity standard for any potroom group meeting the requirements in paragraphs (i)(1) and (i)(2) of this section such that the opacity standard could be met by the potroom group at all times during which the potline is meeting the TF emission limit.

(4) The alternative opacity limit established in paragraph (i)(3) of this section shall not be greater than 20 percent opacity.

§ 63.846 Emission averaging.

(a) *General.* The owner or operator of an existing potline or anode bake furnace in a State that does not choose to exclude emission averaging in the approved operating permit program may demonstrate compliance by emission averaging according to the procedures in this section.

(b) *Potlines.* The owner or operator may average TF emissions from potlines and demonstrate compliance with the limits in Table 1 of this subpart using the procedures in paragraphs (b)(1) and (b)(2) of this section. The owner or operator also may average POM emissions from potlines and demonstrate compliance with the limits in Table 2 of this subpart using the procedures in paragraphs (b)(1) and (b)(3) of this section.

(1) Monthly average emissions of TF and/or quarterly average emissions of POM shall not exceed the applicable

emission limit in Table 1 of this subpart (for TF emissions) and/or Table 2 of this subpart (for POM emissions). The emission rate shall be calculated based on the total emissions from all potlines over the period divided by the quantity of aluminum produced during the period, from all potlines comprising the averaging group.

(2) To determine compliance with the applicable emission limit in Table 1 of this subpart for TF emissions, the owner or operator shall determine the monthly average emissions (in lb/ton) from each potline from at least three runs per potline each month for TF secondary emissions using the procedures and methods in §§ 63.847 and 63.849. The owner or operator shall combine the results of secondary TF monthly average emissions with the TF results for the primary control system and divide total emissions by total aluminum production.

(3) To determine compliance with the applicable emission limit in Table 2 of this subpart for POM emissions, the owner or operator shall determine the quarterly average emissions (in lb/ton) from each potline from at least one run each month for POM emissions using the procedures and methods in §§ 63.847 and 63.849. The owner or operator shall combine the results of secondary POM quarterly average emissions with the POM results for the primary control system and divide total emissions by total aluminum production.

(c) *Anode bake furnaces.* The owner or operator may average TF emissions from anode bake furnaces and demonstrate compliance with the limits in Table 3 of this subpart using the procedures in paragraphs (c)(1) and (c)(2) of this section. The owner or operator also may average POM emissions from anode bake furnaces and demonstrate compliance with the limits in Table 3 of this subpart using the procedures in paragraphs (c)(1) and (c)(2) of this section.

(1) Annual emissions of TF and/or POM from a given number of anode bake furnaces making up each averaging group shall not exceed the applicable emission limit in Table 3 of this subpart in any one year; and

(2) To determine compliance with the applicable emission limit in Table 3 of this subpart for anode bake furnaces, the owner or operator shall determine TF and/or POM emissions from the control device for each furnace at least once a year using the procedures and methods in §§ 63.847 and 63.849.

(d) *Implementation plan.* The owner or operator shall develop and submit an implementation plan for emission averaging to the applicable regulatory authority for review and approval according to the following procedures and requirements:

(1) *Deadlines.* The owner or operator must submit the implementation plan no later than 6 months before the date that the facility intends to comply with the emission averaging limits.

(2) *Contents.* The owner or operator shall include the following information in the implementation plan or in the application for an operating permit for all emission sources to be included in an emissions average:

(i) The identification of all emission sources (potlines or anode bake furnaces) in the average;

(ii) The assigned TF or POM emission limit for each averaging group of potlines or anode bake furnaces;

(iii) The specific control technology or pollution prevention measure to be used for each emission source in the averaging group and the date of its installation or application. If the pollution prevention measure reduces or eliminates emissions from multiple sources, the owner or operator must identify each source;

(iv) The test plan for the measurement of TF or POM emissions in accordance with the requirements in § 63.847(b);

(v) The operating parameters to be monitored for each control system or device and a description of how the operating limits will be determined;

(vi) If the owner or operator requests to monitor an alternative operating parameter pursuant to § 63.848(l):

(A) A description of the parameter(s) to be monitored and an explanation of the criteria used to select the parameter(s); and

(B) A description of the methods and procedures that will be used to demonstrate that the parameter indicates proper operation of the control device; the frequency and content of monitoring, reporting, and recordkeeping requirements; and a demonstration, to the satisfaction of the applicable regulatory authority, that the proposed monitoring frequency is sufficient to represent control device operating conditions; and

(vii) A demonstration that compliance with each of the applicable emission limit(s) will be achieved under representative operating conditions.

(3) *Approval criteria.* Upon receipt, the regulatory authority shall review and approve or disapprove the plan or permit application according to the following criteria:

(i) Whether the content of the plan includes all of the information specified in paragraph (d)(2) of this section; and

(ii) Whether the plan or permit application presents sufficient information to determine that compliance will be achieved and maintained.

(4) *Prohibitions.* The applicable regulatory authority shall not approve an implementation plan or permit application containing any of the following provisions:

(i) Any averaging between emissions of differing pollutants or between differing sources. Emission averaging shall not be allowed between TF and POM, and emission averaging shall not be allowed between potlines and bake furnaces;

(ii) The inclusion of any emission source other than an existing potline or existing anode bake furnace or the inclusion of any potline or anode bake plant not subject to the same operating permit;

(iii) The inclusion of any potline or anode bake furnace while it is shut down; or

(iv) The inclusion of any periods of startup, shutdown, or malfunction, as described in the startup, shutdown, and malfunction plan required by § 63.850(c), in the emission calculations.

(5) *Term.* Following review, the applicable regulatory authority shall approve the plan or permit application, request changes, or request additional information. Once the applicable regulatory authority receives any additional information requested, the applicable regulatory authority shall approve or disapprove the plan or permit application within 120 days.

(i) The applicable regulatory authority shall approve the plan for the term of the operating permit;

(ii) To revise the plan prior to the end of the permit term, the owner or operator shall submit a request to the applicable regulatory authority; and

(iii) The owner or operator may submit a request to the applicable regulatory authority to implement emission averaging after the applicable compliance date.

(6) *Operation.* While operating under an approved implementation plan, the owner or operator shall monitor the operating parameters of each control system, keep records, and submit periodic reports as required for each source subject to this subpart.

§ 63.847 Compliance provisions.

(a) *Compliance dates.* The owner or operator of a primary aluminum plant shall demonstrate initial compliance with the requirements of this subpart by:

(1) October 7, 1999, for an owner or operator of an existing plant or source;

(2) October 9, 2000, for an existing source, provided the owner or operator demonstrates to the satisfaction of the applicable regulatory authority that additional time is needed to install or modify the emission control equipment;

(3) October 8, 2001, for an existing source that is granted an extension by the regulatory authority under section 112(i)(3)(B) of the Act; or

(4) Upon startup, for an owner or operator of a new or reconstructed source.

(b) *Test plan*. The owner or operator shall prepare a site-specific test plan prior to the initial performance test according to the requirements of § 63.7(c) of this part. The test plan must include procedures for conducting the initial performance test and for subsequent performance tests required in § 63.848 for emission monitoring. In addition to the information required by § 63.7, the test plan shall include:

(1) Procedures to ensure a minimum of three runs are performed annually for the primary control system for each source;

(2) For a source with a single control device exhausted through multiple stacks, procedures to ensure that at least three runs are performed annually by a representative sample of the stacks satisfactory to the applicable regulatory authority;

(3) For multiple control devices on a single source, procedures to ensure that at least one run is performed annually for each control device by a representative sample of the stacks satisfactory to the applicable regulatory authority;

(4) Procedures for sampling single stacks associated with multiple anode bake furnaces;

(5) For plants with roof scrubbers, procedures for rotating sampling among the scrubbers or other procedures to obtain representative samples as approved by the applicable regulatory authority;

(6) For a VSS1 potline, procedures to ensure that one fan (or one scrubber) per potline is sampled for each run;

(7) For a SWPB potline, procedures to ensure that the average of the sampling results for two fans (or two scrubbers) per potline is used for each run; and

(8) Procedures for establishing the frequency of testing to ensure that at least one run is performed before the 15th of the month, at least one run is performed after the 15th of the month, and that there are at least 6 days between two of the runs during the month, or that secondary emissions are measured according to an alternate schedule satisfactory to the applicable regulatory authority.

(c) *Initial performance test*. Following approval of the site-specific test plan, the owner or operator shall conduct an initial performance test during the first month following the compliance date in accordance with the procedures in paragraph (d) of this section. If a performance test has been conducted on the primary control system for potlines or for the anode bake furnace within the 12 months prior to the compliance date, the results of that performance test may be used to determine initial compliance.

(d) *Performance test requirements*. The initial performance test and all subsequent performance tests shall be conducted in accordance with the requirements of the general provisions in subpart A of this part, the approved test plan, and the procedures in this section.

(1) *TF emissions from potlines*. For each potline, the owner or operator shall measure and record the emission rate of TF exiting the outlet of the primary control system for each potline and the rate of secondary emissions exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(1) of this section, the owner or operator shall compute and record the average of at least three runs each month for secondary emissions and at least three runs each year for the primary control system to determine compliance with the applicable emission limit. Compliance is demonstrated when the emission rate of TF is equal to or less than the applicable emission limit in §§ 63.843, 63.844, or 63.846.

(2) *POM emissions from Soderberg potlines*. For each Soderberg (HSS, VSS1, and VSS2) potline, the owner or operator shall measure and record the emission rate of POM exiting the primary emission control system and the rate of secondary emissions exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(2) of this section, the owner or operator shall compute and record the average of at least three runs each quarter (one run per month) for secondary emissions and at least three runs each year for the primary control system to determine compliance with the applicable emission limit. Compliance is demonstrated when the emission rate of POM is equal to or less than the applicable emission limit in §§ 63.843, 63.844, or 63.846.

(3) *Previous control device tests*. If the owner or operator has performed more than one test of primary emission control device(s) for a potline or for a bake furnace during the previous consecutive 12 months, the average of all runs performed in the previous 12-month period shall be used to determine the contribution from the primary emission control system.

(4) *TF and POM emissions from anode bake furnaces*. For each anode bake furnace, the owner or operator shall measure and record the emission rate of TF and POM exiting the exhaust stacks(s) of the primary emission control system for each anode bake furnace. Using the equations in paragraphs (e)(3) and (e)(4) of this section, the owner or operator shall compute and record the average of at least three runs each year to determine compliance with the applicable emission limits for TF and POM. Compliance is demonstrated when the emission rates of TF and POM are equal to or less than the applicable TF and POM emission limits in §§ 63.843, 63.844, or 63.846.

(e) *Equations*. The owner or operator shall determine compliance with the applicable TF and POM emission limits using the following equations and procedures:

(1) Compute the emission rate (E_p) of TF from each potline using Equation 1:

$$E_p = \frac{\left[\left(C_{s1} \times Q_{sd}\right)_1 + \left(C_{s2} \times Q_{sd}\right)_2\right]}{\left(P \times K\right)} \qquad \text{(Equation 1)}$$

Where

E_p=emission rate of TF from a potline, kg/Mg (lb/ton);

C_{s1}=concentration of TF from the primary control system, mg/dscm (mg/dscf);

Q_{sd}=volumetric flow rate of effluent gas corresponding to the appropriate subscript location, dscm/hr (dscf/hr);

C_{s2}=concentration of TF as measured for roof monitor emissions, mg/dscm (mg/dscf);

P=aluminum production rate, Mg/hr (ton/hr);
K=conversion factor, 10^6 mg/kg (453,600 mg/lb);
$_1$ = subscript for primary control system effluent gas; and
$_2$ = subscript for secondary control system or roof monitor effluent gas.

(2) Compute the emission rate of POM from each potline using Equation 1,

Where:

E_p = emission rate of POM from the potline, kg/mg (lb/ton); and
C_s = concentration of POM, mg/dscm (mg/dscf). POM emission data collected during the installation and startup of a cathode shall not be included in C_s.

(3) Compute the emission rate (E_b) of TF from each anode bake furnace using Equation 2,

$$E_b = \frac{(C_s \times Q_{sd})}{(P_b \times K)} \qquad \text{(Equation 2)}$$

Where:

E_b = emission rate of TF, kg/mg (lb/ton) of green anodes produced;
C_s = concentration of TF, mg/dscm (mg/dscf);
Q_{sd} = volumetric flow rate of effluent gas, dscm/hr (dscf/hr);
P_b = quantity of green anode material placed in the furnace, mg/hr (ton/hr); and
K = conversion factor, 10^6 mg/kg (453,600 mg/lb).

(4) Compute the emission rate of POM from each anode bake furnace using Equation 2,

Where:

C_s = concentration of POM, mg/dscm (mg/dscf).

(5) Determine the weight of the aluminum tapped from the potline and the weight of the green anode material placed in the anode bake furnace using the monitoring devices required in § 63.848(j).

(6) Determine the aluminum production rate (P) by dividing the number of hours in the calendar month into the weight of aluminum tapped from the potline during the calendar month that includes the three runs of a performance test.

(7) Determine the rate of green anode material introduced into the furnace by dividing the number of operating hours in the calendar month into the weight of green anode material used during the calendar month in which the performance test was conducted.

(f) *Paste production plants.* Initial compliance with the standards for existing and new paste production plants in §§ 63.843(b) and 63.844(b) will be demonstrated through site inspection(s) and review of site records by the applicable regulatory authority.

(g) *Pitch storage tanks.* The owner or operator shall demonstrate initial compliance with the standard for pitch storage tanks in § 63.844(d) by preparing a design evaluation or by conducting a performance test. The owner or operator shall submit for approval by the regulatory authority the information specified in paragraph (g)(1) of this section, along with the information specified in paragraph (g)(2) of this section where a design evaluation is performed or the information specified in paragraph (g)(3) of this section where a performance test is conducted.

(1) A description of the parameters to be monitored to ensure that the control device is being properly operated and maintained, an explanation of the criteria used for selection of that parameter (or parameters), and the frequency with which monitoring will be performed; and

(2) Where a design evaluation is performed, documentation demonstrating that the control device used achieves the required control efficiency during reasonably expected maximum filling rate. The documentation shall include a description of the gas stream that enters the control device, including flow and POM content under varying liquid level conditions, and the information specified in paragraphs (g)(2)(i) through (g)(2)(vi) of this section, as applicable.

(i) If the control device receives vapors, gases, or liquids, other than fuels, from emission points other than pitch storage tanks, the efficiency demonstration is to include consideration of all vapors, gases, and liquids, other than fuels, received by the control device;

(ii) If an enclosed combustion device with a minimum residence time of 0.5 seconds and a minimum temperature of 760°C (1,400°F) is used to meet the emission reduction requirement specified in § 83.844(d), documentation that those conditions exist is sufficient to meet the requirements of § 83.844(d);

(iii) Except as provided in paragraph (g)(2)(ii) of this section, for thermal incinerators, the design evaluation shall include the autoignition temperature of the organic HAP, the flow rate of the organic HAP emission stream, the combustion temperature, and the residence time at the combustion temperature;

(iv) If the pitch storage tank is vented to the emission control system installed for control of emissions from the paste production plant pursuant to § 63.843(b), documentation of compliance with the requirements of § 63.843(b) is sufficient to meet the requirements of § 63.844(d);

(v) For carbon adsorbers, the design evaluation shall include the affinity of the organic vapors for carbon, the amount of carbon in each bed, the number of beds, the humidity of the feed gases, the temperature of the feed gases, the flow rate of the organic HAP emission stream, and if applicable, the desorption schedule, the regeneration stream pressure or temperature, and the flow rate of the regeneration stream. For vacuum desorption, the pressure drop shall be included; and

(vi) For condensers, the design evaluation shall include the final temperature of the organic HAP vapors, the type of condenser, and the design flow rate of the organic HAP emission stream.

(3) If a performance test is conducted, the owner or operator shall determine the control efficiency for POM during tank loading using Method 315 in appendix A to this part. The owner or operator shall include the following information:

(i) Identification of the pitch storage tank and control device for which the performance test will be submitted; and

(ii) Identification of the emission point(s) that share the control device with the pitch storage tank and for which the performance test will be conducted.

(h) *Selection of monitoring parameters.* The owner or operator shall determine the operating limits and monitoring frequency for each control device that is to be monitored as required in § 63.848(f).

(1) For potlines and anode bake furnaces, the owner or operator shall determine upper and/or lower operating limits, as appropriate, for each monitoring device for the emission control system from the values recorded during each of the runs performed during the initial performance test and from historical data from previous performance tests conducted by the methods specified in this subpart.

(2) For a paste production plant, the owner or operator shall specify and provide the basis or rationale for selecting parameters to be monitored and the associated operating limits for the emission control device.

(3) The owner or operator may redetermine the upper and/or lower operating limits, as appropriate, based on historical data or other information and submit an application to the applicable regulatory authority to change the applicable limit(s). The redetermined limits shall become

effective upon approval by the applicable regulatory authority.

§ 63.848 Emission monitoring requirements.

(a) *TF emissions from potlines.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall monitor emissions of TF from each potline by conducting monthly performance tests. The owner or operator shall compute and record the monthly average from at least three runs for secondary emissions and the previous 12-month average of all runs for the primary control system to determine compliance with the applicable emission limit. The owner or operator must include all valid runs in the monthly average. The duration of each run for secondary emissions must represent a complete operating cycle.

(b) *POM emissions from Soderberg potlines.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall monitor emissions of POM from each Soderberg (HSS, VSS1, and VSS2) potline every three months. The owner or operator shall compute and record the quarterly (3-month) average from at least one run per month for secondary emissions and the previous 12-month average of all runs for the primary control systems to determine compliance with the applicable emission limit. The owner or operator must include all valid runs in the quarterly (3-month) average. The duration of each run for secondary emissions must represent a complete operating cycle. The primary control system must be sampled over an 8-hour period, unless site-specific factors dictate an alternative sampling time subject to the approval of the regulatory authority.

(c) *TF and POM emissions from anode bake furnaces.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall monitor TF and POM emissions from each anode bake furnace on an annual basis. The owner or operator shall compute and record the annual average of TF and POM emissions from at least three runs to determine compliance with the applicable emission limits. The owner or operator must include all valid runs in the annual average.

(d) *Similar potlines.* As an alternative to monthly monitoring of TF or POM secondary emissions from each potline using the test methods in § 63.849, the owner or operator may perform monthly monitoring of TF or POM secondary emissions from one potline using the test methods in §§ 63.849 (a) or (b) to represent the performance of similar potline(s). The similar potline(s) shall be monitored using an alternative method that meets the requirements of paragraphs (d)(1) through (d)(7) of this section. Two or more potlines are similar if the owner or operator demonstrates that their structure, operability, type of emissions, volume of emissions, and concentration of emissions are substantially equivalent.

(1) To demonstrate (to the satisfaction of the regulatory authority) that the level of emission control performance is the same or better, the owner or operator shall perform an emission test using an alternative monitoring procedure for the similar potline simultaneously with an emission test using the applicable test methods. The results of the emission test using the applicable test methods must be in compliance with the applicable emission limit for existing or new potlines in §§ 63.843 or 63.844. An alternative method:

(i) For TF emissions, must account for or include gaseous fluoride and cannot be based on measurement of particulate matter or particulate fluoride alone; and

(ii) For TF and POM emissions, must meet or exceed Method 14 criteria.

(2) An HF continuous emission monitoring system is an approved alternative for the monitoring of TF secondary emissions.

(3) An owner or operator electing to use an alternative monitoring procedure shall establish an alternative emission limit based on at least nine simultaneous runs using the applicable test methods and the alternative monitoring method. All runs must represent a full process cycle.

(4) The owner or operator shall derive an alternative emission limit for the HF continuous emission monitor or an alternative method using either of the following procedures:

(i) Use the highest value from the alternative method associated with a simultaneous run by the applicable test method that does not exceed the applicable emission limit; or

(ii) Correlate the results of the two methods (the applicable test method results and the alternative monitoring method results) and establish an emission limit for the alternative monitoring system that corresponds to the applicable emission limit.

(5) The owner or operator shall submit the results required in paragraph (d)(4) of this section and all supporting documentation to the applicable regulatory authority for review and approval.

(6) The regulatory authority shall review and approve or disapprove the request for an alternative method and alternative emission limit. The criterion for approval shall be a demonstration (to the satisfaction of the regulatory authority) that the alternative method and alternative emission limit achieve a level of emission control that is the same as or better than the level that would have otherwise been achieved by the applicable method and emission limit.

(7) If the alternative method is approved by the applicable regulatory authority, the owner or operator shall perform monthly emission monitoring using the approved alternative monitoring procedure to demonstrate compliance with the alternative emission limit for each similar potline.

(e) *Reduced sampling frequency.* The owner or operator may submit a written request to the applicable regulatory authority to establish an alternative testing requirement to reduce the sampling of secondary TF emissions from potlines from monthly to quarterly.

(1) In the request, the owner or operator shall provide information and data demonstrating, to the satisfaction of the applicable regulatory authority, that secondary emissions of TF from potlines have low variability during normal operations using the procedures in paragraphs (e)(1)(i) or (e)(1)(ii) of this section.

