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Wednesday
February 4, 1998

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# Rules and Regulations

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

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

## FARM CREDIT ADMINISTRATION

## 12 CFR Parts 614 and 627

**RIN 3052–AB09**

## Loan Policies and Operations; Title IV Conservators, Receivers, and Voluntary Liquidation

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA), through the Farm Credit Administration Board (Board), issues a final rule amending its regulation that governs the funding relationship between a Farm Credit Bank (FCB) or agricultural credit bank (ACB) and a direct lender association or other financing institution (OFI). This rule repeals the requirement that the FCA prior approve the General Financing Agreement (GFA) between an FCB or ACB and a direct lender association or OFI and eliminates a regulatory direct loan limitation. The rule also amends another regulation to permit the voluntary liquidation of Farm Credit institutions by means of an FCA-approved liquidation plan.

**EFFECTIVE DATE:** This regulation shall become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

S. Robert Coleman, Senior Policy Analyst, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, 703) 883–4498,

or

James M. Morris, Senior Counsel, Legal Counsel Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

**SUPPLEMENTARY INFORMATION:** On March 24, 1997, the FCA proposed amendments to the regulation in subpart C of part 614 that governs the funding relationship between FCBs or ACBs and direct lender [1] associations or OFIs. The FCA also proposed amendments to the regulation contained in part 627 that governs liquidations. These amendments would authorize the voluntary liquidation of Farm Credit System (FCS or System) institutions by means of an FCA-approved liquidation plan. *See* 62 FR 13842. The amendments were proposed as part of the FCA's continuing effort to streamline its regulations, provide flexibility to address issues that pertain to funding relationships, and outline minimum regulatory criteria for GFAs.

The FCA received 9 comment letters in response to this proposal, including a comment letter from the Farm Credit Council (FCC or Council) on behalf of its members,[2] 5 responses from FCBs, 1 response from an ACB, and 2 responses from FCS direct lender associations (an agricultural credit association (ACA) and a jointly managed production credit association (PCA) and Federal land credit association (FLCA)).

In general, all the comments expressed support for the proposed regulation and its goal to streamline the regulations and provide flexibility. One FCB commended the FCA for properly relying on its ongoing examination process and enforcement powers to ensure that GFAs preserve the interests of the parties and do not pose excessive safety and soundness risks to the parties involved. Another FCB indicated that it supports the proposed regulation and, in particular, the elimination of the requirement for prior FCA approval, as a significant step toward the streamlining and modernization of the debtor/creditor relationship between the FCS banks and the direct lender associations.

The FCA responds to specific concerns below as it explains aspects of the rule commented upon. After considering the comments received in response to the proposed regulation, the FCA adopts a final rule governing GFAs and permitting voluntary liquidation of Farm Credit institutions under FCA-approved liquidation plans.

### I. Maximum Term of the General Financing Agreement

The FCA received a comment from the FCC concerning the proposed 3-year limitation on the term of GFAs. The FCC argued that the final rule should leave the term of the GFA to the discretion of the parties involved. The FCC believes that the length or term of the GFA should be negotiable, like other terms and conditions of the GFA. Further, the commenter stated that many types of commercial agreements include ''evergreen'' provisions automatically renewing the agreement for an additional term unless, within a prescribed period of time related to the stated renewal date, either party gives written notice to the other of an intent to terminate or renegotiate the arrangement. The commenter noted that some existing GFAs have terms in excess of 3 years. The FCC sees no compelling reason for the FCA to restrict by regulation the parties' latitude to negotiate this aspect of the GFA. As additional support for its position, the FCC stated that the credit policies and underwriting standards of many funding banks typically require a periodic review of their direct lender association's lending relationship, which includes a review of the GFA itself.

The FCA believes that it is appropriate for each FCS bank's credit policies and underwriting standards to require a periodic review of each direct lender's and OFI's lending relationship. These reviews enable the funding banks to determine if the existing terms and conditions of the GFA continue to appropriately address relevant risks in the lending relationship. Because it is this review, rather than a re-execution of the GFA, that is fundamental to prudent lending, the FCA has modified proposed § 614.4120 to require that FCBs and ACBs adopt policies requiring a review of the terms of each GFA at least every 5 years. The final regulation permits GFAs to renew automatically for an additional term if neither the bank, after reviewing the terms, nor the direct lender association (or OFI) offers objection. The FCA believes this approach satisfies its concerns while

[1] As defined in § 619.9135 of this chapter.