(i) Submit data from 24 consecutive months of sampling that show the average TF emissions are less than 60 percent of the applicable limit and that no monthly performance test in the 24 months of sampling exceeds 75 percent of the applicable limit; or

(ii) Submit data and a statistical analysis that the regulatory authority may evaluate based on the approach used in ''Primary Aluminum: Statistical Analysis of Potline Fluoride Emissions and Alternative Sampling Frequency'' (EPA–450–86–012, October 1986), which is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

(2) An approved alternative requirement must include a test schedule and the method to be used to measure emissions for performance tests.

(3) The owner or operator of a plant that has received approval of an alternative sampling frequency under § 60.194 of this chapter is deemed to have approval of the alternative sampling frequency under this subpart.

(4) If emissions in excess of the applicable TF limit occur while performing quarterly sampling approved under paragraph (e)(1)(i) of this section, the owner or operator shall return to monthly sampling for at least 12 months and may reduce to quarterly sampling when:

(i) The average of all tests performed over the most recent 24-month period does not exceed 60 percent of the applicable limit, and

(ii) No more than one monthly performance test in the most recent 24-month period exceeds 75 percent of the applicable limit.

(5) If emissions in excess of the applicable TF limit occur while performing quarterly sampling approved under paragraph (e)(1)(ii) of this section, the owner or operator shall immediately return to the monthly sampling schedule required by paragraph (a) of this section until another request for an alternative sampling frequency is approved by the applicable regulatory authority.

(f) *Monitoring parameters for emission control devices.* The owner or operator shall install, operate, calibrate, and maintain a continuous parameter monitoring system for each emission control device. The owner or operator shall submit for approval by the regulatory authority a description of the parameter(s) to be monitored, the operating limits, and the monitoring frequency to ensure that the control device is being properly operated and maintained. An explanation of the criteria used for selection of the parameter(s), the operating limits, and the monitoring frequency, including how these relate to emission control also shall be submitted to the regulatory authority. Except as provided in paragraph (l) of this section, the following monitoring devices shall be installed:

(1) For dry alumina scrubbers, devices for the measurement of alumina flow and air flow;

(2) For dry coke scrubbers, devices for the measurement of coke flow and air flow;

(3) For wet scrubbers as the primary control system, devices for the measurement of water flow and air flow;

(4) For electrostatic precipitators, devices for the measurement of voltage and secondary current; and

(5) For wet roof scrubbers for secondary emission control:

(i) A device for the measurement of total water flow; and

(ii) The owner or operator shall inspect each control device at least once each operating day to ensure the control device is operating properly and record the results of each inspection.

(g) *Visible emissions.* The owner or operator shall visually inspect the exhaust stack(s) of each control device on a daily basis for evidence of any visible emissions indicating abnormal operation.

(h) *Corrective action.* If a monitoring device for a primary control device measures an operating parameter outside the limit(s) established pursuant to § 63.847(h), if visible emissions indicating abnormal operation are observed from the exhaust stack of a control device during a daily inspection, or if a problem is detected during the daily inspection of a wet roof scrubber for potline secondary emission control, the owner or operator shall initiate the corrective action procedures identified in the startup, shutdown, and malfunction plan within 1 hour. Failure to initiate the corrective action procedures within 1 hour or to take the necessary corrective actions to remedy the problem is a violation.

(i) *Exceedances.* If the limit for a given operating parameter associated with monitoring a specific control device is exceeded six times in any semiannual reporting period, then any subsequent exceedance in that reporting period is a violation. For the purpose of determining the number of exceedances, no more than one exceedance shall be attributed in any given 24-hour period.

(j) *Weight of aluminum and green anodes.* The owner or operator of a new or existing potline or anode bake furnace shall install, operate, and maintain a monitoring device to determine the daily weight of aluminum produced and the weight of green anode material placed in the anode bake furnace. The weight of green anode material may be determined by monitoring the weight of all anodes or by monitoring the number of anodes placed in the furnace and determining an average weight from measurements of a representative sample of anodes.

(k) *Accuracy and calibration.* The owner or operator shall submit recommended accuracy requirements to the regulatory authority for review and approval. All monitoring devices required by this section must be certified by the owner or operator to meet the accuracy requirements and must be calibrated in accordance with the manufacturer's instructions.

(l) *Alternative operating parameters.* The owner or operator may monitor alternative control device operating parameters subject to prior written approval by the applicable regulatory authority.

(m) *Other control systems.* An owner or operator using a control system not identified in this section shall request that the applicable regulatory authority include the recommended parameters for monitoring in the facility's part 70 permit.

§ 63.849 Test methods and procedures.

(a) The owner or operator shall use the following reference methods to determine compliance with the applicable emission limits for TF and POM emissions:

(1) Method 1 in appendix A to part 60 of this chapter for sample and velocity traverses;

(2) Method 2 in appendix A to part 60 of this chapter for velocity and volumetric flow rate;

(3) Method 3 in appendix A to part 60 of this chapter for gas analysis;

(4) Method 13A or Method 13B in appendix A to part 60 of this chapter, or an approved alternative, for the concentration of TF where stack or duct emissions are sampled;

(5) Method 13A or Method 13B and Method 14 or Method 14A in appendix A to part 60 of this chapter or an approved alternative method for the concentration of TF where emissions are sampled from roof monitors not employing wet roof scrubbers;

(6) Method 315 in appendix A to this part or an approved alternative method for the concentration of POM where stack or duct emissions are sampled; and

(7) Method 315 in appendix A to this part and Method 14 in appendix A to part 60 of this chapter or an approved alternative method for the concentration of POM where emissions are sampled from roof monitors not employing wet roof scrubbers.

(b) The owner or operator of a VSS potline or a SWPB potline equipped with wet roof scrubbers for the control of secondary emissions shall use methods that meet the intent of the sampling requirements of Method 14 in appendix A to part 60 of this chapter and that are approved by the State. Sample analysis shall be performed using Method 13A or Method 13B in appendix A to part 60 of this chapter for TF, Method 315 in appendix A to this part for POM, or an approved alternative method.

(c) Except as provided in § 63.845(g)(1), references to ''potroom'' or ''potroom group'' in Method 14 in appendix A to part 60 of this chapter shall be interpreted as ''potline'' for the purposes of this subpart.

(d) For sampling using Method 14 in appendix A to part 60 of this chapter, the owner or operator shall install one Method 14 manifold per potline in a potroom that is representative of the entire potline, and this manifold shall meet the installation requirements specified in section 2.2.1 of Method 14 in appendix A to part 60 of this chapter.

(e) The owner or operator may use an alternative test method for TF or POM emissions providing:

(1) The owner or operator has already demonstrated the equivalency of the alternative method for a specific plant and has received previous approval from the Administrator or the applicable regulatory authority for TF or POM measurements using the alternative method; or

(2) The owner or operator demonstrates to the satisfaction of the applicable regulatory authority that the results from the alternative method meet the criteria specified in §§ 63.848(d)(1) and (d)(3) through (d)(6). The results from the alternative method shall be based on simultaneous sampling using the alternative method and the following reference methods:

(i) For TF, Methods 13 and 14 or Method 14A in appendix A to part 60 of this chapter; or

(ii) For POM, Method 315 in appendix A to this part and Method 14 in appendix A to part 60 of this chapter.

§ 63.850 Notification, reporting, and recordkeeping requirements.

(a) *Notifications.* The owner or operator shall submit the following written notifications:

(1) Notification for an area source that subsequently increases its emissions such that the source is a major source subject to the standard;

(2) Notification that a source is subject to the standard, where the initial startup is before the effective date of the standard;

(3) Notification that a source is subject to the standard, where the source is new or has been reconstructed, the initial startup is after the effective date of the standard, and for which an application for approval of construction or reconstruction is not required;

(4) Notification of intention to construct a new major source or reconstruct a major source; of the date construction or reconstruction commenced; of the anticipated date of startup; of the actual date of startup, where the initial startup of a new or reconstructed source occurs after the effective date of the standard, and for which an application for approval of construction or reconstruction is required [see §§ 63.9(b)(4) and (b)(5)];

(5) Notification of initial performance test;

(6) Notification of initial compliance status;

(7) One-time notification for each affected source of the intent to use an HF continuous emission monitor; and

(8) Notification of compliance approach. The owner or operator shall develop and submit to the applicable regulatory authority, if requested, an engineering plan that describes the techniques that will be used to address the capture efficiency of the reduction cells for gaseous hazardous air pollutants in compliance with the emission limits in §§ 63.843, 63.844, and 63.846.

(b) *Performance test reports.* The owner or operator shall report the results of the initial performance test as part of the notification of compliance status required in paragraph (a)(6) of this section. Except as provided in paragraph (d) of this section, the owner or operator shall submit a summary of all subsequent performance tests to the applicable regulatory authority on an annual basis.

(c) *Startup, shutdown, and malfunction plan and reports.* The owner or operator shall develop and implement a written plan as described in § 63.6(e)(3) that contains specific procedures to be followed for operating the source and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and control systems used to comply with the standard. The plan does not have to be submitted with the permit appplication or included in the operating permit. The permitting authority may review the plan upon request. In addition to the information required in § 63.6(e)(3), the plan shall include:

(1) Procedures, including corrective actions, to be followed if a monitoring device measures an operating parameter outside the limit(s) established under § 63.847(h), if visible emissions from an exhaust stack indicating abnormal operation of a control device are observed by the owner or operator during the daily inspection required in § 63.848(g), or if a problem is detected during the daily inspection of a wet roof scrubber for potline secondary emission control required in § 63.848(f)(5)(ii); and

(2) The owner or operator shall also keep records of each event as required by § 63.10(b) and record and report if an action taken during a startup, shutdown, or malfunction is not consistent with the procedures in the plan as described in § 63.6(e)(3)(iv).

(d) *Excess emissions report.* As required by § 63.10(e)(3), the owner or operator shall submit a report (or a summary report) if measured emissions are in excess of the applicable standard. The report shall contain the information specified in § 63.10(e)(3)(v) and be submitted semiannually unless quarterly reports are required as a result of excess emissions.

(e) *Recordkeeping.* The owner or operator shall maintain files of all information (including all reports and notifications) required by § 63.10(b) and by this subpart.

(1) The owner or operator must retain each record for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. The most recent 2 years of records must be retained at the facility. The remaining 3 years of records may be retained offsite;

(2) The owner or operator may retain records on microfilm, on a computer, on computer disks, on magnetic tape, or on microfiche;

(3) The owner or operator may report required information on paper or on a labeled computer disc using commonly available and compatible computer software; and

(4) In addition to the general records required by § 63.10(b), the owner or operator shall maintain records of the following information:

(i) Daily production rate of aluminum;

(ii) Daily production rate of green anode material placed in the anode bake furnace;

(iii) A copy of the startup, shutdown, and malfunction plan;

(iv) Records of design information for paste production plant capture systems;

(v) Records of design information for an alternative emission control device for a paste production plant;

(vi) Records supporting the monitoring of similar potlines demonstrating that the performance of similar potlines is the same as or better than that of potlines sampled by manual methods;

(vii) Records supporting a request for reduced sampling of potlines;

(viii) Records supporting the correlation of emissions measured by a continuous emission monitoring system to emissions measured by manual methods and the derivation of the alternative emission limit derived from the measurements;

(ix) The current implementation plan for emission averaging and any subsequent amendments;

(x) Records, such as a checklist or the equivalent, demonstrating that the daily inspection of a potline with wet roof scrubbers for secondary emission control has been performed as required in § 63.848(f)(5)(ii), including the results of each inspection;

(xi) Records, such as a checklist or the equivalent, demonstrating that the daily visual inspection of the exhaust stack for each control device has been performed as required in § 63.848(g), including the results of each inspection;

(xii) For a potline equipped with an HF continuous emission monitor,

records of information and data required by § 63.10(c);

(xiii) Records documenting the corrective actions taken when the limit(s) for an operating parameter established under § 63.847(h) were exceeded, when visible emissions indicating abnormal operation were observed from a control device stack during a daily inspection required under § 63.848(g), or when a problem was detected during the daily inspection of a wet roof scrubber for potline secondary control required in § 63.848(f)(5)(ii);

(xiv) Records documenting any POM data that are invalidated due to the installation and startup of a cathode; and

(xv) Records documenting the portion of TF that is measured as particulate matter and the portion that is measured as gaseous when the particulate and gaseous fractions are quantified separately using an approved test method.

§ 63.851 Regulatory authority review procedures.

(a) The applicable regulatory authority shall notify the owner or operator in writing of the need for additional time to review the submissions in paragraphs (a)(1) through (a)(5) of this section or of approval or intent to deny approval of the submissions in paragraphs (a)(1) through (a)(5) of this section within 60 calendar days after receipt of sufficient information to evaluate the submission. The 60-day period begins after the owner or operator has been notified that the submission is complete.

(1) The test plan in § 63.847(b);

(2) Request to change limits for operating parameters in § 63.847(h)(3);

(3) Request for similar potline monitoring in § 63.848(d)(5);

(4) Request for reduced sampling frequency in § 63.848(e); and

(5) Request for an alternative method in § 63.849(e)(2).

(b) The applicable regulatory authority shall notify the owner or operator in writing whether the submission is complete within 30 calendar days of receipt of the original submission or within 30 days of receipt of any supplementary information that is submitted. When a submission is incomplete, the applicable regulatory authority shall specify the information needed to complete the submission and shall give the owner or operator 30 calendar days after receipt of the notification to provide the information.

§ 63.852 Applicability of general provisions.

The requirements of the general provisions in subpart A of this part that are not applicable to the owner or operator subject to the requirements of this subpart are shown in appendix A of this subpart.

§ 63.853 Delegation of authority.

In delegating implementation and enforcement authority to a State under section 112(d) of the Act, all authorities are transferred to the State.

§§ 63.854–63.859 [Reserved]

TABLE 1 TO SUBPART LL—POTLINE TF LIMITS FOR EMISSION AVERAGING

Type	Monthly TF limit (1b/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
CWPB1	1.7	1.6	1.5	1.5	1.4	1.4	1.4
CWPB2	2.9	2.8	2.7	2.7	2.6	2.6	2.6
CWPB3	2.3	2.2	2.2	2.1	2.1	2.1	2.1
VSS1	2	1.9	1.8	1.7	1.7	1.7	1.7
VSS2	2.6	2.5	2.5	2.4	2.4	2.4	2.4
HSS	2.5	2.4	2.4	2.3	2.3	2.3	2.3
SWPB	1.4	1.3	1.3	1.2	1.2	1.2	1.2

TABLE 2 TO SUBPART LL—POTLINE POM LIMITS FOR EMISSION AVERAGING

Type	Quarterly POM limit (lb/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
HSS	4.1	3.8	3.7	3.5	3.5	3.4	3.3
VSS1	2.1	2.0	1.9	1.9	1.8	1.8	1.8
VSS2	3.2	3.0	2.9	2.9	2.8	2.8	2.7

TABLE 3 TO SUBPART LL—ANODE BAKE FURNACE LIMITS FOR EMISSION AVERAGING

Number of furnaces	Emission limit (lb/ton of anode)	
	TF	POM
2	0.11	0.17
3	0.090	0.17
4	0.077	0.17
5	0.070	0.17

APPENDIX A TO SUBPART LL—APPLICABILITY OF GENERAL PROVISIONS

[40 CFR part 63, subpart A to Subpart LL]

General provisions citation	Requirement	Applies to subpart LL	Comment
63.1(c)(2)		No	All are major sources.
63.2 Definition of ''reconstruction''		No	Subpart LL defines ''reconstruction.''
63.6(c)(1)	Compliance date for existing sources.	No	Subpart LL specifies compliance date for existing sources.
63.6(h)	Opacity/VE standards	Only in § 63.845	Opacity standards applicable only when incorporating the NSPS requirements under § 63.845.
63.8(c)(4)–(c)(8)	CMS operation and maintenance	No	Subpart LL does not require COMS/CMS or CMS performance specifications.
63.8(d)	Quality control	No	Subpart LL does not require CMS or CMS performance evaluation.
63.8(e)	Performance evaluation for CMS	No	
63.9(e)	Notification of performance test	No	Subpart LL specifies notification of performance tests.
63.9(f)	Notification of VE or opacity test	Only in § 63.845	Notification is required only when incorporating the NSPS requirements under § 63.845.
63.9(g)	Additional CMS notification	No	
63.10(d)(2)	Performance test reports	No	Subpart LL specifies performance test reporting.
63.10(d)(3)	Reporting VE/opacity observations	Only in § 63.845	Reporting is required only when incorporating the NSPS requirements under § 63.845.
63.10(e)(2)	Reporting performance evaluations	No	Subpart LL does not require performance evaluation for CMS.
63.11(a)–(b)	Control device requirements	No	Flares not applicable.

9. Appendix A to part 63 is amended by adding, in numerical order, Method 315 to read as follows:

Appendix A to Part 63—Test Methods

* * * * *

Method 315—Determination of Particulate and Methylene Chloride Extractable Matter (MCEM) From Selected Sources at Primary Aluminum Production Facilities

Note: This method does not include all of the specifications (e.g., equipment and supplies) and procedures (e.g., sampling and analytical) essential to its performance. Some material is incorporated by reference from other methods in this part. Therefore, to obtain reliable results, persons using this method should have a thorough knowledge of at least the following additional test methods: Method 1, Method 2, Method 3, and Method 5 of 40 CFR part 60, appendix A.

1.0 Scope and Application.

1.1 Analytes. Particulate matter (PM). No CAS number assigned. Methylene chloride extractable matter (MCEM). No CAS number assigned.

1.2 Applicability. This method is applicable for the simultaneous determination of PM and MCEM when specified in an applicable regulation. This method was developed by consensus with the Aluminum Association and the U.S. Environmental Protection Agency (EPA) and has limited precision estimates for MCEM; it should have similar precision to Method 5 for PM in 40 CFR part 60, appendix A since the procedures are similar for PM.

1.3 Data quality objectives. Adherence to the requirements of this method will enhance the quality of the data obtained from air pollutant sampling methods.

2.0 Summary of Method.

Particulate matter and MCEM are withdrawn isokinetically from the source. PM is collected on a glass fiber filter maintained at a temperature in the range of l20 ± 14 °C (248 ± 25 °F) or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator for a particular application. The PM mass, which includes any material that condenses on the probe and is subsequently removed in an acetone rinse or on the filter at or above the filtration temperature, is determined gravimetrically after removal of uncombined water. MCEM is then determined by adding a methylene chloride rinse of the probe and filter holder, extracting the condensable hydrocarbons collected in the impinger water, adding an acetone rinse followed by a methylene chloride rinse of the sampling train components after the filter and before the silica gel impinger, and determining residue gravimetrically after evaporating the solvents.

3.0 Definitions. [Reserved]

4.0 Interferences. [Reserved]

5.0 Safety.

This method may involve hazardous materials, operations, and equipment. This method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to performing this test method.

6.0 Equipment and Supplies.

Note: Mention of trade names or specific products does not constitute endorsement by the EPA.

6.1 Sample collection. The following items are required for sample collection:

6.1.1 Sampling train. A schematic of the sampling train used in this method is shown in Figure 5–1, Method 5, 40 CFR part 60, appendix A. Complete construction details are given in APTD–0581 (Reference 2 in section 17.0 of this method); commercial models of this train are also available. For changes from APTD–0581 and for allowable modifications of the train shown in Figure 5–1, Method 5, 40 CFR part 60, appendix A, see the following subsections.

Note: The operating and maintenance procedures for the sampling train are described in APTD–0576 (Reference 3 in section 17.0 of this method). Since correct usage is important in obtaining valid results, all users should read APTD–0576 and adopt the operating and maintenance procedures outlined in it, unless otherwise specified herein. The use of grease for sealing sampling train components is not recommended because many greases are soluble in methylene chloride. The sampling train consists of the following components:

6.1.1.1 Probe nozzle. Glass or glass lined with sharp, tapered leading edge. The angle of taper shall be ≤30°, and the taper shall be on the outside to preserve a constant internal diameter. The probe nozzle shall be of the button-hook or elbow design, unless otherwise specified by the Administrator. Other materials of construction may be used, subject to the approval of the Administrator. A range of nozzle sizes suitable for isokinetic sampling should be available. Typical nozzle

sizes range from 0.32 to 1.27 cm (⅛ to ½ in.) inside diameter (ID) in increments of 0.16 cm (1/16 in.). Larger nozzle sizes are also available if higher volume sampling trains are used. Each nozzle shall be calibrated according to the procedures outlined in section 10.0 of this method.

6.1.1.2 Probe liner. Borosilicate or quartz glass tubing with a heating system capable of maintaining a probe gas temperature at the exit end during sampling of 120±14°C (248±25°F), or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator for a particular application. Because the actual temperature at the outlet of the probe is not usually monitored during sampling, probes constructed according to APTD–0581 and using the calibration curves of APTD–0576 (or calibrated according to the procedure outlined in APTD–0576) will be considered acceptable. Either borosilicate or quartz glass probe liners may be used for stack temperatures up to about 480°C (900°F); quartz liners shall be used for temperatures between 480 and 900°C (900 and 1,650°F). Both types of liners may be used at higher temperatures than specified for short periods of time, subject to the approval of the Administrator. The softening temperature for borosilicate glass is 820°C (1,500°F) and for quartz glass it is 1,500°C (2,700°F).

6.1.1.3 Pitot tube. Type S, as described in section 6.1 of Method 2, 40 CFR part 60, appendix A, or other device approved by the Administrator. The pitot tube shall be attached to the probe (as shown in Figure 5–1 of Method 5, 40 CFR part 60, appendix A) to allow constant monitoring of the stack gas velocity. The impact (high pressure) opening plane of the pitot tube shall be even with or above the nozzle entry plane (see Method 2, Figure 2–6b, 40 CFR part 60, appendix A) during sampling. The Type S pitot tube assembly shall have a known coefficient, determined as outlined in section 10.0 of Method 2, 40 CFR part 60, appendix A.

6.1.1.4 Differential pressure gauge. Inclined manometer or equivalent device (two), as described in section 6.2 of Method 2, 40 CFR part 60, appendix A. One manometer shall be used for velocity head (Dp) readings, and the other, for orifice differential pressure readings.

6.1.1.5 Filter holder. Borosilicate glass, with a glass frit filter support and a silicone rubber gasket. The holder design shall provide a positive seal against leakage from the outside or around the filter. The holder shall be attached immediately at the outlet of the probe (or cyclone, if used).

6.1.1.6 Filter heating system. Any heating system capable of maintaining a temperature around the filter holder of 120±14°C (248±25°F) during sampling, or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator for a particular application. Alternatively, the tester may opt to operate the equipment at a temperature lower than that specified. A temperature gauge capable of measuring temperature to within 3°C (5.4°F) shall be installed so that the temperature around the filter holder can be regulated and monitored during sampling. Heating systems other than the one shown in APTD–0581 may be used.

6.1.1.7 Temperature sensor. A temperature sensor capable of measuring temperature to within ±3°C (5.4°F) shall be installed so that the sensing tip of the temperature sensor is in direct contact with the sample gas, and the temperature around the filter holder can be regulated and monitored during sampling.

6.1.1.8 Condenser. The following system shall be used to determine the stack gas moisture content: four glass impingers connected in series with leak-free ground glass fittings. The first, third, and fourth impingers shall be of the Greenburg-Smith design, modified by replacing the tip with a 1.3 cm (1/2 in.) ID glass tube extending to about 1.3 cm (1/2 in.) from the bottom of the flask. The second impinger shall be of the Greenburg-Smith design with the standard tip. The first and second impingers shall contain known quantities of water (section 8.3.1 of this method), the third shall be empty, and the fourth shall contain a known weight of silica gel or equivalent desiccant. A temperature sensor capable of measuring temperature to within 1°C (2°F) shall be placed at the outlet of the fourth impinger for monitoring.

6.1.1.9 Metering system. Vacuum gauge, leak-free pump, temperature sensors capable of measuring temperature to within 3°C (5.4°F), dry gas meter (DGM) capable of measuring volume to within 2 percent, and related equipment, as shown in Figure 5–1 of Method 5, 40 CFR part 60, appendix A. Other metering systems capable of maintaining sampling rates within 10 percent of isokinetic and of determining sample volumes to within 2 percent may be used, subject to the approval of the Administrator. When the metering system is used in conjunction with a pitot tube, the system shall allow periodic checks of isokinetic rates.

6.1.1.10 Sampling trains using metering systems designed for higher flow rates than that described in APTD–0581 or APTD–0576 may be used provided that the specifications of this method are met.

6.1.2 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm (0.1 in.) Hg.

Note: The barometric reading may be obtained from a nearby National Weather Service station. In this case, the station value (which is the absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and sampling point shall be made at a rate of minus 2.5 mm (0.1 in) Hg per 30 m (100 ft) elevation increase or plus 2.5 mm (0.1 in) Hg per 30 m (100 ft) elevation decrease.

6.1.3 Gas density determination equipment. Temperature sensor and pressure gauge, as described in sections 6.3 and 6.4 of Method 2, 40 CFR part 60, appendix A, and gas analyzer, if necessary, as described in Method 3, 40 CFR part 60, appendix A. The temperature sensor shall, preferably, be permanently attached to the pitot tube or sampling probe in a fixed configuration, such that the tip of the sensor extends beyond the leading edge of the probe sheath and does not touch any metal. Alternatively, the sensor may be attached just prior to use in the field. Note, however, that if the temperature sensor is attached in the field, the sensor must be placed in an interference-free arrangement with respect to the Type S pitot tube openings (see Method 2, Figure 2–4, 40 CFR part 60, appendix A). As a second alternative, if a difference of not more than 1 percent in the average velocity measurement is to be introduced, the temperature sensor need not be attached to the probe or pitot tube. (This alternative is subject to the approval of the Administrator.)

6.2 Sample recovery. The following items are required for sample recovery:

6.2.1 Probe-liner and probe-nozzle brushes. Nylon or Teflon® bristle brushes with stainless steel wire handles. The probe brush shall have extensions (at least as long as the probe) constructed of stainless steel, nylon, Teflon®, or similarly inert material. The brushes shall be properly sized and shaped to brush out the probe liner and nozzle.

6.2.2 Wash bottles. Glass wash bottles are recommended. Polyethylene or tetrafluoroethylene (TFE) wash bottles may be used, but they may introduce a positive bias due to contamination from the bottle. It is recommended that acetone not be stored in polyethylene or TFE bottles for longer than a month.

6.2.3 Glass sample storage containers. Chemically resistant, borosilicate glass bottles, for acetone and methylene chloride washes and impinger water, 500 ml or 1,000 ml. Screw-cap liners shall either be rubber-backed Teflon® or shall be constructed so as to be leak-free and resistant to chemical attack by acetone or methylene chloride. (Narrow-mouth glass bottles have been found to be less prone to leakage.) Alternatively, polyethylene bottles may be used.

6.2.4 Petri dishes. For filter samples, glass, unless otherwise specified by the Administrator.

6.2.5 Graduated cylinder and/or balance. To measure condensed water, acetone wash and methylene chloride wash used during field recovery of the samples, to within 1 ml or 1 g. Graduated cylinders shall have subdivisions no greater than 2 ml. Most laboratory balances are capable of weighing to the nearest 0.5 g or less. Any such balance is suitable for use here and in section 6.3.4 of this method.

6.2.6 Plastic storage containers. Air-tight containers to store silica gel.

6.2.7 Funnel and rubber policeman. To aid in transfer of silica gel to container; not necessary if silica gel is weighed in the field.

6.2.8 Funnel. Glass or polyethylene, to aid in sample recovery.

6.3 Sample analysis. The following equipment is required for sample analysis:

6.3.1 Glass or Teflon® weighing dishes.

6.3.2 Desiccator. It is recommended that fresh desiccant be used to minimize the chance for positive bias due to absorption of organic material during drying.

6.3.3 Analytical balance. To measure to within 0.l mg.

6.3.4 Balance. To measure to within 0.5 g.

6.3.5 Beakers. 250 ml.

6.3.6 Hygrometer. To measure the relative humidity of the laboratory environment.

6.3.7 Temperature sensor. To measure the temperature of the laboratory environment.

6.3.8 Buchner fritted funnel. 30 ml size, fine (<50 micron)-porosity fritted glass.

6.3.9 Pressure filtration apparatus.

6.3.10 Aluminum dish. Flat bottom, smooth sides, and flanged top, 18 mm deep and with an inside diameter of approximately 60 mm.

7.0 Reagents and Standards.

7.l Sample collection. The following reagents are required for sample collection:

7.1.1 Filters. Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3 micron dioctyl phthalate smoke particles. The filter efficiency test shall be conducted in accordance with ASTM Method D 2986–95A (incorporated by reference in § 63.841 of this part). Test data from the supplier's quality control program are sufficient for this purpose. In sources containing $S0_2$ or $S0_3$, the filter material must be of a type that is unreactive to $S0_2$ or $S0_3$. Reference 10 in section 17.0 of this method may be used to select the appropriate filter.

7.1.2 Silica gel. Indicating type, 6 to l6 mesh. If previously used, dry at l75°C (350°F) for 2 hours. New silica gel may be used as received. Alternatively, other types of desiccants (equivalent or better) may be used, subject to the approval of the Administrator.

7.1.3 Water. When analysis of the material caught in the impingers is required, deionized distilled water shall be used. Run blanks prior to field use to eliminate a high blank on test samples.

7.1.4 Crushed ice.

7.1.5 Stopcock grease. Acetone-insoluble, heat-stable silicone grease. This is not necessary if screw-on connectors with Teflon'' sleeves, or similar, are used. Alternatively, other types of stopcock grease may be used, subject to the approval of the Administrator. [Caution: Many stopcock greases are methylene chloride-soluble. Use sparingly and carefully remove prior to recovery to prevent contamination of the MCEM analysis.]

7.2 Sample recovery. The following reagents are required for sample recovery:

7.2.1 Acetone. Acetone with blank values < 1 ppm, by weight residue, is required. Acetone blanks may be run prior to field use, and only acetone with low blank values may be used. In no case shall a blank value of greater than 1E–06 of the weight of acetone used be subtracted from the sample weight.

Note: This is more restrictive than Method 5, 40 CFR part 60, appendix A. At least one vendor (Supelco Incorporated located in Bellefonte, Pennsylvania) lists <1 mg/l as residue for its Environmental Analysis Solvents.

7.2.2 Methylene chloride. Methylene chloride with a blank value <1.5 ppm, by weight, residue. Methylene chloride blanks may be run prior to field use, and only methylene chloride with low blank values may be used. In no case shall a blank value of greater than 1.6E–06 of the weight of methylene chloride used be subtracted from the sample weight.

Note: A least one vendor quotes <1 mg/l for Environmental Analysis Solvents-grade methylene chloride.

7.3 Sample analysis. The following reagents are required for sample analysis:

7.3.l Acetone. Same as in section 7.2.1 of this method.

7.3.2 Desiccant. Anhydrous calcium sulfate, indicating type. Alternatively, other types of desiccants may be used, subject to the approval of the Administrator.

7.3.3 Methylene chloride. Same as in section 7.2.2 of this method.

8.0 Sample Collection, Preservation, Storage, and Transport.

Note: The complexity of this method is such that, in order to obtain reliable results, testers should be trained and experienced with the test procedures.

8.1l Pretest preparation. It is suggested that sampling equipment be maintained according to the procedures described in APTD–0576.

8.1.1 Weigh several 200 g to 300 g portions of silica gel in airtight containers to the nearest 0.5 g. Record on each container the total weight of the silica gel plus container. As an alternative, the silica gel need not be preweighed but may be weighed directly in its impinger or sampling holder just prior to train assembly.

8.1.2 A batch of glass fiber filters, no more than 50 at a time, should placed in a soxhlet extraction apparatus and extracted using methylene chloride for at least 16 hours. After extraction, check filters visually against light for irregularities, flaws, or pinhole leaks. Label the shipping containers (glass or plastic petri dishes), and keep the filters in these containers at all times except during sampling and weighing.

8.1.3 Desiccate the filters at 20 ± 5.6°C (68 ±10°F) and ambient pressure for at least 24 hours and weigh at intervals of at least 6 hours to a constant weight, i.e., <0.5 mg change from previous weighing; record results to the nearest 0.1 mg. During each weighing the filter must not be exposed to the laboratory atmosphere for longer than 2 minutes and a relative humidity above 50 percent. Alternatively (unless otherwise specified by the Administrator), the filters may be oven-dried at 104°C (220°F) for 2 to 3 hours, desiccated for 2 hours, and weighed. Procedures other than those described, which account for relative humidity effects, may be used, subject to the approval of the Administrator.

8.2 Preliminary determinations.

8.2.1 Select the sampling site and the minimum number of sampling points according to Method 1, 40 CFR part 60, appendix A or as specified by the Administrator. Determine the stack pressure, temperature, and the range of velocity heads using Method 2, 40 CFR part 60, appendix A; it is recommended that a leak check of the pitot lines (see section 8.1 of Method 2, 40 CFR part 60, appendix A) be performed. Determine the moisture content using Approximation Method 4 (section 1.2 of Method 4, 40 CFR part 60, appendix A) or its alternatives to make isokinetic sampling rate settings. Determine the stack gas dry molecular weight, as described in section 8.6 of Method 2, 40 CFR part 60, appendix A; if integrated Method 3 sampling is used for molecular weight determination, the integrated bag sample shall be taken simultaneously with, and for the same total length of time as, the particulate sample run.

8.2.2 Select a nozzle size based on the range of velocity heads such that it is not necessary to change the nozzle size in order to maintain isokinetic sampling rates. During the run, do not change the nozzle size. Ensure that the proper differential pressure gauge is chosen for the range of velocity heads encountered (see section 8.2 of Method 2, 40 CFR part 60, appendix A).

8.2.3 Select a suitable probe liner and probe length such that all traverse points can be sampled. For large stacks, consider sampling from opposite sides of the stack to reduce the required probe length.

8.2.4 Select a total sampling time greater than or equal to the minimum total sampling time specified in the test procedures for the specific industry such that: (1) The sampling time per point is not less than 2 minutes (or some greater time interval as specified by the Administrator); and (2) the sample volume taken (corrected to standard conditions) will exceed the required minimum total gas sample volume. The latter is based on an approximate average sampling rate.

8.2.5 The sampling time at each point shall be the same. It is recommended that the number of minutes sampled at each point be an integer or an integer plus one-half minute, in order to eliminate timekeeping errors.

8.2.6 In some circumstances (e.g., batch cycles), it may be necessary to sample for shorter times at the traverse points and to obtain smaller gas sample volumes. In these cases, the Administrator's approval must first be obtained.

8.3 Preparation of sampling train.

8.3.1 During preparation and assembly of the sampling train, keep all openings where contamination can occur covered until just prior to assembly or until sampling is about to begin. Place l00 ml of water in each of the first two impingers, leave the third impinger empty, and transfer approximately 200 to 300 g of preweighed silica gel from its container to the fourth impinger. More silica gel may be used, but care should be taken to ensure that it is not entrained and carried out from the impinger during sampling. Place the container in a clean place for later use in the sample recovery. Alternatively, the weight of the silica gel plus impinger may be determined to the nearest 0.5 g and recorded.

8.3.2 Using a tweezer or clean disposable surgical gloves, place a labeled (identified) and weighed filter in the filter holder. Be sure that the filter is properly centered and the gasket properly placed so as to prevent the sample gas stream from circumventing the filter. Check the filter for tears after assembly is completed.

8.3.3 When glass liners are used, install the selected nozzle using a Viton A 0-ring when stack temperatures are less than 260°C (500°F) and an asbestos string gasket when temperatures are higher. See APTD–0576 for details. Mark the probe with heat-resistant tape or by some other method to denote the proper distance into the stack or duct for each sampling point.

8.3.4 Set up the train as in Figure 5-1 of Method 5, 40 CFR part 60, appendix A, using (if necessary) a very light coat of silicone grease on all ground glass joints, greasing

only the outer portion (see APTD–0576) to avoid possibility of contamination by the silicone grease. Subject to the approval of the Administrator, a glass cyclone may be used between the probe and filter holder when the total particulate catch is expected to exceed 100 mg or when water droplets are present in the stack gas.

8.3.5 Place crushed ice around the impingers.

8.4 Leak-check procedures.

8.4.1 Leak check of metering system shown in Figure 5-1 of Method 5, 40 CFR part 60, appendix A. That portion of the sampling train from the pump to the orifice meter should be leak-checked prior to initial use and after each shipment. Leakage after the pump will result in less volume being recorded than is actually sampled. The following procedure is suggested (see Figure 5–2 of Method 5, 40 CFR part 60, appendix A): Close the main valve on the meter box. Insert a one-hole rubber stopper with rubber tubing attached into the orifice exhaust pipe. Disconnect and vent the low side of the orifice manometer. Close off the low side orifice tap. Pressurize the system to 13 to 18 cm (5 to 7 in.) water column by blowing into the rubber tubing. Pinch off the tubing, and observe the manometer for 1 minute. A loss of pressure on the manometer indicates a leak in the meter box; leaks, if present, must be corrected.

8.4.2 Pretest leak check. A pretest leak-check is recommended but not required. If the pretest leak-check is conducted, the following procedure should be used.

8.4.2.1 After the sampling train has been assembled, turn on and set the filter and probe heating systems to the desired operating temperatures. Allow time for the temperatures to stabilize. If a Viton A 0-ring or other leak-free connection is used in assembling the probe nozzle to the probe liner, leak-check the train at the sampling site by plugging the nozzle and pulling a 380 mm (15 in.) Hg vacuum.

Note: A lower vacuum may be used, provided that it is not exceeded during the test.

8.4.2.2 If an asbestos string is used, do not connect the probe to the train during the leak check. Instead, leak-check the train by first plugging the inlet to the filter holder (cyclone, if applicable) and pulling a 380 mm (15 in.) Hg vacuum. (See NOTE in section 8.4.2.1 of this method). Then connect the probe to the train and perform the leak check at approximately 25 mm (1 in.) Hg vacuum; alternatively, the probe may be leak-checked with the rest of the sampling train, in one step, at 380 mm (15 in.) Hg vacuum. Leakage rates in excess of 4 percent of the average sampling rate or 0.00057 m^3/min (0.02 cfm), whichever is less, are unacceptable.

8.4.2.3 The following leak check instructions for the sampling train described in APTD–0576 and APTD–058l may be helpful. Start the pump with the bypass valve fully open and the coarse adjust valve completely closed. Partially open the coarse adjust valve and slowly close the bypass valve until the desired vacuum is reached. *Do not* reverse the direction of the bypass valve, as this will cause water to back up into the filter holder. If the desired vacuum is exceeded, either leak-check at this higher vacuum or end the leak check as shown below and start over.

8.4.2.4 When the leak check is completed, first slowly remove the plug from the inlet to the probe, filter holder, or cyclone (if applicable) and immediately turn off the vacuum pump. This prevents the water in the impingers from being forced backward into the filter holder and the silica gel from being entrained backward into the third impinger.

8.4.3 Leak checks during sample run. If, during the sampling run, a component (e.g., filter assembly or impinger) change becomes necessary, a leak check shall be conducted immediately before the change is made. The leak check shall be done according to the procedure outlined in section 8.4.2 of this method, except that it shall be done at a vacuum equal to or greater than the maximum value recorded up to that point in the test. If the leakage rate is found to be no greater than 0.00057 m^3/min (0.02 cfm) or 4 percent of the average sampling rate (whichever is less), the results are acceptable, and no correction will need to be applied to the total volume of dry gas metered; if, however, a higher leakage rate is obtained, either record the leakage rate and plan to correct the sample volume as shown in section 12.3 of this method or void the sample run.

Note: Immediately after component changes, leak checks are optional; if such leak checks are done, the procedure outlined in section 8.4.2 of this method should be used.

8.4.4 Post-test leak check. A leak check is mandatory at the conclusion of each sampling run. The leak check shall be performed in accordance with the procedures outlined in section 8.4.2 of this method, except that it shall be conducted at a vacuum equal to or greater than the maximum value reached during the sampling run. If the leakage rate is found to be no greater than 0.00057 m^3/min (0.02 cfm) or 4 percent of the average sampling rate (whichever is less), the results are acceptable, and no correction need be applied to the total volume of dry gas metered. If, however, a higher leakage rate is obtained, either record the leakage rate and correct the sample volume, as shown in section 12.4 of this method, or void the sampling run.

8.5 Sampling train operation. During the sampling run, maintain an isokinetic sampling rate (within l0 percent of true isokinetic unless otherwise specified by the Administrator) and a temperature around the filter of 120 14°C (248 25°F), or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator.

8.5.1 For each run, record the data required on a data sheet such as the one shown in Figure 5–2 of Method 5, 40 CFR part 60, appendix A. Be sure to record the initial reading. Record the DGM readings at the beginning and end of each sampling time increment, when changes in flow rates are made, before and after each leak-check, and when sampling is halted. Take other readings indicated by Figure 5–2 of Method 5, 40 CFR part 60, appendix A at least once at each sample point during each time increment and additional readings when significant changes (20 percent variation in velocity head readings) necessitate additional adjustments in flow rate. Level and zero the manometer. Because the manometer level and zero may drift due to vibrations and temperature changes, make periodic checks during the traverse.

8.5.2 Clean the portholes prior to the test run to minimize the chance of sampling deposited material. To begin sampling, remove the nozzle cap and verify that the filter and probe heating systems are up to temperature and that the pitot tube and probe are properly positioned. Position the nozzle at the first traverse point with the tip pointing directly into the gas stream. Immediately start the pump and adjust the flow to isokinetic conditions. Nomographs are available, which aid in the rapid adjustment of the isokinetic sampling rate without excessive computations. These nomographs are designed for use when the Type S pitot tube coefficient (C_p) is 0.85 # 0.02 and the stack gas equivalent density (dry molecular weight) is 29 ± 4. APTD–0576 details the procedure for using the nomographs. If C_p and M_d are outside the above-stated ranges, do not use the nomographs unless appropriate steps (see Reference 7 in section 17.0 of this method) are taken to compensate for the deviations.

8.5.3 When the stack is under significant negative pressure (height of impinger stem), close the coarse adjust valve before inserting the probe into the stack to prevent water from backing into the filter holder. If necessary, the pump may be turned on with the coarse adjust valve closed.

8.5.4 When the probe is in position, block off the openings around the probe and porthole to prevent unrepresentative dilution of the gas stream.