[2] The national trade association serving the Farm Credit System, including FCBs, ACBs, direct lender associations, and Federal land bank associations.

allowing the parties to GFAs to operate more efficiently.

The FCA also increases the maximum term for most GFAs from 3 years, as proposed, to 5 years. This limit will accommodate the maximum term on all existing GFAs. The FCA believes that its safety and soundness concerns can be addressed if the FCS banks review GFA terms and seek modifications as appropriate at least every 5 years. In addition, the direct lender association should be provided a reasonable opportunity to periodically request new terms and conditions in its borrowing arrangement with the funding bank. Accordingly, final § 614.4120 adopts a maximum term of 5 years for any GFA used for secured lending. The FCA continues to believe that the maximum term for any GFA that provides for unsecured lending to direct lender associations should not exceed 1 year because of the additional risks inherent in unsecured lending.

**II. Unsecured Lending**

In the preamble to the proposed regulation, the FCA specifically requested comments as to whether there is a need for special limitations or restrictions on unsecured lending in addition to the 1-year limit on the term of any GFA that provides for unsecured lending. The FCC submitted a comment letter on behalf of its membership, in which it stated it would be inappropriate for FCA to define further the circumstances under which unsecured lending may be appropriate or to impose any additional limitations or restrictions on unsecured lending.

The FCA received no comments indicating a need for additional limitations or restrictions on unsecured lending activity. Accordingly, in adopting the final rule, the FCA has not changed any provisions of the proposed rule related to unsecured lending.

**III. Providing the FCA Copies of the General Financing Agreement and Related Documents**

The FCC commented on the proposed requirement in §§ 614.4125(b) and 614.4130(b) that a funding bank deliver to the FCA's Chief Examiner, or designee, a copy of each GFA and all related documents within 10 business days after their execution. The FCC suggested,

> To the extent the substantive terms and conditions of two or more GFAs in a particular district are identical, the Council's membership believe it would be more efficient, and less burdensome, for the funding bank to provide FCA one copy of the GFA, together with the names of all direct lender associations or OFIs, as the case may be, that have executed identical agreements.

The FCA agrees that submitting duplicate copies of identical GFAs may not be necessary. Although FCA has not changed the final regulation's general requirement to submit copies of GFAs to the Chief Examiner, FCS banks that execute identical GFAs should contact the FCA field offices that examine the FCS institutions involved to arrange an efficient means of satisfying this requirement.

**IV. Maximum Credit Limit Calculation**

Proposed § 614.4125(d) would require that each GFA establish a maximum credit limit consistent with the FCS bank's lending policies and underwriting standards and the creditworthiness of the direct lender association. The proposed regulation would also establish a ceiling for any maximum credit limit that was equal to the value of the ''direct lender association's assets available'' to the FCS bank to support outstanding obligations under section 4.3(c) of the Farm Credit Act of 1971, as amended (Act). The FCA received comments from 6 FCS banks and 1 jointly managed PCA/FLCA on this issue.

Upon further consideration of this issue, the FCA has concluded that, in establishing the maximum credit limit in each GFA, each FCS bank should be guided by the underwriting standards that FCA regulations require it to develop. The FCA believes that the proposed regulatory ceiling is unnecessary and potentially misleading for the reasons outlined below. Accordingly, the last sentence in each of proposed §§ 614.4125(d) and 614.4130(c) has been deleted in the final regulation.

The comments received generally supported the flexibility offered by replacing the existing direct loan formula with a requirement that the FCS bank establish credit limits in accordance with its lending policies and underwriting standards. The comments differed, however, as to the components appropriately included in calculating the proposed regulatory ceiling. Most commenters believed that the calculation should give a direct lender association at least some credit for its investment in the FCS bank, but one bank suggested that the amount of a direct lender association's investment should not be included in the calculation.

The comments helped the FCA recognize the potentially misleading effect of establishing a regulatory ceiling on maximum credit limits that is solely tied to an asset-based calculation. As proposed, the ceiling would have been a theoretical, not a practical, limit. The FCA believes that if FCS banks develop, and apply to their relationship with direct lender associations, sound lending policies and underwriting standards, as required by the regulation, the banks will establish maximum credit limits that are below the proposed regulatory ceiling. The FCA expects the banks' lending policies and underwriting standards to produce an appropriate credit limit tailored to each direct lender association's circumstances. As required in § 614.4120, and further explained in the preamble to the proposed rule, each FCS bank must evaluate the creditworthiness of a direct lender association on the basis of lending policies and loan underwriting standards set forth in § 614.4150. The loan underwriting standards will require the bank to go beyond any simple asset-based calculation to consider risk factors such as the direct lender association's capital adequacy and adherence to all regulatory capital requirements, repayment ability, asset quality, liquidity, quality of collateral offered, business plan objectives, and quality of board and management. This credit evaluation will determine an appropriate upper limit on funding for each direct lender association. Each FCS bank must also have adequate internal controls in place to manage the debtor/creditor relationship, including appropriate disbursement and monitoring controls to ensure on-going compliance with the funding agreement. Including in the regulation a ceiling based simply on the direct lender association's available collateral may suggest, incorrectly, that such an asset-based limit could be a safe and sound maximum credit limit for most or all associations. Consistent with the FCA's emphasis on loan underwriting standards as the key to prudent lending, the final regulation eliminates the asset-based ceiling for credit extensions to associations and OFIs.

**V. Notice of Material Defaults—Monetary Penalties**

The FCC submitted a comment concerning notification to the FCA and the Farm Credit System Insurance Corporation (FCSIC) in case of ''material defaults'' under the GFA. Proposed § 614.4125(e) would require that any funding bank that provides notice to a direct lender association that it is in material default of any covenant, term, or condition of the GFA, promissory note, security agreement, or other related documents simultaneously provide written notification to the FCA

and the FCSIC. Proposed § 614.4125(f) would impose a similar requirement on a direct lender association that receives such notice from an FCB, ACB or non-FCS institution. The FCC suggested that the FCA remove the references to the FCSIC in proposed § 614.4125 (e) and (f). The FCA has not adopted this suggestion because it believes there is a benefit in a direct notice to the FCSIC.

Finally, the FCA wishes to clarify the discussion contained in the preamble to the proposed regulation regarding the ''material default'' notice. The discussion indicated that the ''material default'' notice requirement ''include[s], but is not limited to, notice from the FCB or ACB about the imposition of any monetary penalties on the direct lender association, including penalty interest, additional fees, or other service charges imposed based on a default by the direct lender association.'' *See* 62 FR 13844, Mar. 24, 1997. Two FCBs, an ACA, and a jointly managed PCA/FLCA requested that the FCA clarify that the term ''penalty interest'' would not include changes in pricing under normal differential pricing and price incentive structures. The commenters noted that some GFAs provide different interest rates at different levels of financial performance as an incentive to improve overall credit quality and financial condition. The commenters expressed a concern that imposition of notice requirements might encourage elimination of these incentive programs. Accordingly, the FCA clarifies that final § 614.4125 does not require institutions to notify the FCA when changing interest rates in accordance with normal differential pricing and price incentive structures. Specifically, if monetary penalties are imposed based on a default by the direct lender association, notice to the FCA is required. If no default in the GFA occurs, notice to the FCA is not required.

## VI. Additional Regulatory Protections

The FCA received comments from the FCC and an ACA responding to the FCA's request for comments as to whether specific regulations are needed to protect the interests of FCS institutions negotiating the terms and conditions of the GFAs. The FCC indicated that its membership believes that ''a sufficiently level playing field between funding banks and their direct lender association-stockholders currently exists.'' In addition, the FCC, on behalf of its members, stated that the ''promulgation of additional regulations specifically designed to 'protect' the interest of either party in the negotiation process is wholly unnecessary and would be inappropriate, in our judgment, for an arm's-length regulator.'' The FCC comments provided in response to the proposed GFA regulation were developed by the FCC's membership as a result of a process that included two Systemwide conference calls. The FCC indicates that prior to being finalized, draft comments were circulated throughout the FCS for review, and a third Systemwide conference call was then held to discuss and finalize the comments provided. The result was a consensus that a sufficiently level playing field between funding banks and their direct lender association-stockholders currently exists.