8.5.5 Traverse the stack cross-section, as required by Method 1, 40 CFR part 60, appendix A or as specified by the Administrator, being careful not to bump the probe nozzle into the stack walls when sampling near the walls or when removing or inserting the probe through the portholes; this minimizes the chance of extracting deposited material.

8.5.6 During the test run, make periodic adjustments to keep the temperature around the filter holder at the proper level; add more ice and, if necessary, salt to maintain a temperature of less than 20°C (68°F) at the condenser/silica gel outlet. Also, periodically check the level and zero of the manometer.

8.5.7 If the pressure drop across the filter becomes too high, making isokinetic sampling difficult to maintain, the filter may be replaced in the midst of the sample run. It is recommended that another complete filter assembly be used rather than attempting to change the filter itself. Before a new filter assembly is installed, conduct a leak check (see section 8.4.3 of this method). The total PM weight shall include the summation of the filter assembly catches.

8.5.8 A single train shall be used for the entire sample run, except in cases where simultaneous sampling is required in two or more separate ducts or at two or more different locations within the same duct, or in cases where equipment failure necessitates

a change of trains. In all other situations, the use of two or more trains will be subject to the approval of the Administrator.

Note: When two or more trains are used, separate analyses of the front-half and (if applicable) impinger catches from each train shall be performed, unless identical nozzle sizes were used in all trains, in which case the front-half catches from the individual trains may be combined (as may the impinger catches) and one analysis of the front-half catch and one analysis of the impinger catch may be performed.

8.5.9 At the end of the sample run, turn off the coarse adjust valve, remove the probe and nozzle from the stack, turn off the pump, record the final DGM reading, and then conduct a post-test leak check, as outlined in section 8.4.4 of this method. Also leak-check the pitot lines as described in section 8.1 of Method 2, 40 CFR part 60, appendix A. The lines must pass this leak check in order to validate the velocity head data.

8.6 Calculation of percent isokinetic. Calculate percent isokinetic (see Calculations, section 12.12 of this method) to determine whether a run was valid or another test run should be made. If there was difficulty in maintaining isokinetic rates because of source conditions, consult the Administrator for possible variance on the isokinetic rates.

8.7 Sample recovery.

8.7.1 Proper cleanup procedure begins as soon as the probe is removed from the stack at the end of the sampling period. Allow the probe to cool.

8.7.2 When the probe can be safely handled, wipe off all external PM near the tip of the probe nozzle and place a cap over it to prevent losing or gaining PM. Do not cap off the probe tip tightly while the sampling train is cooling down. This would create a vacuum in the filter holder, thus drawing water from the impingers into the filter holder.

8.7.3 Before moving the sample train to the cleanup site, remove the probe from the sample train, wipe off the silicone grease, and cap the open outlet of the probe. Be careful not to lose any condensate that might be present. Wipe off the silicone grease from the filter inlet where the probe was fastened and cap it. Remove the umbilical cord from the last impinger and cap the impinger. If a flexible line is used between the first impinger or condenser and the filter holder, disconnect the line at the filter holder and let any condensed water or liquid drain into the impingers or condenser. After wiping off the silicone grease, cap off the filter holder outlet and impinger inlet. Ground-glass stoppers, plastic caps, or serum caps may be used to close these openings.

8.7.4 Transfer the probe and filter-impinger assembly to the cleanup area. This area should be clean and protected from the wind so that the chances of contaminating or losing the sample will be minimized.

8.7.5 Save a portion of the acetone and methylene chloride used for cleanup as blanks. Take 200 ml of each solvent directly from the wash bottle being used and place it in glass sample containers labeled ''acetone blank'' and ''methylene chloride blank,'' respectively.

8.7.6 Inspect the train prior to and during disassembly and note any abnormal conditions. Treat the samples as follows:

8.7.6.1 Container No. 1. Carefully remove the filter from the filter holder, and place it in its identified petri dish container. Use a pair of tweezers and/or clean disposable surgical gloves to handle the filter. If it is necessary to fold the filter, do so such that the PM cake is inside the fold. Using a dry nylon bristle brush and/or a sharp-edged blade, carefully transfer to the petri dish any PM and/or filter fibers that adhere to the filter holder gasket. Seal the container.

8.7.6.2 Container No. 2. Taking care to see that dust on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover PM or any condensate from the probe nozzle, probe fitting, probe liner, and front half of the filter holder by washing these components with acetone and placing the wash in a glass container. Perform the acetone rinse as follows:

8.7.6.2.1 Carefully remove the probe nozzle and clean the inside surface by rinsing with acetone from a wash bottle and brushing with a nylon bristle brush. Brush until the acetone rinse shows no visible particles, after which make a final rinse of the inside surface with acetone.

8.7.6.2.2 Brush and rinse the inside parts of the Swagelok fitting with acetone in a similar way until no visible particles remain.

8.7.6.2.3 Rinse the probe liner with acetone by tilting and rotating the probe while squirting acetone into its upper end so that all inside surfaces are wetted with acetone. Let the acetone drain from the lower end into the sample container. A funnel (glass or polyethylene) may be used to aid in transferring liquid washes to the container. Follow the acetone rinse with a probe brush. Hold the probe in an inclined position, squirt acetone into the upper end as the probe brush is being pushed with a twisting action through the probe, hold a sample container under the lower end of the probe, and catch any acetone and PM that is brushed from the probe. Run the brush through the probe three times or more until no visible PM is carried out with the acetone or until none remains in the probe liner on visual inspection. With stainless steel or other metal probes, run the brush through in the above-described manner at least six times, since metal probes have small crevices in which PM can be entrapped. Rinse the brush with acetone and quantitatively collect these washings in the sample container. After the brushing, make a final acetone rinse of the probe as described above.

8.7.6.2.4 It is recommended that two people clean the probe to minimize sample losses. Between sampling runs, keep brushes clean and protected from contamination.

8.7.6.2.5 After ensuring that all joints have been wiped clean of silicone grease, clean the inside of the front half of the filter holder by rubbing the surfaces with a nylon bristle brush and rinsing with acetone. Rinse each surface three times or more if needed to remove visible particulate. Make a final rinse of the brush and filter holder. Carefully rinse out the glass cyclone also (if applicable).

8.7.6.2.6 After rinsing the nozzle, probe, and front half of the filter holder with acetone, repeat the entire procedure with methylene chloride and save in a separate No. 2M container.

8.7.6.2.7 After acetone and methylene chloride washings and PM have been collected in the proper sample containers, tighten the lid on the sample containers so that acetone and methylene chloride will not leak out when it is shipped to the laboratory. Mark the height of the fluid level to determine whether leakage occurs during transport. Label each container to identify clearly its contents.

8.7.6.3 Container No. 3. Note the color of the indicating silica gel to determine whether it has been completely spent, and make a notation of its condition. Transfer the silica gel from the fourth impinger to its original container and seal the container. A funnel may make it easier to pour the silica gel without spilling. A rubber policeman may be used as an aid in removing the silica gel from the impinger. It is not necessary to remove the small amount of dust particles that may adhere to the impinger wall and are difficult to remove. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available in the field, follow the procedure for Container No. 3 in section 11.2.3 of this method.

8.7.6.4 Impinger water. Treat the impingers as follows:

8.7.6.4.1 Make a notation of any color or film in the liquid catch. Measure the liquid that is in the first three impingers to within 1 ml by using a graduated cylinder or by weighing it to within 0.5 g by using a balance (if one is available). Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas.

8.7.6.4.2 Following the determination of the volume of liquid present, rinse the back half of the train with water, add it to the impinger catch, and store it in a container labeled 3W (water).

8.7.6.4.3 Following the water rinse, rinse the back half of the train with acetone to remove the excess water to enhance subsequent organic recovery with methylene chloride and quantitatively recover to a container labeled 3S (solvent) followed by at least three sequential rinsings with aliquots of methylene chloride. Quantitatively recover to the same container labeled 3S. Record separately the amount of both acetone and methylene chloride used to the nearest 1 ml or 0.5g.

Note: Because the subsequent analytical finish is gravimetric, it is okay to recover both solvents to the same container. This would not be recommended if other analytical finishes were required.

8.8 Sample transport. Whenever possible, containers should be shipped in such a way that they remain upright at all times.

9.0 Quality Control.

9.1 Miscellaneous quality control measures.

Section	Quality control measure	Effect
8.4, 10.1–10.6.	Sampling and equipment leak check and calibration.	Ensure accurate measurement of stack gas flow rate, sample volume.

9.2 Volume metering system checks. The following quality control procedures are suggested to check the volume metering system calibration values at the field test site prior to sample collection. These procedures are optional.

9.2.1 Meter orifice check. Using the calibration data obtained during the calibration procedure described in section 10.3 of this method, determine the ΔH_a for the metering system orifice. The ΔH_a is the orifice pressure differential in units of in. H_20 that correlates to 0.75 cfm of air at 528°R and 29.92 in. Hg. The ΔH_a is calculated as follows:

$$\Delta H_a = 0..0319\ \Delta H \frac{T_m \Theta^2}{P_{bar} Y^2 V_m^2}$$

Where

0.0319 = (0.0567 in. Hg/°R)(0.75 cfm)^2;
ΔH = Average pressure differential across the orifice meter, in. H_20;
T_m = Absolute average DGM temperature, °R;
Θ = Total sampling time, min;
P_{bar} = Barometric pressure, in. Hg;
Y = DGM calibration factor, dimensionless;
V_m = Volume of gas sample as measured by DGM, dcf.

9.2.1.1 Before beginning the field test (a set of three runs usually constitutes a field test), operate the metering system (i.e., pump, volume meter, and orifice) at the ΔH_a pressure differential for 10 minutes. Record the volume collected, the DGM temperature, and the barometric pressure. Calculate a DGM calibration check value, Y_c, as follows:

$$Y_c = \frac{10}{V_m}\left[\frac{0.0319\ T_m}{P_{bar}}\right]^{\frac{1}{2}}$$

Where

Y_c = DGM calibration check value, dimensionless;
10 = Run time, min.

9.2.1.2 Compare the Y_c value with the dry gas meter calibration factor Y to determine that: $0.97\ Y < Y_c < 1.03Y$. If the Y_c value is not within this range, the volume metering system should be investigated before beginning the test.

9.2.2 Calibrated critical orifice. A calibrated critical orifice, calibrated against a wet test meter or spirometer and designed to be inserted at the inlet of the sampling meter box, may be used as a quality control check by following the procedure of section 16.2 of this method.

10.0 Calibration and Standardization.

Note: Maintain a laboratory log of all calibrations.

10.1 Probe nozzle. Probe nozzles shall be calibrated before their initial use in the field. Using a micrometer, measure the ID of the nozzle to the nearest 0.025 mm (0.001 in.). Make three separate measurements using different diameters each time, and obtain the average of the measurements. The difference between the high and low numbers shall not exceed 0.1 mm (0.004 in.). When nozzles become nicked, dented, or corroded, they shall be reshaped, sharpened, and recalibrated before use. Each nozzle shall be permanently and uniquely identified.

10.2 Pitot tube assembly. The Type S pitot tube assembly shall be calibrated according to the procedure outlined in section 10.1 of Method 2, 40 CFR part 60, appendix A.

10.3 Metering system.

10.3.1 Calibration prior to use. Before its initial use in the field, the metering system shall be calibrated as follows: Connect the metering system inlet to the outlet of a wet test meter that is accurate to within 1 percent. Refer to Figure 5–5 of Method 5, 40 CFR part 60, appendix A. The wet test meter should have a capacity of 30 liters/revolution (1 ft^3/rev). A spirometer of 400 liters (14 ft^3) or more capacity, or equivalent, may be used for this calibration, although a wet test meter is usually more practical. The wet test meter should be periodically calibrated with a spirometer or a liquid displacement meter to ensure the accuracy of the wet test meter. Spirometers or wet test meters of other sizes may be used, provided that the specified accuracies of the procedure are maintained. Run the metering system pump for about 15 minutes with the orifice manometer indicating a median reading, as expected in field use, to allow the pump to warm up and to permit the interior surface of the wet test meter to be thoroughly wetted. Then, at each of a minimum of three orifice manometer settings, pass an exact quantity of gas through the wet test meter and note the gas volume indicated by the DGM. Also note the barometric pressure and the temperatures of the wet test meter, the inlet of the DGM, and the outlet of the DGM. Select the highest and lowest orifice settings to bracket the expected field operating range of the orifice. Use a minimum volume of 0.15 m^3 (5 cf) at all orifice settings. Record all the data on a form similar to Figure 5–6 of Method 5, 40 CFR part 60, appendix A, and calculate Y (the DGM calibration factor) and ΔH_a (the orifice calibration factor) at each orifice setting, as shown on Figure 5–6 of Method 5, 40 CFR part 60, appendix A. Allowable tolerances for individual Y and ΔH_a values are given in Figure 5–6 of Method 5, 40 CFR part 60, appendix A. Use the average of the Y values in the calculations in section 12 of this method.

10.3.1.1. Before calibrating the metering system, it is suggested that a leak check be conducted. For metering systems having diaphragm pumps, the normal leak check procedure will not detect leakages within the pump. For these cases the following leak check procedure is suggested: make a 10-minute calibration run at 0.00057 m^3/min (0.02 cfm); at the end of the run, take the difference of the measured wet test meter and DGM volumes; divide the difference by 10 to get the leak rate. The leak rate should not exceed 0.00057 m^3/min (0.02 cfm).

10.3.2 Calibration after use. After each field use, the calibration of the metering system shall be checked by performing three calibration runs at a single, intermediate orifice setting (based on the previous field test) with the vacuum set at the maximum value reached during the test series. To adjust the vacuum, insert a valve between the wet test meter and the inlet of the metering system. Calculate the average value of the DGM calibration factor. If the value has changed by more than 5 percent, recalibrate the meter over the full range of orifice settings, as previously detailed.

Note: Alternative procedures, e.g., rechecking the orifice meter coefficient, may be used, subject to the approval of the Administrator.

10.3.3 Acceptable variation in calibration. If the DGM coefficient values obtained before and after a test series differ by more than 5 percent, either the test series shall be voided or calculations for the test series shall be performed using whichever meter coefficient value (i.e., before or after) gives the lower value of total sample volume.

10.4 Probe heater calibration. Use a heat source to generate air heated to selected temperatures that approximate those expected to occur in the sources to be sampled. Pass this air through the probe at a typical sample flow rate while measuring the probe inlet and outlet temperatures at various probe heater settings. For each air temperature generated, construct a graph of probe heating system setting versus probe outlet temperature. The procedure outlined in APTD–0576 can also be used. Probes constructed according to APTD–0581 need not be calibrated if the calibration curves in APTD–0576 are used. Also, probes with outlet temperature monitoring capabilities do not require calibration.

Note: The probe heating system shall be calibrated before its initial use in the field.

10.5 Temperature sensors. Use the procedure in section 10.3 of Method 2, 40 CFR part 60, appendix A to calibrate in-stack temperature sensors. Dial thermometers, such as are used for the DGM and condenser outlet, shall be calibrated against mercury-in-glass thermometers.

10.6 Barometer. Calibrate against a mercury barometer.

11.0 Analytical Procedure.

11.1 Record the data required on a sheet such as the one shown in Figure 315–1 of this method.

11.2 Handle each sample container as follows:

11.2.1 Container No. 1.

11.2.1.1 PM analysis. Leave the contents in the shipping container or transfer the filter and any loose PM from the sample container to a tared glass weighing dish. Desiccate for 24 hours in a desiccator containing anhydrous calcium sulfate. Weigh to a constant weight and report the results to the nearest 0.1 mg. For purposes of this section, the term ''constant weight'' means a difference of no more than 0.5 mg or 1 percent of total weight less tare weight, whichever is greater, between two consecutive weighings, with no less than 6 hours of desiccation time between weighings

(overnight desiccation is a common practice). If a third weighing is required and it agrees within ±0.5 mg, then the results of the second weighing should be used. For quality assurance purposes, record and report each individual weighing; if more than three weighings are required, note this in the results for the subsequent MCEM results.

11.2.1.2 MCEM analysis. Transfer the filter and contents quantitatively into a beaker. Add 100 ml of methylene chloride and cover with aluminum foil. Sonicate for 3 minutes then allow to stand for 20 minutes. Set up the filtration apparatus. Decant the solution into a clean Buchner fritted funnel. Immediately pressure filter the solution through the tube into another clean, dry beaker. Continue decanting and pressure filtration until all the solvent is transferred. Rinse the beaker and filter with 10 to 20 ml methylene chloride, decant into the Buchner fritted funnel and pressure filter. Place the beaker on a low-temperature hot plate (maximum 40°C) and slowly evaporate almost to dryness. Transfer the remaining last few milliliters of solution quantitatively from the beaker (using at least three aliquots of methylene chloride rinse) to a tared clean dry aluminum dish and evaporate to complete dryness. Remove from heat once solvent is evaporated. Reweigh the dish after a 30-minute equilibrium in the balance room and determine the weight to the nearest 0.1 mg. Conduct a methylene chloride blank run in an identical fashion.

11.2.2 Container No. 2.

11.2.2.1 PM analysis. Note the level of liquid in the container, and confirm on the analysis sheet whether leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Measure the liquid in this container either volumetrically to ±1 ml or gravimetrically to 1±0.5 g. Transfer the contents to a tared 250 ml beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for 24 hours, and weigh to a constant weight. Report the results to the nearest 0.1 mg.

11.2.2.2 MCEM analysis. Add 25 ml methylene chloride to the beaker and cover with aluminum foil. Sonicate for 3 minutes then allow to stand for 20 minutes; combine with contents of Container No. 2M and pressure filter and evaporate as described for Container 1 in section 11.2.1.2 of this method.

Notes for MCEM Analysis

1. Light finger pressure only is necessary on 24/40 adaptor. A Chemplast adapter #15055–240 has been found satisfactory.

2. Avoid aluminum dishes made with fluted sides, as these may promote solvent ''creep,'' resulting in possible sample loss.

3. If multiple samples are being run, rinse the Buchner fritted funnel twice between samples with 5 ml solvent using pressure filtration. After the second rinse, continue the flow of air until the glass frit is completely dry. Clean the Buchner fritted funnels thoroughly after filtering five or six samples.

11.2.3 Container No. 3. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g using a balance. This step may be conducted in the field.

11.2.4 Container 3W (impinger water).

11.2.4.1 MCEM analysis. Transfer the solution into a 1,000 ml separatory funnel quantitatively with methylene chloride washes. Add enough solvent to total approximately 50 ml, if necessary. Shake the funnel for 1 minute, allow the phases to separate, and drain the solvent layer into a 250 ml beaker. Repeat the extraction twice. Evaporate with low heat (less than 40°C) until near dryness. Transfer the remaining few milliliters of solvent quantitatively with small solvent washes into a clean, dry, tared aluminum dish and evaporate to dryness. Remove from heat once solvent is evaporated. Reweigh the dish after a 30-minute equilibration in the balance room and determine the weight to the nearest 0.1 mg.

11.2.5 Container 3S (solvent).

11.2.5.1 MCEM analysis. Transfer the mixed solvent to 250 ml beaker(s). Evaporate and weigh following the procedures detailed for container 3W in section 11.2.4 of this method.

11.2.6 Blank containers. Measure the distilled water, acetone, or methylene chloride in each container either volumetrically or gravimetrically. Transfer the ''solvent'' to a tared 250 ml beaker, and evaporate to dryness at ambient temperature and pressure. (Conduct a solvent blank on the distilled deionized water blank in an identical fashion to that described in section 11.2.4.1 of this method.) Desiccate for 24 hours, and weigh to a constant weight. Report the results to the nearest 0.l mg.

Note: The contents of Containers No. 2, 3W, and 3M as well as the blank containers may be evaporated at temperatures higher than ambient. If evaporation is done at an elevated temperature, the temperature must be below the boiling point of the solvent; also, to prevent ''bumping,'' the evaporation process must be closely supervised, and the contents of the beaker must be swirled occasionally to maintain an even temperature. Use extreme care, as acetone and methylene chloride are highly flammable and have a low flash point.

12.0 Data Analysis and Calculations.

12.1 Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

12.2 Nomenclature.

A_n = Cross-sectional area of nozzle, m^3 (ft^3).

B_{ws} = Water vapor in the gas stream, proportion by volume.

C_a = Acetone blank residue concentration, mg/g.

C_s = Concentration of particulate matter in stack gas, dry basis, corrected to standard conditions, g/dscm (g/dscf).

I = Percent of isokinetic sampling.

L_a = Maximum acceptable leakage rate for either a pretest leak check or for a leak check following a component change; equal to 0.00057 m^3/min (0.02 cfm) or 4 percent of the average sampling rate, whichever is less.

L_i = Individual leakage rate observed during the leak check conducted prior to the ''i^{th}'' component change (I = l, 2, 3...n), m^3/min (cfm).

L_p = Leakage rate observed during the post-test leak check, m^3/min (cfm).

m_a = Mass of residue of acetone after evaporation, mg.

m_n = Total amount of particulate matter collected, mg.

M_w = Molecular weight of water, 18.0 g/g-mole (18.0 lb/lb-mole).

P_{bar} = Barometric pressure at the sampling site, mm Hg (in Hg).