Only the ACA took exception to the FCC's comment. The commenter stated that direct lender associations are at a competitive disadvantage when negotiating the GFA and that voting strength alone does not level that playing field, particularly for associations who are minority shareholders in their bank. The commenter noted that FCS associations cannot obtain financing from a source other than their funding bank without the bank's consent. This dependence places associations at a disadvantage in negotiating the terms of a GFA. The commenter did not recommend specific rules that would address the perceived imbalance in bargaining power but did suggest that the GFA regulation should provide the associations ''meaningful remedies'' in the event that an FCS bank fails to perform under the GFA. In addition, the commenter suggested that the FCA should devise a mechanism for consistently measuring the effective wholesale cost of funding that each FCS bank offers to affiliated associations and make that information available on a Systemwide basis. Finally, the commenter suggested that FCS banks should be required to establish a specific policy on approving outside sources of funding for affiliated associations.

After considering the comments received, the FCA does not believe that it has been demonstrated that there is a disparity of negotiating power between FCS banks and direct lender associations that requires a regulatory solution.[3] Further, the FCA believes that the remedies suggested by the ACA commenter go beyond the scope of this regulation.

[3] While the FCA agrees with the comment that based on current information a regulatory solution is unnecessary, the FCA does not agree that it would be ''inappropriate'' for an arm's-length regulator to provide a regulatory solution to protect the interest of either party in the negotiation process, if necessary.

The FCA adopts conforming changes to the regulations at §§ 614.4000(b) and 614.4010(b) to include the reference to the appropriate sections of the final GFA regulation and references the definition of an OFI contained in the final regulation at § 614.4130(a).

### List of Subjects

*12 CFR Part 614*

Agriculture, Banks, Banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

*12 CFR Part 627*

Agriculture, Banks, Banking, Claims, Rural areas.

For the reasons stated in the preamble, parts 614 and 627 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

## PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

**Authority:** 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

### Subpart A—Lending Authorities

#### § 614.4000 [Amended]

2. Section 614.4000 is amended by removing the reference ''§ 614.4130(b)'' and adding in its place, the reference ''§ 614.4125'' in the last sentence of paragraph (b).

#### § 614.4010 [Amended]

3. Section 614.4010 is amended by removing the reference ''§ 614.4130(b)'' and adding in its place, the reference ''§ 614.4125'' in the last sentence of paragraph (b).

### Subpart C—Bank/Association Lending Relationship

4. Section 614.4120 is revised to read as follows:

**§ 614.4120 Policies governing extensions of credit to direct lender associations and OFIs.**

The board of directors of each Farm Credit Bank and agricultural credit bank shall adopt policies and procedures governing the making of direct loans to and the discounting of loans for direct lender associations and OFIs. The policies and procedures shall prescribe lending policies and loan underwriting standards that are consistent with sound financial and credit practices. The policies shall require a periodic review of the lending relationship with each direct lender association and OFI at intervals consistent with the term of the general financing agreement but in no case longer than 5 years. The policies shall require an evaluation of the creditworthiness of a direct lender association on the basis of credit factors and lending policies and loan underwriting standards set forth in part 614, subpart D, and may permit lending to such an institution on an unsecured basis only if the overall condition of the institution warrants. The stated term of a general financing agreement shall not exceed 5 years but may be automatically renewable for additional terms not to exceed 5 years if neither party objects at the time of renewal. The term of any general financing agreement that provides for unsecured lending to a direct lender association shall not exceed 1 year and may not be automatically renewed.

5. Section 614.4125 is added to read as follows:

**§ 614.4125 Funding and discount relationships between Farm Credit Banks or agricultural credit banks and direct lender associations.**

(a) A Farm Credit Bank or agricultural credit bank shall not advance funds to, or discount loans for, any direct lender association except pursuant to a general financing agreement.