P_s = Absolute stack gas pressure, mm Hg (in. Hg).

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

R = Ideal gas constant, 0.06236 [(mm Hg)(m^3)]/[(°K) (g-mole)] {21.85 [(in. Hg)(ft^3)]/[(°R)(lb-mole)]}.

T_m = Absolute average dry gas meter (DGM) temperature (see Figure 5–2 of Method 5, 40 CFR part 60, appendix A), °K (°R).

T_s = Absolute average stack gas temperature (see Figure 5–2 of Method 5, 40 CFR part 60, appendix A), °K(°R).

T_{std} = Standard absolute temperature, 293°K (528°R).

V_a = Volume of acetone blank, ml.

V_{aw} = Volume of acetone used in wash, ml.

V_t = Volume of methylene chloride blank, ml.

V_{tw} = Volume of methylene chloride used in wash, ml.

V_{lc} = Total volume liquid collected in impingers and silica gel (see Figure 5–3 of Method 5, 40 CFR part 60, appendix A), ml.

V_m = Volume of gas sample as measured by dry gas meter, dcm (dcf).

$V_{m(std)}$ = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dscm (dscf).

$V_{w(std)}$ = Volume of water vapor in the gas sample, corrected to standard conditions, scm (scf).

V_s = Stack gas velocity, calculated by Equation 2–9 in Method 2, 40 CFR part 60, appendix A, using data obtained from Method 5, 40 CFR part 60, appendix A, m/sec (ft/sec).

W_a = Weight of residue in acetone wash, mg.

Y = Dry gas meter calibration factor.

ΔH = Average pressure differential across the orifice meter (see Figure 5–2 of Method 5, 40 CFR part 60, appendix A), mm H_2O (in H_2O).

ρ_a = Density of acetone, 785.1 mg/ml (or see label on bottle).

ρ_w = Density of water, 0.9982 g/ml (0.00220l lb/ml).

ρ_t = Density of methylene chloride, 1316.8 mg/ml (or see label on bottle).

Θ = Total sampling time, min.

Θ_1 = Sampling time interval, from the beginning of a run until the first component change, min.

Θ_1 = Sampling time interval, between two successive component changes, beginning with the interval between the first and second changes, min.

Θ_p = Sampling time interval, from the final (n^{th}) component change until the end of the sampling run, min.

13.6 = Specific gravity of mercury.

60 = Sec/min.
100 = Conversion to percent.

12.3 Average dry gas meter temperature and average orifice pressure drop. See data sheet (Figure 5–2 of Method 5, 40 CFR part 60, appendix A).

12.4 Dry gas volume. Correct the sample volume measured by the dry gas meter to standard conditions (20°C, 760 mm Hg or 68°F, 29.92 in Hg) by using Equation 315–1.

$$V = V_m Y \frac{T_{std}\left(P_{bar} + \frac{\Delta H}{13.6}\right)}{T_m P_{std}} = V = K_1 V_m Y \frac{P_{bar} + \left(\frac{\Delta H}{13.6}\right)}{T_m} \qquad \text{Eq. 315-1}$$

Where

K_l = 0.3858 °K/mm Hg for metric units,
= 17.64 °R/in Hg for English units.

Note: Equation 315–1 can be used as written unless the leakage rate observed during any of the mandatory leak checks (i.e., the post-test leak check or leak checks conducted prior to component changes) exceeds L_a. If L_p or L_i exceeds L_a, Equation 315–1 must be modified as follows:

(a) Case I. No component changes made during sampling run. In this case, replace V_m in Equation 315–1 with the expression:

$[V_m—(L_p—L_a)\ \Theta]$

(b) Case II. One or more component changes made during the sampling run. In this case, replace V_m in Equation 315–1 by the expression:

$$\left[V_m - \left(L_1 - L_a\right)\Theta_1 - \sum_{i=2}^{n}\left(L_i - L_a\right)\Theta_i - \left(L_p - L_a\right)\Theta_p\right]$$

and substitute only for those leakage rates (L_i or L_p) which exceed L_a.

12.5 Volume of water vapor condensed.

$$V_{w(std)} = V_{1c}\frac{\rho_w R T_{std}}{M_w P_{std}} = K_2 V_{1c} \qquad \text{Eq. 315-2}$$

Where

K_2 = 0.001333 m³/ml for metric units;
= 0.04706 ft³/ml for English units.

12.6 Moisture content.

$$B_{ws} = \frac{V_{w(std)}}{V_{m(std)} + V_{w(std)}} \qquad \text{Eq. 315-3}$$

Note: In saturated or water droplet-laden gas streams, two calculations of the moisture content of the stack gas shall be made, one from the impinger analysis (Equation 315-3), and a second from the assumption of saturated conditions. The lower of the two values of B_{ws} shall be considered correct. The procedure for determining the moisture content based upon assumption of saturated conditions is given in section 4.0 of Method 4, 40 CFR part 60, appendix A. For the purposes of this method, the average stack gas temperature from Figure 5–2 of Method 5, 40 CFR part 60, appendix A may be used to make this determination, provided that the accuracy of the in-stack temperature sensor is ±1°C (2°F).

12.7 Acetone blank concentration.

$$C_a = \frac{M_a}{V_a \rho_a} \qquad \text{Eq. 315-4}$$

12.8 Acetone wash blank.

$W_a = C_a V_{aw} \rho a$ *Eq. 315–5*

12.9 Total particulate weight. Determine the total PM catch from the sum of the weights obtained from Containers l and 2 less the acetone blank associated with these two containers (see Figure 315–1).

Note: Refer to section 8.5.8 of this method to assist in calculation of results involving two or more filter assemblies or two or more sampling trains.

12.10 Particulate concentration.

$c_s = K_3\ m_n/V_{m(std)}$ Eq. 315–6

where

K = 0.001 g/mg for metric units;
= 0.0154 gr/mg for English units.

12.11 Conversion factors.

From	To	Multiply by
ft³	m³	0.02832
gr	mg	64.80004
gr/ft³	mg/m³	2288.4
mg	g	0.001
gr	lb	1.429×10^{-4}

12.12 Isokinetic variation.

12.12.1 Calculation from raw data.

$$I = \frac{100\ T_s \left| K_4 V_{1c} + \left(\frac{V_m Y}{T_m}\right)\left(P_{bar} + \frac{\Delta H}{13.6}\right)\right.}{60\ \Theta\ V_s P_s A_n} \qquad \text{Eq. 315-7}$$

where

K_4 = 0.003454 [(mm Hg)(m³)]/[(m1)(°K)] for metric units;
= 0.002669 [(in Hg)(ft³)]/[(m1)(°R)] for English units.

12.12.2 Calculation from intermediate values.

$$I = \frac{T_s V_{m(std)}\ P_{std}\ 100}{T_{std} V_s\ \Theta\ A_n P_s\ 60\left(1 - B_{ws}\right)} = K_5 \frac{T_s V_{m(std)}}{P_s V_s A_n\ \Theta\left(1 - B_{ws}\right)} \qquad \text{Eq. 315-8}$$

where

K_5 = 4.320 for metric units;
= 0.09450 for English units.

12.12.3 Acceptable results. If 90 percent ≤ I ≤ 110 percent, the results are acceptable. If the PM or MCEM results are low in comparison to the standard, and ''I'' is over 110 percent or less than 90 percent, the Administrator may opt to accept the results. Reference 4 in the Bibliography may be used to make acceptability judgments. If ''I'' is judged to be unacceptable, reject the results, and repeat the test.

12.13 Stack gas velocity and volumetric flow rate. Calculate the average stack gas velocity and volumetric flow rate, if needed, using data obtained in this method and the equations in sections 5.2 and 5.3 of Method 2, 40 CFR part 60, appendix A.

12.14 MCEM results. Determine the MCEM concentration from the results from Containers 1, 2, 2M, 3W, and 3S less the acetone, methylene chloride, and filter blanks value as determined in the following equation:

$m_{mcem} = \Sigma\mu_{total} - w_a - w_t - f_b$

13.0 Method Performance. [Reserved]

14.0 Pollution Prevention. [Reserved]

15.0 Waste Management. [Reserved]

16.0 Alternative Procedures.

16.1 Dry gas meter as a calibration standard. A DGM may be used as a calibration standard for volume measurements in place of the wet test meter specified in section 16.1 of this method, provided that it is calibrated initially and recalibrated periodically as follows:

16.1.1 Standard dry gas meter calibration.

16.1.1.1. The DGM to be calibrated and used as a secondary reference meter should be of high quality and have an appropriately sized capacity, e.g., 3 liters/rev (0.1 ft³/rev). A spirometer (400 liters or more capacity), or equivalent, may be used for this calibration, although a wet test meter is usually more practical. The wet test meter should have a capacity of 30 liters/rev (1 ft³/rev) and be capable of measuring volume to within 1.0 percent; wet test meters should be checked against a spirometer or a liquid displacement meter to ensure the accuracy of the wet test meter. Spirometers or wet test meters of other sizes may be used, provided that the specified accuracies of the procedure are maintained.

16.1.1.2 Set up the components as shown in Figure 5–7 of Method 5, 40 CFR part 60, appendix A. A spirometer, or equivalent, may be used in place of the wet test meter in the system. Run the pump for at least 5 minutes at a flow rate of about 10 liters/min (0.35 cfm) to condition the interior surface of the wet test meter. The pressure drop indicated by the manometer at the inlet side of the DGM should be minimized (no greater than 100 mm H_2O [4 in. H_2O] at a flow rate of 30 liters/min [1 cfm]). This can be accomplished by using large-diameter tubing connections and straight pipe fittings.

16.1.1.3 Collect the data as shown in the example data sheet (see Figure 5–8 of Method 5, 40 CFR part 60, appendix A). Make triplicate runs at each of the flow rates and at no less than five different flow rates. The range of flow rates should be between 10 and 34 liters/min (0.35 and 1.2 cfm) or over the expected operating range.

16.1.1.4 Calculate flow rate, Q, for each run using the wet test meter volume, V_w, and the run time, q. Calculate the DGM coefficient, Y_{ds}, for each run. These calculations are as follows:

$$Q = K_1 \frac{P_{bar} V_w}{\left(t_w + t_{std}\right)\Theta} \qquad \text{Eq. 315-9}$$

$$Y_{ds} = \frac{V_w\left(T_{ds} + T_{std}\right) P_{bar}}{V_{ds}\left(T_w + T_{std}\right)\left(P_{bar} + \frac{\Delta p}{13.6}\right)} \qquad \text{Eq. 315-10}$$

Where

K_1 = 0.3858 for international system of units (SI); 17.64 for English units;
P_{bar} = Barometric pressure, mm Hg (in Hg);
V_w = Wet test meter volume, liter (ft³);
t_w = Average wet test meter temperature, °C (°F);
t_{std} = 273°C for SI units; 460'F for English units;
Θ = Run time, min;
t_{ds} = Average dry gas meter temperature, °C (°F);
V_{ds} = Dry gas meter volume, liter (ft³);
Δp = Dry gas meter inlet differential pressure, mm H_2O (in H_2O).

16.1.1.5 Compare the three Y_{ds} values at each of the flow rates and determine the maximum and minimum values. The difference between the maximum and minimum values at each flow rate should be no greater than 0.030. Extra sets of triplicate runs may be made in order to complete this requirement. In addition, the meter coefficients should be between 0.95 and 1.05. If these specifications cannot be met in three sets of successive triplicate runs, the meter is not suitable as a calibration standard and should not be used as such. If these specifications are met, average the three Y_{ds} values at each flow rate resulting in five average meter coefficients, Y_{ds}.

16.1.1.6 Prepare a curve of meter coefficient, Y_{ds}, versus flow rate, Q, for the DGM. This curve shall be used as a reference when the meter is used to calibrate other DGMs and to determine whether recalibration is required.

16.1.2 Standard dry gas meter recalibration.

16.1.2.1 Recalibrate the standard DGM against a wet test meter or spirometer annually or after every 200 hours of operation, whichever comes first. This requirement is valid provided the standard DGM is kept in a laboratory and, if transported, cared for as any other laboratory instrument. Abuse to the standard meter may cause a change in the calibration and will require more frequent recalibrations.

16.1.2.2 As an alternative to full recalibration, a two-point calibration check may be made. Follow the same procedure and equipment arrangement as for a full recalibration, but run the meter at only two flow rates (suggested rates are 14 and 28 liters/min [0.5 and 1.0 cfm]). Calculate the meter coefficients for these two points, and compare the values with the meter calibration curve. If the two coefficients are within 1.5 percent of the calibration curve values at the same flow rates, the meter need not be recalibrated until the next date for a recalibration check.

6.2 Critical orifices as calibration standards. Critical orifices may be used as

calibration standards in place of the wet test meter specified in section 10.3 of this method, provided that they are selected, calibrated, and used as follows:

16.2.1 Selection of critical orifices.

16.2.1.1 The procedure that follows describes the use of hypodermic needles or stainless steel needle tubing that has been found suitable for use as critical orifices. Other materials and critical orifice designs may be used provided the orifices act as true critical orifices; i.e., a critical vacuum can be obtained, as described in section 7.2.2.2.3 of Method 5, 40 CFR part 60, appendix A. Select five critical orifices that are appropriately sized to cover the range of flow rates between 10 and 34 liters/min or the expected operating range. Two of the critical orifices should bracket the expected operating range. A minimum of three critical orifices will be needed to calibrate a Method 5 DGM; the other two critical orifices can serve as spares and provide better selection for bracketing the range of operating flow rates. The needle sizes and tubing lengths shown in Table 315–1 give the approximate flow rates indicated in the table.

16.2.1.2 These needles can be adapted to a Method 5 type sampling train as follows: Insert a serum bottle stopper, 13 x 20 mm sleeve type, into a 0.5 in Swagelok quick connect. Insert the needle into the stopper as shown in Figure 5–9 of Method 5, 40 CFR part 60, appendix A.

16.2.2 Critical orifice calibration. The procedure described in this section uses the Method 5 meter box configuration with a DGM as described in section 6.1.1.9 of this method to calibrate the critical orifices. Other schemes may be used, subject to the approval of the Administrator.

16.2.2.1 Calibration of meter box. The critical orifices must be calibrated in the same configuration as they will be used; i.e., there should be no connections to the inlet of the orifice.

16.2.2.1.1 Before calibrating the meter box, leak-check the system as follows: Fully open the coarse adjust valve and completely close the bypass valve. Plug the inlet. Then turn on the pump and determine whether there is any leakage. The leakage rate shall be zero; i.e., no detectable movement of the DGM dial shall be seen for 1 minute.

16.2.2.1.2 Check also for leakages in that portion of the sampling train between the pump and the orifice meter. See section 5.6 of Method 5, 40 CFR part 60, appendix A for the procedure; make any corrections, if necessary. If leakage is detected, check for cracked gaskets, loose fittings, worn 0-rings, etc. and make the necessary repairs.

16.2.2.1.3 After determining that the meter box is leakless, calibrate the meter box according to the procedure given in section 5.3 of Method 5, 40 CFR part 60, appendix A. Make sure that the wet test meter meets the requirements stated in section 7.1.1.1 of Method 5, 40 CFR part 60, appendix A. Check the water level in the wet test meter. Record the DGM calibration factor, Y.

16.2.2.2 Calibration of critical orifices. Set up the apparatus as shown in Figure 5–10 of Method 5, 40 CFR part 60, appendix A.

16.2.2.2.1 Allow a warm-up time of 15 minutes. This step is important to equilibrate the temperature conditions through the DGM.

16.2.2.2.2 Leak-check the system as in section 7.2.2.1.1 of Method 5, 40 CFR part 60, appendix A. The leakage rate shall be zero.

16.2.2.2.3 Before calibrating the critical orifice, determine its suitability and the appropriate operating vacuum as follows: turn on the pump, fully open the coarse adjust valve, and adjust the bypass valve to give a vacuum reading corresponding to about half of atmospheric pressure. Observe the meter box orifice manometer reading, DH. Slowly increase the vacuum reading until a stable reading is obtained on the meter box orifice manometer. Record the critical vacuum for each orifice. Orifices that do not reach a critical value shall not be used.

16.2.2.2.4 Obtain the barometric pressure using a barometer as described in section 6.1.2 of this method. Record the barometric pressure, P_{bar}, in mm Hg (in. Hg).

16.2.2.2.5 Conduct duplicate runs at a vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. The runs shall be at least 5 minutes each. The DGM volume readings shall be in increments of complete revolutions of the DGM. As a guideline, the times should not differ by more than 3.0 seconds (this includes allowance for changes in the DGM temperatures) to achieve ±0.5 percent in K′. Record the information listed in Figure 5–11 of Method 5, 40 CFR part 60, appendix A.

16.2.2.2.6 Calculate K′ using Equation 315–11.

$$K' = \frac{K_1 V_m Y \left(P_{bar} + \frac{\Delta H}{13.6}\right) T_{amb}^{\frac{1}{2}}}{P_{bar} T_m \Theta} \qquad \text{Eq. 315-11}$$

where

K′ = Critical orifice coefficient, $[m^3)(°K)^{1/2}]/[(mm\ Hg)(min)]\ \{[(ft^3)(°R)^{1/2})]/[(in.\ Hg)(min)]\}$;

T_{amb} = Absolute ambient temperature, °K (°R).

16.2.2.2.7 Average the K′ values. The individual K' values should not differ by more than ±0.5 percent from the average.

16.2.3 Using the critical orifices as calibration standards.

16.2.3.1 Record the barometric pressure.

16.2.3.2 Calibrate the metering system according to the procedure outlined in sections 7.2.2.2.1 to 7.2.2.2.5 of Method 5, 40 CFR part 60, appendix A. Record the information listed in Figure 5–12 of Method 5, 40 CFR part 60, appendix A.

16.2.3.3 Calculate the standard volumes of air passed through the DGM and the critical orifices, and calculate the DGM calibration factor, Y, using the equations below:

$V_{m(std)} = K_1 V_m [P_{bar} + (\Delta H/13.6)]/T_m$ *Eq. 315–12*

$V_{cr(std)} = K' (P_{bar} \Theta)/T_{amb}^{1/2}$ *Eq. 315–13*

$Y = V_{cr(std)}/V_{m(std)}$ *Eq. 315–14*

where

$V_{cr(std)}$ = Volume of gas sample passed through the critical orifice, corrected to standard conditions, dscm (dscf).

K′ = 0.3858 °K/mm Hg for metric units = 17.64 °R/in Hg for English units.

16.2.3.4 Average the DGM calibration values for each of the flow rates. The calibration factor, Y, at each of the flow rates should not differ by more than ±2 percent from the average.

16.2.3.5 To determine the need for recalibrating the critical orifices, compare the DGM Y factors obtained from two adjacent orifices each time a DGM is calibrated; for example, when checking orifice 13/2.5, use orifices 12/10.2 and 13/5.1. If any critical orifice yields a DGM Y factor differing by more than 2 percent from the others, recalibrate the critical orifice according to section 7.2.2.2 of Method 5, 40 CFR part 60, appendix A.

17.0 References.

1. Addendum to Specifications for Incinerator Testing at Federal Facilities. PHS, NCAPC. December 6, 1967.

2. Martin, Robert M. Construction Details of Isokinetic Source-Sampling Equipment. Environmental Protection Agency. Research Triangle Park, NC. APTD–0581. April 1971.

3. Rom, Jerome J. Maintenance, Calibration, and Operation of Isokinetic Source Sampling Equipment. Environmental Protection Agency. Research Triangle Park, NC. APTD–0576. March 1972.

4. Smith, W.S., R.T. Shigehara, and W.F. Todd. A Method of Interpreting Stack Sampling Data. Paper Presented at the 63rd Annual Meeting of the Air Pollution Control Association, St. Louis, MO. June 14–19, 1970.

5. Smith, W.S., et al. Stack Gas Sampling Improved and Simplified With New Equipment. APCA Paper No. 67–119. 1967.

6. Specifications for Incinerator Testing at Federal Facilities. PHS, NCAPC. 1967.

7. Shigehara, R.T. Adjustment in the EPA Nomograph for Different Pitot Tube Coefficients and Dry Molecular Weights. Stack Sampling News *2*:4–11. October 1974.

8. Vollaro, R.F. A Survey of Commercially Available Instrumentation for the Measurement of Low-Range Gas Velocities. U.S. Environmental Protection Agency, Emission Measurement Branch. Research Triangle Park, NC. November 1976 (unpublished paper).

9. Annual Book of ASTM Standards. Part 26. Gaseous Fuels; Coal and Coke; Atmospheric Analysis. American Society for

Testing and Materials. Philadelphia, PA. 1974. pp. 617–622.

10. Felix, L.G., G.I. Clinard, G.E. Lacy, and J.D. McCain. Inertial Cascade Impactor Substrate Media for Flue Gas Sampling. U.S. Environmental Protection Agency. Research Triangle Park, NC 27711. Publication No. EPA–600/7–77–060. June 1977. 83 p.

11. Westlin, P.R., and R.T. Shigehara. Procedure for Calibrating and Using Dry Gas Volume Meters as Calibration Standards. Source Evaluation Society Newsletter. *3*(1):17–30. February 1978.

12. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

18.0 Tables, Diagrams, Flowcharts, and Validation Data

TABLE 315–1. FLOW RATES FOR VARIOUS NEEDLE SIZES AND TUBE LENGTHS.

Gauge/length (cm)	Flow rate (liters/min)	Gauge/length (cm)	Flow rate (liters/min)
12/7.6	32.56	14/2.5	19.54
12/10.2	30.02	14/5.1	17.27
13/2.5	25.77	14/7.6	16.14
13/5.1	23.50	15/3.2	14.16
13/7.6	22.37	15/7.6	11.61
13/10.2	20.67	115/10.2	10.48

Figure 315–1. **Particulate and MCEM Analyses**

Particulate Analysis

Plant	
Date	
Run No.	
Filter No.	
Amount liquid lost during transport	
Acetone blank volume (ml)	
Acetone blank concentration (Eq. 315–4) (mg/mg)	
Acetone wash blank (Eq. 315–5) (mg)	

	Final weight (mg)	Tare weight (mg)	Weight gain (mg)
Container No. 1			
Container No. 2			
Total			
Less Acetone blank			
Weight of particulate matter			

	Final volume (mg)	Initial volume (mg)	Liquid collected (mg)
Moisture Analysis			
Impingers	Note 1	Note 1	
Silica gel			
Total			

Note 1: Convert volume of water to weight by multiplying by the density of water (1 g/ml).

Container No.	Final weight (mg)	Tare of aluminum dish (mg)	Weight gain	Acetone wash volume (ml)	Methylene chloride wash volume (ml)
MCEM Analysis					
1					
2+2M					
3W					
3S					
Total	.....	.....	$\sum m_{total}$	$\sum V_{aw}$	$\sum V_{tw}$

Less acetone wash blank (mg) (not to exceed 1 mg/l of acetone used)	$w_a = c_a p_a \sum V_{aw}$
Less methylene chloride wash blank (mg) (not to exceed 1.5 mg/l of methylene chloride used)	$w_t = c_t p_t \sum V_{tw}$
Less filter blank (mg) (not to exceed . . . (mg/filter)	F_b
MCEM weight (mg)	$m_{MCEOM} = \sum m_{total} - w_a - w_t - f_b$

[FR Doc. 97–25882 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
October 7, 1997

Part III

Department of Education

Direct Grant and Fellowship Programs for Fiscal Year 1998; Notice

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice announcing direct grant programs and fellowship programs under which the Secretary has invited or expects to invite applications for new awards for fiscal year (FY) 1998.

SUMMARY: This notice identifies programs and competitions under which the Secretary has invited or plans to invite applications for new awards for FY 1998 and announces actual or estimated deadline dates for the transmittal of applications under these programs. The notice lists programs and competitions previously announced, as well as those to be announced at a later date. The notice is intended to help potential applicants in planning for FY 1998 grant competitions.

DATES: *Dates of Application Notices.* The actual or estimated date for publication of the application notice for a given program or competition is listed in column two of the charts. Application notices that have already been published in the **Federal Register** can be identified by the **Federal Register** page number, also shown in column two. If a program has yet to publish an application notice, an estimated date is listed.

Applications Available. The actual or estimated date for the availability of an application package for a given program or competition is listed in column three of the charts.

Deadline Dates for Transmitting Applications. The actual or estimated deadline for transmitting applications under a given program or competition is listed in column four of the charts. If a program has yet to publish an application notice, the estimated deadline date is listed. The actual deadline will appear in the application notice to be published in the **Federal Register**.

Deadline Dates for Transmitting Intergovernmental Reviews. Certain programs in this notice are subject to Executive Order 12372 and the regulations in 34 CFR part 79. The actual or estimated deadline date for the transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties is listed in column five of the chart. If a program has yet to publish an application notice, the estimated deadline date is listed. The actual deadline will appear in the application notice to be published in the **Federal Register**.

ADDRESSES: *For Applications or Further Information.* The address and telephone number for obtaining applications for, or further information about, an individual program are in the actual application notice for that program.

For Users of TDD or FIRS. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Art Stewart, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3652, ROB–3, Washington, DC 20202–4248. Telephone: (202) 708–8515. Internet: Arthur__Stewart@ed.gov

For Intergovernmental Review. The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

SUPPLEMENTARY INFORMATION:

Available Funds

The Congress has not yet enacted a FY 1998 appropriation for the Department of Education. The Secretary is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimates of amounts of funds that will be available for these programs are based on the President's FY 1998 budget request.

Potential applicants should note, however, that the Congress may increase, eliminate, or reduce funding in FY 1998 for some direct grant or fellowship programs administered by the Department. Final action on the FY 1998 appropriation may require the Department to cancel some of the competitions listed in this notice including some of those the notice indicates will be announced at a later date.

Estimated Range and Average Size of Awards

Except for programs and competitions administered by the Office of Special Education and Rehabilitative Services (OSERS), columns six and seven list estimated ranges and average size of awards. The amounts referenced in these columns are advisory and represent the Secretary's best estimates at this time. The average size of an award is the estimate for a single-year project or for the first budget period of a multi-year project. In the application package for an individual program or competition, applicants will receive information about the amount the Secretary intends to make available for each year of a multi-year project.

In the case of programs and competitions administered by the principal components of OSERS, the charts differ with regard to the amount of awards. For programs and competitions of the National Institute on Disability and Rehabilitation Research and the Office of Special Education Programs, column six of the charts lists the actual or estimated maximum amount the Secretary will award per year. For programs and competitions of the Rehabilitative Services Administration, column seven lists either the estimated average size or maximum amount of the award.

Note: The Department is not bound by any of the estimates in this notice. For those programs or competitions for which the Department has not yet published application notices, the dates, fiscal information, and number of new awards listed in this combined notice are estimates only and, thus, subject to change. Readers are advised to read the actual individual application notices for these programs or competitions when the notices are published in the **Federal Register**.

National Education Goals

In developing this combined application notice the Department has sought to ensure that programs awarding grants during FY 1998 will further achievement of the National Education Goals, as found in Pub. L. 103–227 (the Goals 2000: Educate America Act, enacted March 31, 1994). The Secretary encourages applicants under these programs to consider the National Education Goals in developing their applications.

The National Education Goals for the year 2000 are as follows:

- All children in America will start school ready to learn.
- The high school graduation rate will increase to at least 90 percent.
- All students will leave grades 4, 8, and 12 having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible

citizenship, further learning, and productive employment in our Nation's modern economy.

- United States students will be first in the world in mathematics and science achievement.
- Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
- Every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.
- The Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.
- Every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

Applicability of Section 421 of the Controlled Substance Act

A number of programs listed in the charts provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 421 of the Controlled Substance Act (21 U.S.C. 862) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction. This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee.

Any persons determined to be ineligible for Federal benefits under the provisions of section 421 are listed in the General Services Administration's ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs listed in the chart make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101–647; 28 U.S.C. 3201). The Act provides that if there is a judgment lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

Intergovernmental Review of Federal Programs

Certain programs in this notice are subject to the requirements of EO 12372 and the regulations in 34 CFR part 79. These programs are identified in Charts 1 through 6 with a date in the column headed ''Deadline for Intergovernmental Review.'' For further information, an applicant under a program subject to the Executive order—and other parties interested in that program—are directed to the appendix to this notice.

Explanation of Charts

This notice provides charts by principal office of virtually all the Department's direct grant and fellowship competitions for new awards the Secretary has announced or expects to announce for FY 1998. Each principal office is assigned a separate chart as follows:

Chart 1—Office of Bilingual Education and Minority Languages.

Chart 2—Office of Educational Research and Improvement.

Chart 3—Office of Elementary and Secondary Education.

Chart 4—Office of Postsecondary Education.

Chart 5—Office of Special Education and Rehabilitative Services.

Chart 6—Office of Vocational and Adult Education.

BILLING CODE 4000–01–P

Chart 1 - OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Harry Logel, Office of Bilingual Education and Minority Affairs, U.S. Department of Education, 600 Independence Avenue, SW., room 5605, Switzer Building, Washington, DC 20202-6510. Telephone: (202) 205-5530. Internet: Harry_Logel@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.194Q Bilingual Education - State Grant Programs	11/14/97	11/14/97	01/09/98	03/10/98	N/A	N/A	55
84.195A Bilingual Education - Teachers and Personnel Grant Program	01/21/98	01/21/98	02/23/98	04/24/98	$150,000-$250,000	$200,000	25
84.195C Bilingual Education - Graduate Fellowship Program	10/17/97	10/24/97	12/05/97	02/03/98	$30,000-$300,000	$150,000	35
84.195E Bilingual Education - Career Ladder Program	01/21/98	01/21/98	02/23/98	04/24/98	$150,000-$250,000	$200,000	36
84.288S Bilingual Education - Program Development and Implementation Program	11/14/97	11/14/97	01/20/98	03/23/98	$100,000-$175,000	$150,000	40
84.290U Bilingual Education - Comprehensive School Grants Program	11/17/97	11/17/97	01/26/98	03/27/98	$150,000-$350,000	$250,000	48

Chart 2 - OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Almita Reed, Office of Educational Research and Improvement, U.S. Department of Education, room 604, 555 New Jersey Avenue NW., Washington, DC 20208-5570. Telephone: (202) 219-1385. Internet: Almita_Reed@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.168M Dwight D. Eisenhower - Mathematics and Professional Development Program	12/26/97	01/09/98	02/20/98	04/24/98	$500,000-$1,000,000	$775,000	5
84.206A Jacob K. Javits Gifted and Talented Students Education Program	11/05/97	11/19/97	01/09/98	03/09/98	$100,000-$275,000	$250,000	4
84.215V Partnerships in Character Education Program	01/19/98	01/19/98	03/16/98	05/16/98	$250,000-$1,000,000	$500,000	8
84.287A 21st Century Community Learning Centers	11/05/97	11/19/97	01/12/98	03/13/98	$35,000-$300,000	$200,000	250
84.303D National Challenge Grants for Technology in Education	11/07/97	11/14/97	02/13/98	05/18/98	$500,000-$1,500,000	$1,000,000	20
84.305F - 84.309F Field-Initiated Studies Educational Research Grant Program	11/14/97	12/05/97	03/20/98	05/20/98	$100,000-$225,000	$150,000	25

Chart 3 - OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Alda Giusti, Program Analyst, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue SW., suite 4000, Portals Building, Washington, DC 20202-6110. Telephone: (202) 260-1925. Internet: Alda_Giusti@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.083A Women's Educational Equity Act Program-Implementation	10/10/97	10/15/97	11/21/97	01/30/98	$90,000-$200,000	$150,000	9
84.083B Women's Educational Equity Act Program-Research and Development	10/10/97	10/15/97	11/21/97	01/30/98	$80,000-$200,000	$150,000	2
84.165A Magnet Schools Assistance Program	12/05/97	12/12/97	02/13/98	04/13/98	$200,000-$3,000,000	$1,500,000	60
84.214A Migrant Education - Even Start Program	04/01/98	04/01/98	06/01/98	08/03/98	$110,000-$220,000	$165,000	3
84.282A Public Charter Schools Program	12/01/97	12/01/97	01/30/98	N/A	SEAs $250,000-$4,000,000 Others $25,000-$250,000	$1,750,000 $100,000	20 10
84.314A Even Start Statewide Family Literacy Initiative Grants	12/22/97	01/13/98	03/24/98	N/A	$185,000-$215,000	$200,000	5
84.317A Goals 2000: Comprehensive Local Reform Assistance - State of Oklahoma	02/16/98	02/16/98	04/30/98	06/30/98	$20,000-$200,000	$90,000	65

Chart 4 - OFFICE OF POSTSECONDARY EDUCATION

Higher Education Programs (HEP)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Alan Schiff, Education Program Specialist, Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., suite 600, Portals Building, Washington, DC 20024-2142. Telephone: (202) 708-9040. Internet: Alan_Schiff@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.016A Undergraduate International Studies and Foreign Language Program	08/05/97 (62 FR 42108)	08/29/97	11/03/97	01/02/98	Single Inst. $40,000-$90,000 Consortia $75,000-$100,000	$64,000 $90,000	22 4
84.017A International Research and Studies Program	08/05/97 (62 FR 42108)	08/29/97	10/31/97	N/A	$40,000-$150,000	$83,000	10
84.019A Fulbright-Hays Faculty Research Abroad Program	08/05/97 (62 FR 42108)	08/29/97	10/27/97	N/A	$18,000-$70,000	$41,000	31
84.021A Fulbright-Hays Group Projects Abroad Program	08/05/97 (62 FR 42108)	08/22/97	10/20/97	N/A	$35,000-$65,000	$58,000	24
84.022A Fulbright-Hays Doctoral Dissertation Research Abroad Program	08/05/97 (62 FR 42108)	08/29/97	10/27/97	N/A	$12,000-$60,000	$24,000	75
84.031A Strengthening Institutions Program	10/30/97	11/28/97	01/23/98	03/23/98	Development $300,000-$350,000 Planning $20,000-$25,000	$325,000 $22,500	48 14
84.031H Institutional Aid - Eligibility	10/29/97	11/15/97	12/15/97; 01/26/98*	N/A	N/A	N/A	N/A

Chart 4 - Office of Postsecondary Education - HEP - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.044 Talent Search Program	07/14/97 (63 FR 37572)	08/01/97	10/31/97	12/31/97	$190,000-$400,000	$273,000	347
84.066 Educational Opportunity Centers Program	07/14/97 (63 FR 37572)	08/01/97	09/30/97	11/30/97	$190,000-$450,000	$357,000	81
84.103A TRIO Training Grant Program	12/05/97	12/12/97	02/20/98	N/A	$170,000-$280,000	$250,000	16
84.120A Minority Science Improvement Program	08/05/97 (62 FR 42108)	10/15/97	12/22/97	02/28/98	Institutional $100,000-$200,000 Design $15,000-$20,000 Special $20,000-$150,000 Cooperative $20,000-$500,000	$120,000 $18,000 $25,000 $280,000	15 2 12 3
84.153A Business and International Education Program	08/05/97 (62 FR 42108)	08/29/97	11/07/97	01/06/98	$50,000-$90,000	$75,000	27
84.200A Graduate Assistance in Areas of National Need	10/22/97	11/07/97	01/05/98	03/05/98	$125,000-$250,000	$138,000	75
84.220A Centers for International Business Education Program	08/05/97 (62 FR 42108)	08/29/97	11/10/97	01/09/98	$200,000-$310,000	$276,000	13
84.262A Encouraging Minority Students to Become Teachers Program	12/19/97	01/09/98	03/16/98	05/15/98	$80,000-$300,000	$170,000	9

Chart 4 - Office of Postsecondary Education - FIPSE - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.316A Native Hawaiian Higher Education Program	08/05/97 (62 FR 42108)	10/31/97	01/30/98	04/01/98	$500,000-$1,000,000	$500,000	2

*The program plans to have two deadline dates for eligibility applications.

Fund for the Improvement of Postsecondary Education (FIPSE)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Frank Frankfort, Education Program Specialist, Fund for the Improvement of Postsecondary Education, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., room 3600 ROB-3, Washington, DC 20202-5175. Telephone: (202) 260-3704. Internet: Frank_Frankfort@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
84.116A&B Comprehensive Program	08/22/97 (62FR 44855)	08/25/97	10/24/97 (preapplication) 03/20/98 (Final application)	05/19/98	$15,000-$150,000	$70,000	72
84.116J Joint Consortia for Cooperation in Higher Education and Vocational Education	12/19/97	12/19/97	03/20/98	05/19/98	$100,000-$130,000	$130,000	8
84.116N Program for North American Mobility in Higher Education	11/07/97	11/07/97	02/06/98	04/07/98	$80,000-$100,000	$90,000	10
84.116P Disseminating Proven Reforms	01/09/98	01/09/98	03/13/98	05/12/98	$160,000	$160,000	8
84.116R Institutional Restructuring in Higher Education	01/09/98	01/09/98	03/13/98	05/12/98	$100,000-$130,000	$120,000	10

Chart 5 - OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

National Institute on Disability and Rehabilitation Research (NIDRR)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: Donna Nangle, National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3418, Switzer Building, Washington, DC 20202-2645. Telephone: (202) 205-5880. Internet: Donna_Nangle@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.133A-5 Pediatric Trauma	02/02/98	02/02/98	04/03/98	N/A	$250,000	1
84.133B-5 Community Integration for Individuals with Mental Retardation	04/01/98	04/01/98	06/01/98	N/A	$700,000	1
84.133B-5 Policies Affecting Families with Children with Disabilities	04/01/98	04/01/98	06/01/98	N/A	$650,000	1
84.133B-5 Aging with Mental Retardation	04/01/98	04/01/98	06/01/98	N/A	$700,000	1
84.133B-7 Public Policy Research to Improve Employment Outcomes for People with Disabilities	02/02/98	02/02/98	04/03/98	N/A	$900,000	1
84.133B-7 Community Based Employment to Improve Employment Outcomes for People with Disabilities	02/02/98	02/02/98	04/03/98	N/A	$700,000	1
84.133B-7 State Service Systems to Improve Employment Outcomes for People with Disabilities	02/02/98	02/02/98	04/03/98	N/A	$700,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - NIDRR - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.133B-7 Workplace Supports to Improve Employment Outcomes	02/02/98	02/02/98	04/03/98	N/A	$700,000	1
84.133B-7 School-To-Work and Transition Strategies to Improve Employment Outcomes for Youth with Disabilities	02/02/98	02/02/98	04/03/98	N/A	$600,000	1
84.133B-9 Disability Statistics	03/02/98	03/02/98	05/01/98	N/A	$700,000	1
84.133B-9 Disability and Rehabilitation Issues of Underserved Minorities	03/02/98	03/02/98	05/01/98	N/A	$600,000	1
84.133B-9 Employment and Independent Living for American Indians	03/02/98	03/02/98	05/01/98	N/A	$600,000	1
84.133B-10 Stroke Rehabilitation	01/13/98	01/13/98	03/17/98	N/A	$800,000	1
84.133B-10 Arthritis Rehabilitation	01/13/98	01/13/98	03/17/98	N/A	$800,000	1
84.133B-10 Secondary Conditions of Spinal Cord Injury	01/13/98	01/13/98	03/17/98	N/A	$800,000	1
84.133B-10 Multiple Sclerosis Rehabilitation	01/13/98	01/13/98	03/17/98	N/A	$700,000	1
84.133B-10 Aging with Disability	01/13/98	01/13/98	03/17/98	N/A	$700,000	1
84.133B-10 Neuromuscular Disorders Rehabilitation	01/13/98	01/13/98	03/17/98	N/A	$650,000	1
84.133B-10 Community Integration for Individuals with Traumatic Brain Injury	01/13/98	01/13/98	03/17/98	N/A	$800,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - NIDRR - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
84.133D-2 Information Dissemination on Community Integration for Persons with Mental Retardation	02/02/98	02/02/98	04/03/98	N/A	$400,000	1
84.133D-2 Independent Living Information Dissemination	02/02/98	02/02/98	04/03/98	N/A	$400,000	1
84.133E-1 Communication Enhancement	12/22/97	12/22/97	02/26/98	N/A	$900,000	1
84.133E-1 Information Technology Access	12/22/97	12/22/97	02/26/98	N/A	$1,350,000	1
84.133E-1 Ergonomic Solutions for Employment	12/22/97	12/22/97	02/26/98	N/A	$800,000	1
84.133E-1 Hearing Enhancement	12/22/97	12/22/97	02/26/98	N/A	$900,000	1
84.133E-3 Prosthetics and Orthotics	03/02/98	03/02/98	05/01/98	N/A	$900,000	1
84.133E-3 Wheeled Mobility	03/02/98	03/02/98	05/01/98	N/A	$900,000	1
84.133E-3 Technology Transfer	03/02/98	03/02/98	05/01/98	N/A	$900,000	1
84.133E-3 Telerehabilitation	03/02/98	03/02/98	05/01/98	N/A	$900,000	1
84.133F Research Fellowships	06/19/97 (62 FR 33514)	06/19/97	08/29/97	N/A	Merit: $45,000 Distinguished: $55,000	10
84.133G Field Initiated Research	06/19/97 (62 FR 33517)	06/19/97	08/29/97	N/A	$125,000	30
84.133P Advanced Rehabilitation Research Training Projects	06/19/97 (62 FR 33518)	06/19/97	08/29/97	N/A	$150,000	5

Chart 5 - Office of Special Education and Rehabilitative Services - OSEP - Continued

Office of Special Education Programs (OSEP)

For any application notice not already published, the dates in this chart are estimates and the CFDA numbers have not been assigned. For further information regarding any of the following competitions, please contact: The Grants and Contracts Services Team, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3080, Switzer Building, Washington, DC 20202-2641. The preferred method for requesting information is to FAX your request to: (202) 205-8717. Telephone: (202) 205-9182.

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
Research and Technology Institutes for Children and Youth with Disabilities	03/17/98	04/17/98	06/05/98	N/A	$700,000	4
84.023B Student Initiated Research Projects	08/04/97 (62 FR 41998)	08/08/97	02/06/98	N/A	$20,000	14
84.023C Field Initiated Research Projects	08/04/97 (62 FR 41998)	08/08/97	10/01/97	N/A	$180,000	12
Directed Research and Technology Projects	03/27/98	04/17/98	06/05/98	N/A	$250,000	9
Demonstration Projects for Children and Youth with Disabilities	11/28/97	12/14/97	02/03/98	N/A	$150,000	28
Outreach Projects for Children and Youth with Disabilities	11/28/97	12/14/97	02/03/98	N/A	$140,000	21
84.023N Initial Career Awards	08/04/97 (62 FR 41998)	08/08/97	10/01/97	N/A	$75,000	4
Video Description Projects	11/28/97	12/14/97	02/03/98	04/03/98	$350,000	2
84.026K Recorded Audio Cassettes for Visually and Print Disabled Students	08/04/97 (62 FR 41998)	08/08/97	09/12/97	11/10/97	$4,500,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - OSEP - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
Captioned Films and Video Distribution System	11/28/97	12/14/97	02/03/98	04/03/98	$1,300,000	1
Closed Captioned Daytime Television Programs	11/28/97	12/14/97	02/03/98	04/03/98	$350,000	4
Cultural Experiences for Deaf or Hard of Hearing Individuals	11/28/97	12/14/97	02/03/98	04/03/98	$100,000	5
84.029A Preparation of Personnel to Serve Children and Youth with Low-Incidence Disabilities	08/04/97 (62 FR 41998)	08/08/97	10/01/97	12/01/97	$300,000	16
84.029D Preparation of Leadership Personnel	08/04/97 (62 FR 41998)	08/08/97	09/26/97	11/25/97	$225,000	6
84.029E Minority Institutions Personnel	08/04/97 (62 FR 41998)	08/08/97	09/26/97	11/26/97	$200,000	16
Personnel Preparation Projects of National Significance	11/28/97	12/14/97	02/03/98	04/03/98	$200,000	24
84.029M Parent Training and Information Centers	08/04/97 (62 FR 41998)	08/08/97	10/17/97	12/14/97	$400,000	13
Community Parent Resource Centers	11/28/97	12/14/97	02/03/98	04/03/98	$100,000	10
Preparation of Personnel to Serve Children with High Incidence Disabilities	01/19/98	02/02/98	04/12/98	06/12/98	$200,000	40
National Information Center for Children and Youth with Disabilities	11/28/97	12/14/97	02/03/98	04/03/98	$950,000	1

Chart 5 - Office of Special Education and Rehabilitative Services - RSA - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Maximum or Estimated Maximum Award (per year)	Estimated Number of Awards
Technical Assistance to Improve Higher Education Opportunities for Individuals with Disabilities	11/28/97	12/14/97	02/03/98	04/03/98	$500,000	1
Regional Resource Centers	11/28/97	12/14/97	02/03/98	04/03/98	$1,000,000	6
National Clearinghouse on Professions in Special Education	01/19/98	02/02/98	04/12/98	06/12/98	$500,000	1
Technical Assistance on Positive Behavioral Interventions	03/27/98	04/17/98	06/05/98	08/05/98	$500,000	1
Technical Assistance on Dispute Resolution	03/27/98	04/17/98	06/05/98	08/05/98	$1,000,000	1

Rehabilitation Services Administration (RSA)

For any application notice not already published, the dates in this chart are estimates. For further information regarding any of the following competitions, please contact: The Grants and Contracts Services Team, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, SW., room 3317, Switzer Building, Washington, DC 20202-2641. The preferred method for requesting information is to FAX your request to: (202) 205-8717. Telephone: (202) 205-8351.

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of or Maximum Awards	Estimated or Maximum Number of Awards
84.128G Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farm-workers with Disabilities	06/12/97 (62 FR 32099)	07/01/97	09/02/97	11/01/97	$150,000-$175,000	$160,000 (avg.)	3 (est.)

Chart 5 - Office of Special Education and Rehabilitative Services - RSA - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of or Maximum Awards	Estimated or Maximum Number of Awards
84.128J Projects for Initiating Recreation Programs for Individuals with Disabilities	06/12/97 (62 FR 32100)	07/01/97	09/30/97	11/29/97	$110,000-$140,000	$114,000 (avg.)	9 (est.)
84.129A through R Rehabilitation Training: Long-Term Training	07/14/97 (62 FR 37571)	07/15/97	09/12/97	11/11/97	$75,000-$150,000	$150,000 (Avg.)	46
84.129A3 Rehabilitation Nursing	------	------	------	------	------	$100,000 (max.)	1 (max.)
84.129A8 Rehabilitation Medicine	------	------	------	------	------	$100,000 (max.)	5 (max.)
84.129A9 Prosthetics and Orthotics	------	------	------	------	------	$150,000 (max.)	3 (max.)
84.129C3 Rehabilitation Administration	------	------	------	------	------	$100,000 (max.)	2 (max.)
84.129D4 Physical Theraphy	------	------	------	------	------	$100,000 (max.)	2 (max.)
84.129E4 Rehabilitation Technology	------	------	------	------	------	$100,000 (max.)	5 (max.)
84.129F4 Vocational Evaluation and Work Adjustment	------	------	------	------	------	$100,000 (max.)	5 (max.)
84.129H3 Rehabilitation for Individuals Who Are Mentally Ill	------	------	------	------	------	$100,000 (max.)	4 (max.)
84.129L4 Undergraduate Education in the Rehabilitation Services	------	------	------	------	------	$75,000 (max.)	6 (max.)
84.129N2 Speech Pathology and Audiology	------	------	------	------	------	$75,000 (max.)	2 (max.)
84.129P4 Specialized Personnel for Rehabilitation of Individuals Who Are Blind or Have Vision Impairment	------	------	------	------	------	$100,000 (max.)	7 (max.)
84.129Q4 Rehabilitation for Individuals Who are Deaf or Hard of Hearing	------	-----	------	------	------	$100,000 (max.)	8 (max.)
84.129R4 Job Development and Job Placement Services to Individuals With Disabilities	------	-------	------	------	------	$100,000 (max.)	3 (max.)

Chart 5 - Office of Special Education and Rehabilitative Services - RSA - Continued

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of or Maximum Awards	Estimated or Maximum Number of Awards
84.129B Vocational Rehabilitation Counseling	09/11/97 (62 FR 47798)	09/11/97	10/31/97	12/30/97	$90,000-$100,000	$100,000 (avg.)	17 (est.)
84.132A-1 Centers for Independent Living	12/01/97	12/05/97	03/06/98	05/06/98	$50,000-$80,000	$60,000 (avg.)	3 (est.)
84.234N Projects with Industry	10/01/97	10/08/97	01/13/98	04/13/98	$158,000-$238,000	$198,000 (avg.)	4 (est.)
84.235A-1 Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Disabilities	09/18/97 (62 FR 48996)	09/29/97	12/18/97	02/18/98	$220,000-$245,000	$230,000 (avg.)	28-30 (est.)
84.246A Rehabilitation Short-Term Training/Braille Training	10/20/97	10/20/97	12/19/97	02/18/98	$100,000 $150,000	$150,000 (avg.)	2 (est.)
84.250G-1 Vocational Rehabilitation Services Projects for American Indians with Disabilities	12/14/97	12/15/97	05/12/98	N/A	$250,000-$300,000	$275,000 (avg.)	11 (est.)
84.264A Rehabilitation Continuing Education	09/22/97 (62 FR 49502)	09/22/97	11/14/97	01/13/98	$318,000-$525,000	N/A	7 (est.)

Chart 6 - OFFICE OF VOCATIONAL AND ADULT EDUCATION

For further information please contact: Richard L. Smith, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, SW., room 4529, Switzer Building, Washington, DC 20202-7110. Telephone: (202) 205-5621. Internet: Richard_Smith@ed.gov

CFDA No. and Name	Application Notice	Applications Available	Application Deadline Date	Deadline for Intergovernmental Review	Estimated Range of Awards	Estimated Average Size of Awards	Estimated Number of Awards
The Secretary does not expect to make new awards in FY 1998 for programs administered by the Office of Vocational and Adult Education.							

BILLING CODE 4000–01–C

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information regarding a competition listed in this notice, please contact the person whose name appears at the top of the particular chart in which that competition is listed.

Dated: October 2, 1997.

Donald Rappaport,

Chief Financial and Chief Information Officer.

Appendix

Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in the actual application notice to the following address: The Secretary, EO 12372—CFDA# [commenter must insert number—including suffix letter, if any], U.S. Department of Education, room 6213, 600 Independence Avenue, SW., Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in the actual application notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

BILLING CODE 4000–01–P

STATE SINGLE POINTS OF CONTACT

Note: In accordance with Executive Order #12372, this listing represents the designated State Single Points of Contact. Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact.

ARIZONA
Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280-1315
FAX: (602) 280-8144

ARKANSAS
Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
1515 W. 7th Street, Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682-1074
FAX: (501) 682-5206

CALIFORNIA
Grants Coordinator
Office of Planning & Research
1600 Ninth Street, Room 250
Sacramento, California 95814
Telephone: (916) 327-9281
FAX: (916) 322-1025

DELAWARE
Francine Booth
State Single Point of Contact
Executive Department
Office of the Budget
Thomas Collins Building
P.O. Box 1401
Dover, Delaware 19903
Telephone: (302) 739-3326
FAX: (302) 739-5661

DISTRICT OF COLUMBIA
Charles Nichols
State Single Point of Contact
Office of Grants Mgmt. & Development.
717 14th Street, N.W. - Suite 400
Washington, D.C. 20005
Telephone: (202) 727-6554
FAX: (202) 727-1617

FLORIDA
Florida State Clearinghouse
Department of Community Affairs
2740 Centerview Drive
Tallahassee, Florida 32399-2100
Telephone: (904) 922-5438
FAX: (904) 487-2899

GEORGIA
Tom L. Reid, III
Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W. - 8th Floor
Atlanta, GA 30334
Telephone: (404) 656-3855
FAX: (404) 656-3828

ILLINOIS
Ms. Virginia Bova, Single Point of Contact
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3-400
Chicago, IL 60601
Telephone: (312) 814-6028
FAX: (312) 814-1800

INDIANA
Frances Williams
State Budget Agency
212 State House
Indianapolis, Indiana 46204-2796
Telephone: (317) 232-5619
FAX: (317) 233-3323

IOWA
Steven R. McCann
Division for Community Assistance
Iowa Department of Economic Development
200 East Grand Avenue
Des Monies, Iowa 50309
Telephone: (515) 242-4719
FAX: (515) 242-4809

KENTUCKY
Ronald W. Cook
Office of the Governor
Department of Local Government
1024 Capitol Center Drive - Suite 340
Frankfort, Kentucky 40601-8204
Telephone: (502) 573-2382
FAX: (502) 573-2512

MAINE
Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (207) 287-3261
FAX: (207) 287-6489

MARYLAND
William G. Carroll
Manager, Plan & Project Review
Maryland Office of Planning
301 W. Preston Street - Room 1104
Baltimore, Maryland 21201-2365
Staff Contact: Linda Janey
Telephone: (410) 767-4490
FAX: (410) 767-4480

MICHIGAN
Richard Pfaff
Southeast Michigan Council of Governments
660 Plaza Drive - Suite 1900
Detroit, Michigan 48226
Telephone: (313) 961-4266
FAX: (313) 961-4869

MISSISSIPPI
Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
550 High Street
Jackson, Mississippi 39302-3087
Telephone: (601) 359-6762
FAX: (601) 359-6764

MISSOURI
Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Room 760, Truman Building
Jefferson City, Missouri 65102
Telephone: (314) 751-4834
FAX: (314) 751-7819

NEVADA
Department of Administration
State Clearinghouse
Capitol Complex
Carson City, Nevada 89710
Telephone: (702) 687-4065
FAX: (702) 687-3983

NEW HAMPSHIRE
Jeffrey H. Taylor
Director, New Hampshire Office of State Planning
Attn: Intergovernmental Review Process
Mike Blake
2 ½ Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271-2155
FAX: (603) 271-1728

NEW MEXICO
Robert Peters
State Budget Division
Room 190 Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone: (505) 827-3640

NEW YORK
New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474-1605
FAX: (518) 486-5617

NORTH CAROLINA
Chrys Baggett, Director
N.C. State Clearinghouse
Office of the Secretary of Admin.
116 West Jones Street - Suite 5106
Raleigh, North Carolina 27603-8003
Telephone: (919) 733-7232
FAX: (919) 733-9571

NORTH DAKOTA
North Dakota Single Point of Contact
Office of Intergovernmental Assistance
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0170
Telephone: (701) 224-2094
FAX: (701) 224-2308

RHODE ISLAND
Kevin Nelson
Review Coordinator
Department of Administration
Division of Planning
One Capitol Hill, 4th Floor
Providence, Rhode Island 02908-5870
Telephone: (401) 277-2656
FAX: (401) 277-2083

SOUTH CAROLINA
Rodney Grizzle
State Single Point of Contact
Grant Services
Office of the Governor
1205 Pendleton Street - Room 331
Columbia, South Carolina 29201
Telephone: (803) 734-0494
FAX: (803) 734-0356

TEXAS
Tom Adams
Governors Office
Director, Intergovernmental Coordination
P.O. Box 12428
Austin, Texas 78711
Telephone: (512) 463-1771
FAX: (512) 463-1880

UTAH
Carolyn Wright
Utah State Clearinghouse
Office of Planning and Budget
Room 116, State Capitol
Salt Lake City, Utah 84114
Telephone: (801) 538-1535
FAX: (801) 538-1547

WEST VIRGINIA
Fred Cutlip, Director
Community Development Division
W. Virginia Development Office
Building #6, Room 553
Charleston, West Virginia 25305
Telephone: (304) 558-4010
FAX: (304) 558-3248

WISCONSIN
Jeff Smith
Section Chief, State/Federal Relations
Wisconsin Department of Administration
101 East Wilson Street - 6th Floor , P.O. Box 7868
Madison, Wisconsin 53707
Telephone: (608) 266-0267
FAX: (608) 267-6931

WYOMING
Matthew Jones
State Single Point of Contact
Office of the Governor
200 West 24th Street
State Capitol, Room 124
Cheyenne, WY 82002
Telephone: (307) 777-7446
FAX: (307) 632-3909

TERRITORIES
GUAM
Mr. Giovanni T. Sgambelluri
Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96910
Telephone: 011-671-472-2285
FAX: 011-671-472-2825

PUERTO RICO
Norma Burgos/Jose E. Caro
Chairwoman/Director
Puerto Rico Planning Board
Federal Proposals Review Office
Minillas Government Center
P.O. Box 4119
San Juan, Puerto Rico 00940-1119
Telephone: (809) 727-4444
(809) 723-6190
FAX: (809) 724-3270
(809) 724-3103

NORTH MARIANA ISLANDS
Mr. Alvaro A. Santos, Executive Officer
Office of Management and Budget
Office of the Governor
Saipan, MP 96950
Telephone: (670) 664-2256
FAX: (670) 664-2272
Contact person: Ms. Jacoba T. Seman
Federal Programs Coordinator
Telephone: (670) 664-2289
FAX: (670) 664-2272

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Donna Rivelli (Telephone (202) 395-5858) at the Office of Management and Budget and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is also published biannually in the Catalogue of Federal Domestic Assistance.

[FR Doc. 97–26540 Filed 10–6–97; 8:45 am]
BILLING CODE 4000–01–C

federal register

Tuesday
October 7, 1997

Part IV

Office of Management and Budget

Cancellation Pursuant to Line Item Veto Act; Military Construction Appropriations Act, 1998; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cancellation Pursuant to Line Item Veto Act; Military Construction Appropriations Act, 1998

October 6, 1997.

One Special Message from the President under the Line Item Veto Act is published below. The President signed this message on October 6, 1997. Under the Act, the message is required to be printed in the Federal Register (2 U.S.C. 691a(c)(2)).

Clarence C. Crawford,

Associate Director for Administration.

To the Congress of the United States:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the ''Military Construction Appropriations Act, 1998'' (Public Law 105–45; H.R. 2016). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

William J. Clinton.

THE WHITE HOUSE,

October 6, 1997.

Cancellation No. 97–4

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $2,650 thousand for Military Construction, Army project ''Live Fire Command and Control Facility, Fort Irwin, California'' on page 17 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a command and control facility to execute the tactical, administrative, and safety functions in brigade-level live fire operations. The project includes a helicopter landing pad, radio relay rooms, and supporting infrastructure. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Irwin will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal years:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−3

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$2,650 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Live Fire Command and Control Facility, Fort Irwin (Military Construction, Army).

2(B). States and Congressional Districts Affected: California, 40th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: California: one; 40th District: one.

Cancellation No. 97–5

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $8,500 thousand for Military Construction, Army project ''Rotational Wash Point, Fort Irwin, California'' on page 17 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide a central, 24 bay wash facility for wheeled and tracked vehicles to supplement existing wash facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Irwin will be able to continue to operate using existing wash facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a

result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−3
2000	−2
2001	−1
2002	−1
Total	−9

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$8,500 thousand in FY 1998

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Irwin Rotational Wash Point (Military Construction, Army).

2(B). States and Congressional Districts Affected: California, 40th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: California: two; 40th District: two.

Cancellation No. 97–6

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1 (A). Dollar Amount of Discretionary Budget Authority: $10,100 thousand for Military Construction, Navy project, ''Waterfront Operations Building, Coronado Naval Amphibious Base, California'' on page 17 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct facilities for Explosive Ordnance Disposal Mobile Unit Three (EODMU THREE), including two buildings and a harbor area to provide protection for the Marine Mammal Program. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, EODMU THREE will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−4
2000	−3
2001	−2
2002	−1
Total	−10

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$10,100 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Coronado Naval Amphibious Base Waterfront Operations Building (Military Construction, Navy).

2(B). States and Congressional Districts Affected: California, 49th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: California: three; 49th District: one.

Cancellation No. 97–7

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $6,690 thousand for Military Construction, Naval Reserve project ''Marine Corps Reserve Center, Pasadena, California'' on page 17 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a new Marine Corps Reserve Center for the 4th Light Anti-Air Defense (LAAD) Battalion and demolish existing facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, the 4th LAAD Battalion will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−2
2001	−1
2002	−0
Total	−7

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$6,690 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Pasadena Marine Corps Reserve Center (Military Construction, Navy).

2(B). States and Congressional Districts Affected: California, 27th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: California: four; 27th District: one.

Cancellation No. 97–8

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $16,000 thousand for Military Construction, Army project ''Railyard Expansion (Phase I) Fort Carson, Colorado'' on page 17 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would remove existing rail, turnouts and crossings and construct 26,400 feet of new track, including turnouts and crossings. The project would also construct a new remote loading facility, rail engine maintenance facility, warehouse and associated facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Carson will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−3
1999	−5
2000	−4
2001	−3
2002	−1
Total	−16

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$16,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Carson Railyard Expansion (Phase I) (Military Construction, Army).

2(B). States and Congressional Districts Affected: Colorado, 5th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Colorado: one; 5th District: one.

Cancellation No. 97–9

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $17,940 thousand for Military Construction, Navy project ''Pier Improvements, Mayport Naval Station, Florida'' on page 18 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide dredging and pier improvements to increase the number of larger berths for homeported and visiting ships. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Mayport Naval Station will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−8
2000	−5
2001	−3
2002	−1
2003	−1
Total	−18

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$17,940 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Mayport Naval Station, Pier Improvements (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Florida, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Florida: one; 4th District: one.

Cancellation No. 97–10

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $1,300 thousand for Military Construction, Navy project ''Runway Upgrades, Whiting Field, Florida'' on page 18 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would extend one runway and acquire a clear zone for another. A longer runway and clear zone are required for the new Beech MKII training aircraft, scheduled to arrive in FY 2002. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Whiting Field will be able to continue to operate using existing runways.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal Year:	
1998	−0
1999	−1
2000	−0
2001	−0
2002	−0
Total	−1

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$1,300 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Runway Upgrades, Whiting Field (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Florida, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Florida: two; 1st District: one.

Cancellation No. 97–11

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $6,800 thousand for Military Construction, Air Force project ''HH–60 Rescue Operations Facility, Moody Air Force Base (AFB), Georgia'' on page 18 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a facility to support combat search and rescue training and pararescue training operations when this mission relocates from Patrick AFB. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Since this new mission has not yet relocated from Patrick AFB, cancellation of this project will not affect ongoing operations at Moody AFB.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−2
2000	−2
2001	−1
2002	−0
Total	−7

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$6,800 thousand in FY1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): HH–60 Rescue Operations Facility, Moody AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Georgia, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Georgia: one; 2nd District: one.

Cancellation No. 97–12

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $9,500 thousand for Military Construction, Navy project ''Asian Pacific Center, Fort Derussey, Hawaii'' on page 19 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide new space for the Asian-Pacific Center for Security Studies. The

Center provides facilities and programs for national officials and military officers to explore pressing issues regarding the security environment of the Asian-Pacific region. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, the Navy will continue to be able to operate the Center in existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−4
2000	−3
2001	−1
2002	−0
Total	−10

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$9,500 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Derussey Asian-Pacific Center (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Hawaii, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Hawaii: one; 1st District: one.

Cancellation No. 97–13

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $9,200 thousand for Military Construction, Air Force project ''B–1B Avionics Building (Bldg), Mountain Home Air Force Base (AFB), Idaho'' on page 19 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a new facility for Air Expeditionary Wing's avionics repair. The facility would be used for an electronic countermeasure pod shop, low altitude navigation and targeting infrared for night (LANTIRN) shop, and other avionics repair and test functions. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, avionics functions at Mountain Home AFB will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−3
2000	−3
2001	−1
2002	−0
Total	−9

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$9,200 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): B–1B Avionics Building Mountain Home AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Idaho, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Idaho: one; 2nd District: one.

Cancellation No. 97–14

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $3,750 thousand for Military Construction, Air Force project ''F–15C Squadron Operations Facility, Mountain Home Air Force Base (AFB), Idaho'' on page 19 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a facility to plan, brief and critique combat crews and to direct flight operations. The project also would demolish the existing operations facility, built in 1970. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, F–15C squadrons at Mountain Home AFB will be able to

continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−1
2002	−0
Total	−4

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$3,750 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): F–15C Squadron Operations Facility Mountain Home AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Idaho, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Idaho: two; 2nd District: two.

Cancellation No. 97–15

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $4,120 thousand for Military Construction, Navy project ''Chemical-Biological Warfare Detection Center, Crane Naval Surface Warfare Center, Indiana'' on page 20 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a new maintenance, overhaul and engineering support facility for shipboard chemical/biological warfare detection devices, to replace a smaller, existing facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Crane Naval Surface Warfare Center will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−1
2001	−1
2002	−0
Total	−4

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$4,120 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Chemical-Biological Warfare Detection Center, Crane Naval Surface Warfare Center (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Indiana, 8th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Indiana: one; 8th District: one.

Cancellation No. 97–16

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $8,913 thousand for Military Construction, Air Force Reserve project ''Base Civil Engineer Complex, Grissom Air Reserve Base, Indiana'' on page 20 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a new base civil engineer complex to include maintenance shops, warehouse storage, and a roads and grounds facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Grissom Air Reserve Base will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−3
2000	−3
2001	−1
2002	−1
Total	−9

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$8,913 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Grissom Air Reserve Base Civil Engineer Complex (Military Construction, Air Force Reserve).

2(B). States and Congressional Districts Affected: Indiana, 5th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Indiana: two; 5th District: one.

Cancellation No. 97–17

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $2,850 thousand for Military Construction, Air Force project ''Transportation Complex, McConnell Air Force Base (AFB), Kansas'' on page 20 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a new transportation complex, including a vehicle operations administration facility and vehicle parking facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, McConnell AFB will be able to continue to perform transportation functions using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−3

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$2,850 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): McConnell AFB Transportation Complex (Military Construction, Air Force).

2(B). **States and Congressional Districts Affected: Kansas, 4th Congressional District.**

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Kansas: one; 4th District: one.

Cancellation No. 97–18

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $9,900 thousand for Military Construction, Army project ''Tactical Equipment Shop (Phase II), Fort Campbell, Kentucky'' on page 20 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a vehicle maintenance shop and storage for a forward support battalion and combat support hospital. The project also would demolish facilities currently used for vehicle maintenance. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Campbell will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−2
1999	−3
2000	−2
2001	−2
2002	−1
Total	−10

1(F). Adjustments to Defense Discretionary Spending Limits Budget

Authority: −$9,900 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Campbell Tactical Equipment Shop (Phase II) (Military Construction, Army).

2(B). States and Congressional Districts Affected: Kentucky, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Kentucky: one; 1st District: one.

Cancellation No. 97–19

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $7,200 thousand for Military Construction, Army project ''Qualification Training Range (QTR), Fort Knox, Kentucky'' on page 20 of House Report 105–247, dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would modernize Heins Rifle Range to a new standard Qualification Training Range with a total of 28 firing lanes. The project would construct three control towers, a headquarters building, two general instruction buildings, and other supporting facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Knox will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−2
2000	−2
2001	−1
2002	−0
Total	−7

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$7,200 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Knox Qualification Training Range (Military Construction, Army).

2(B). States and Congressional Districts Affected: Kentucky, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Kentucky: two; 2nd District: one.

Cancellation No. 97–20

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $2,610 thousand for Military Construction, Navy project ''Maintenance Hangar, St. Inigoes Naval Electronic Systems Engineering Activity, Maryland'' on page 21 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide additional hangar space to support maintenance operations on unmanned air vehicles. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, the St. Inigoes Naval Electronic Systems Engineering Activity will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−3

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$2,610 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Maintenance Hangar, St. Inigoes Naval Electronic Systems Engineering Activity, Maryland (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Maryland, 5th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Maryland: Maryland one; 5th District: one.

Cancellation No. 97–21

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $4,500 thousand for Military Construction, Air Force project, ''Add/Alter Airmen Dining Facility, Malmstrom Air Force Base (AFB), Montana,'' on page 22 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any

essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would add dry and cold storage and alter the equipment and food preparation areas of the current facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Malmstrom AFB will be able to continue to operate using existing dining facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−1
2001	−1
2002	−0
Total	−5

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$4,500 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Addition/Alterations to the Airmen Dining Facility, Malmstrom AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Montana, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Montana: one; 1st District: one.

Cancellation No. 97–22

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $1,950 thousand for Military Construction, Air Force project ''Munitions Maintenance Facility, Nellis Air Force Base (AFB), Nevada'' on page 22 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a larger, replacement facility to support the inspection, assembly and testing of explosive munitions used by training aircraft. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Nellis AFB will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[in millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−2

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$1,950 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Nellis AFB Munitions Maintenance Facility (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Nevada, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Nevada: one; 2nd District: one.

Cancellation No. 97–23

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $6,900 thousand for Military Construction, Army project ''Launch Complex Revitalization, White Sands Missile Range, New Mexico'' on page 23 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would repair launch facilities for the Patriot, Stinger, Chaparral and HAWK missiles, as well as for the Multiple Launch Rocket System (MLRS) and Army Tactical Missile Systems (ATACMS). The project would also construct a new personnel support area and test support facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, White Sands will be able to continue to operate in existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal

outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−2
2000	−2
2001	−1
2002	−0
Total	−7

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$6,900 thousand in fiscal year: 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): White Sands Missile Range Launch Complex Revitalization (Military Construction, Army).

2(B). States and Congressional Districts Affected: New Mexico, 2nd District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: New Mexico: one; 2nd District: one.

Cancellation No. 97–24

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $14,000 thousand for Military Construction, Air Force project ''Flight Simulation Training Facility, Kirtland Air Force Base (AFB), New Mexico'' on page 23 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a new theater air simulation facility to support command and control; weapons system research, development, testing and evaluation; and training. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Kirtland AFB will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[in millions of dollars]

Fiscal year:	
1998	−2
1999	−5
2000	−4
2001	−2
2002	−1
Total	−14

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$14,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Kirtland AFB Flight Simulation Training Facility (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: New Mexico, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: New Mexico: two; 1st District: one.

Cancellation No. 97–25

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $9,000 thousand for Military Construction, Army project ''Aerial Gunnery Range (Phase I), Fort Drum, New York'' on page 23 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide a target range for joint rotary and fixed wing operations, replacing the two existing ranges at Fort Drum. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, units at Fort Drum will be able to continue to operate using the existing ranges.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−3
2000	−2
2001	−2
2002	−1
Total	−9

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$9,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Drum Aerial Gunnery Range. (Phase I) (Military Construction, Army).

2(B). States and Congressional Districts Affected: New York, 24th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: New York: two; 24th District: two.

Cancellation No. 97–26

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $2,100 thousand for Military Construction, Air Force Reserve project ''Consolidated Training Facility, Niagara Falls IAP, New York'' on page 23 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct one building to house the readiness office and combat arms training space. The facility would replace two older buildings. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Niagara Falls units will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−2

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$2,100 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Niagara Falls IAP Consolidated Training Facility (Military Construction, Air Force Reserve).

2(B). States and Congressional Districts Affected: New York, 27th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: New York: three; 27th District: two.

Cancellation No. 97–27

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $7,900 thousand for Military Construction, Army project ''Military Operations on Urbanized Terrain (MOUT) Training Complex (Phase I) Fort Bragg, North Carolina,'' on page 23 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct part of an MOUT training complex, consisting of 32 buildings with streets, parking, a bridge, and associated support facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, forces at Fort Bragg will be able to continue to train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[in millions of dollars]

Fiscal year:.	
1998	−1
1999	−2
2000	−2
2001	−1
2002	−1
Total	−8

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$7,900 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Bragg, MOUT Training Complex (Phase I) (Military Construction, Army).

2(B). States and Congressional Districts Affected: North Carolina, 7th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: North Carolina: one; 7th District: one.

Cancellation No. 97–28

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $6,000 thousand for Military Construction, Army Reserve project ''U.S. Army Reserve Center/ Organizational Maintenance Shop (OMS)/Area Maintenance Support Activity (AMSA) (Phase I) Oakdale, Pennsylvania'' on page 24 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a new Army Reserve training facility to house multiple training missions, including communications security and deployable medical systems. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Oakdale Army Reserve units will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−3
2000	−1
2001	−1
2002	−1
Total	−6

1(F). Adjustments to Defense Discretionary Spending Limits Budget Authority: −$6,000 thousand in FY 1998 .

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Oakdale, Army Reserve Center/ OMS/AMSA (Phase I) (Military Construction, Army Reserve).

2(B). States and Congressional Districts Affected: Pennsylvania, 20th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Pennsylvania: one; 20th District: one.

Cancellation No. 97–29

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $13,980 thousand for Military Construction, Naval Reserve project ''Reserve Hangar and Training Center, Johnstown, Pennsylvania'' on page 24 of House Report 105–247 dated September 9, 1997.

1**(B). Determinations:** This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a Marine Corps Reserve Training Center and an aircraft maintenance hangar to upgrade the current facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, units at the Johnstown Joint Reserve Facility will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−5
2000	−4
2001	−3
2002	−1
Total	−14

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$13,980 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Marine Corps Reserve Center and Aircraft Maintenance Hangar, Johnstown (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Pennsylvania, 12th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Pennsylvania: two; 12th District: one.

Cancellation No. 97–30

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $3,823 thousand for Military Construction, Army National Guard project ''Regional Simulation Center, Leesburg Training Site (Eastover), South Carolina'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any

essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a 48,000 sq. ft. battle simulation center to replace a 4,200 sq. ft. facility. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, area Army National Guard units will be able to continue to train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−1
2002	−0
Total	−4

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$3,823 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments Upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Leesburg Regional Simulation Center (Military Construction, Army National Guard).

2(B). States and Congressional Districts Affected: South Carolina, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: South Carolina: one; 2nd District: one.

Cancellation No. 97–31

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016)

1(A). Dollar Amount of Discretionary Budget Authority: $5,200 thousand for Military Construction, Army National Guard project, ''Aviation Support Facility, Rapid City, South Dakota,'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide new hangar, administrative, maintenance, classroom, and other space to support UH–1 and C–12 aircraft used by the 1085th Medical Air Ambulance Company. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, the Rapid City Army National Guard will be able to continue to operate and train using existing maintenance facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[in millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−2
2001	−1
2002	−0
Total	−5

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$5,200 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Military Aviation Support Facility, Rapid City (Military Construction, Army National Guard).

2(B). States and Congressional Districts Affected: South Dakota, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: South Dakota: one; 1st District: one.

Cancellation No. 97–32

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $9,900 thousand for Military Construction, Air Force project ''Atmospheric Air Dryer Facility, Arnold Air Force Base (AFB), Tennessee,'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct an air dryer facility to replace the existing facility. The new facility would support the mission of the Propulsion Wind Tunnel (PWT) facility for the F–22 and Joint Strike Fighter (JSF) next generation aircraft. The PWT performs aerodynamic testing which requires dry air for simulating flight conditions. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Arnold AFB will be able to continue to operate and test using existing dryer facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−3
2000	−3
2001	−1
2002	−0
Total	−10

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$9,900 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Atmospheric Air Dryer Facility, Arnold AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Tennessee, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Tennessee: one; 4th District: one.

Cancellation No. 97–33

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $7,700 thousand for Military Construction, Army project, ''Ammunition Supply Point Expansion (Phase II), Fort Bliss, Texas,'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide 11 ammunition magazines, a surveillance workshop, inert storage facilities, an equipment storage and maintenance facility, and an above ground petroleum, oils and lubricants (POL) dispensing facility. This is phase two of a relocation of this function from the main post to McGregor Range. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Bliss will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−2
2000	−2
2001	−1
2002	−1
Total	−8

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$7,700 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Ammunition Supply Point Expansion (Phase II), Fort Bliss (Military Construction, Army).

2(B). States and Congressional Districts Affected: Texas, 16th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Texas: one; 16th District: one.

Cancellation No. 97–34

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $10,000 thousand for Military Construction, Air Force project, ''B–1 Squadron Operations(Ops)/ Aircraft Maintenance Unit, Dyess Air Force Base (AFB), Texas,'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a consolidated B–1B squadron operations facility, including space for flight operations, maintenance, storage and training functions. The 13th Bombardment Squadron(BS) is standing up at Dyess and will operate out of temporary facilities until a new facility is constructed. The 9th BS currently operates out of six buildings. The consolidated facility would house both squadrons. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, squadrons at Dyess AFB will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−4

Outlay changes—Continued

[In millions of dollars]

2000	−3
2001	−2
2002	−1
Total	−10

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$10,000 thousand in FY 1998.

Outlays: The estimated outlay effect each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Consolidated B–1B Squadron Operations and Aircraft Maintenance Facility, Dyess AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Texas, 17th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Texas: two; 17th District: one.

Cancellation No. 97–35

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $4,800 thousand for Military Construction, Air Force project, ''Corrosion Control Facility, Laughlin Air Force Base (AFB), Texas,'' on page 25 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide a new facility for painting T–1A, T–37 and T–38 aircraft. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Laughlin AFB will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−2
2000	−1
2001	−1
2002	−0
Total	−5

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$4,800 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Corrosion Control Facility, Laughlin AFB (Military Construction, Air Force).

2(B). States and Congressional Districts Affected: Texas, 23rd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Texas: three; 23rd District: one.

Cancellation No. 97–36

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $12,714 thousand for Military Construction, Army Reserve project ''U.S. Army Reserve Center (USARC), Organizational Maintenance Shop (OMS), Camp Williams, Utah,'' on page 26 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct a new Reserve Center, Organizational Maintenance Shop (OMS), and a warehouse to replace facilities that would be lost if a proposed 11 acre transfer of property to the University of Utah occurred. A new site for relocation has not yet been identified. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Fort Douglas (Camp Williams) Army Reserve Units will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−5
2000	−3
2001	−2
2002	−2
Total	−13

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$12,714 thousand in FY 1998.

Outlays: The estimated outlay effect for each is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Fort Douglas, U.S. Army

Reserve Center and OMS Relocation (Military Construction, Army Reserve).

2(B). States and Congressional Districts Affected: Utah, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Utah: one; 2nd District: one.

Cancellation No. 97–37

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $4,000 thousand for Military Construction, Navy project ''Air Operations Building, Norfolk Naval Air Station, Virginia'' on page 26 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide a new air operations facility, including an air traffic control facility, radar tower and supporting infrastructure. The existing facility would be demolished. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Norfolk Naval Air Station will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−1
2001	−1
2002	−0
Total	−4

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$4,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Norfolk Naval Air Station, Air Operations Facility (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Virginia, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Virginia: one; 2nd District: one.

Cancellation No. 97–38

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $19,910 thousand for Military Construction, Navy project ''Waterfront Improvements, Norfolk Naval Shipyard, Virginia'' on page 26 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide a new wharf for ship repair and demolish two abandoned shipbuilding ways and two buildings. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, the Norfolk Naval Shipyard will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−1
1999	−8
2000	−6
2001	−3
2002	−1
2003	−1
Total	−20

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$19,910 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Waterfront Improvements, Norfolk Naval Shipyard, Virginia (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Virginia, 2nd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Virginia: two; 2nd District: two.

Cancellation No. 97–39

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $3,290 thousand for Military Construction, Navy project, ''Tomahawk Magazine, Yorktown Naval Weapons Station, Virginia,'' on page 26

of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs. This project would provide an earth covered magazine for storage of Tomahawk missiles. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Yorktown Naval Weapons Station will be able to continue to operate using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−1
2000	−1
2001	−0
2002	−0
Total	−3

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$3,290 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Tomahawk Magazine, Yorktown Naval Weapons Station (Military Construction, Navy).

2(B). States and Congressional Districts Affected: Virginia, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Virginia: three; 1st District: one.

Cancellation No. 97–40

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount of Discretionary Budget Authority: $6,828 thousand for Military Construction, Army National Guard project ''Armed Forces Reserve Center, Camp Dawson, West Virginia'' on page 27 of House Report 105–247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide an expanded facility for several Army National Guard units. The new, enlarged facility would provide administrative, training, exercise and storage space. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Army National Guard units at Camp Dawson will be able to continue to operate and train using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−2
2001	−2
2002	−0
Total	−7

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$6,828 thousand in FY1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Armed Forces Reserve Center, Camp Dawson, West Virginia (Military Construction, Army National Guard).

2(B). States and Congressional Districts Affected: West Virginia, 1st Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: West Virginia: one; 1st District: one.

Cancellation No. 97–41

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: ''Military Construction Appropriations Act, 1998'' (H.R. 2016).

1(A). Dollar Amount Item of Discretionary Budget Authority: $4,200 thousand for Military Construction, Air Force Reserve, project ''Aerial Port Training Facility, Mitchell Air Reserve Station (ARS)(Milwaukee), Wisconsin'' on page 27 of House Report 105-247 dated September 9, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C),(E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would construct an aerial port training facility to replace existing, smaller facilities. The project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it would not substantially improve the quality of life of military service members and their families; and (3) architectural and engineering design of this project has not started, making it unlikely that these funds can be used for construction during FY 1998. Without this project, Mitchell ARS will be able to continue to provide training using existing facilities.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In millions of dollars]

Fiscal year:	
1998	−0
1999	−2
2000	−1
2001	−1
2002	−0
Total	−4

1(F). Adjustments to Defense Discretionary Spending Limits

Budget Authority: −$4,200 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Defense.

2(A). Bureau: Military Construction.

2(A). Governmental Function/Project (Account): Aerial Port Training Facility, Mitchell Air Reserve Station (Military Construction, Air Force Reserve).

2(B). States and Congressional Districts Affected: Wisconsin, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Wisconsin: one; 4th District: one.

[FR Doc. 97–26938 Filed 10–6–97; 4:32pm]

BILLING CODE 3110–01–P

Reader Aids

Federal Register

Vol. 62, No. 194

Tuesday, October 7, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

E-mail **info@fedreg.nara.gov**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

PUBLIC LAWS ELECTRONIC NOTIFICATION SERVICE

Free electronic mail notification of newly enacted Public Law is now available. To subscribe, send E-mail to **PENS@GPO.GOV** with the message: *SUBSCRIBE PENS-L FIRSTNAME LASTNAME.*

FAX-ON-DEMAND

You may access our Fax-On-Demand service with a fax machine. There is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list is updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, NW., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, OCTOBER

51367–51592 1
51593–51758 2
51759–52004 3
52005–52224 6
52225–52470 7

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
1980 52277

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, 52225
73 52226
97 ..... 51597, 51598, 51600
187 51736

Proposed Rules:
39 ..... 51383, 51385, 51386, 51388, 52051, 52053, 52055, 52294
93 51564

15 CFR

744 51369

Proposed Rules:
700 51389

17 CFR

240 52229
249 52229
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
20 52237
310 52237
312 52237
314 52237
600 52237
1308 ....51370, 51774, 51776
1309 52253
1310 52253
1313 52253

Proposed Rules:

101 52057
161 52057
501 52057
1300 52294
1309 52294
1310 52294

26 CFR

53 52256

28 CFR

2 51601
58 51740

29 CFR

101 52381
102 52381

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

9 52384
52 ....51603, 52016, 52029
60 52384
63 52384
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:

61 52304
67 51822

45 CFR

74 51377

Proposed Rules:

303 52306

46 CFR

Proposed Rules:

25 52057
27 52057
32 52057

47 CFR

0 ....51795, 52257
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
1401 52265
1425 52265
1452 52265

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
593 52266
1241 51379

Proposed Rules:

192 51624

50 CFR

229 51805
285 51608
622 52045
648 ....51380, 52273, 52275
660 ....51381, 51814
679 ....51609, 52046, 52275

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 7, 1997

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Primary aluminum reduction plants; published 10-7-97

FEDERAL COMMUNICATIONS COMMISSION

Reporting and recordkeeping requirements; published 10-7-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Biological product licenses:

Well-characterized biotechnology products—

Approved application changes reporting; published 7-24-97

INTERIOR DEPARTMENT

Minerals Management Service

Federal claims collection:

Civil money penalties; inflation adjustment; published 8-8-97

JUSTICE DEPARTMENT

Drug Enforcement Administration

Comprehensive Methamphetamine Control Act of 1996; implementation:

Combination ephedrine products; published 10-7-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 9-22-97

Enstrom Helicopter Corp.; published 9-22-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:

Low-stress hazardous liquid pipelines serving plants and terminals; published 6-9-97

Withdrawn; published 10-8-97

TREASURY DEPARTMENT

Internal Revenue Service

Excise taxes:

Foundation and similar excise taxes; return and time for filing requirements; published 10-7-97

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