(b) The Farm Credit Bank or agricultural credit bank shall deliver a copy of the executed general financing agreement and all related documents, such as a promissory note or security agreement, and all amendments of any of these documents, within 10 business days after any such document or amendment is executed, to the Chief Examiner, Farm Credit Administration, or to the Farm Credit Administration office that the Chief Examiner designates.

(c) The general financing agreement shall address only those matters that are reasonably related to the debtor/creditor relationship between the Farm Credit Bank or agricultural credit bank and the direct lender association.

(d) The total credit extended to a direct lender association, through direct loan or discounts, shall be consistent with the Farm Credit Bank's or agricultural credit bank's lending policies and loan underwriting standards and the creditworthiness of the direct lender association. The general financing agreement or promissory note shall establish a maximum credit limit determined by objective standards as established by the Farm Credit Bank or agricultural credit bank.

(e) A Farm Credit Bank or agricultural credit bank that provides notice to a direct lender association that it is in material default of any covenant, term, or condition of the general financing agreement, promissory note, security agreement, or other related documents simultaneously shall provide written notification to the Chief Examiner, Farm Credit Administration, or to the Farm Credit Administration office that the Chief Examiner designates and the Director, Risk Management, Farm Credit System Insurance Corporation.

(f) A direct lender association shall provide written notification to the Chief Examiner, Farm Credit Administration, or to the Farm Credit Administration office that the Chief Examiner designates, and the Director, Risk Management, Farm Credit System Insurance Corporation immediately upon receipt of a notice that it is in material default under any general financing agreement, loan agreement, promissory note, security agreement, or other related documents with a Farm Credit Bank, agricultural credit bank or non-Farm Credit institution.

(g) A Farm Credit Bank or agricultural credit bank shall obtain prior written consent of the Farm Credit Administration before it takes any action that leads to or could lead to the liquidation of a direct lender association.

(h) No direct lender association shall obtain financing from any party unless the parties agree to the requirements of this paragraph. No Farm Credit Bank, agricultural credit bank, or other party shall petition any Federal or State court to appoint a conservator, receiver, liquidation agent, or other administrator to manage the affairs of or liquidate a direct lender association.

6. Section 614.4130 is revised to read as follows:

**§ 614.4130 Funding and discount relationships between Farm Credit Banks or agricultural credit banks and OFIs.**

(a) A Farm Credit Bank or agricultural credit bank shall not advance funds to, or discount loans for, an OFI, as defined in § 611.1205(c) of this chapter, except pursuant to a general financing agreement.

(b) The Farm Credit Bank or agricultural credit bank shall deliver a copy of the executed general financing agreement and all related documents, such as a promissory note or security agreement, and all amendments of any of these documents, within 10 business days after any such document or amendment is executed, to the Chief Examiner, Farm Credit Administration, or to the Farm Credit Administration office that the Chief Examiner designates.

(c) The total credit extended to the OFI, through direct loan or discounts, shall be consistent with the Farm Credit Bank's or agricultural credit bank's lending policies and loan underwriting standards and the creditworthiness of the OFI. The general financing agreement or promissory note shall establish a maximum credit limit determined by objective standards as established by the Farm Credit Bank or agricultural credit bank.

7. The heading for part 627 is revised to read as follows:

## PART 627—TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

8. The authority citation for part 627 is revised to read as follows:

**Authority:** Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7).

9. Section 627.2700 is revised to read as follows:

### Subpart A—General

**§ 627.2700 General—applicability.**

The provisions of this part shall apply to conservatorships, receiverships, and voluntary liquidations.

### Subpart B—Receivers and Receiverships

10. Section 627.2720 is amended by removing paragraph (a); redesignating paragraphs (b), (c), (d), (e), and (f) as new paragraphs (a), (b), (c), (d), and (e); and revising newly designated paragraph (b) to read as follows:

**§ 627.2720 Appointment of receiver.**

* * * * *

(b) The receiver appointed for a Farm Credit institution shall be the Insurance Corporation.

* * * * *

11. Section 627.2730 is amended by removing paragraph (b); redesignating paragraph (c) as new paragraph (b); and

revising newly designated paragraph (b) to read as follows:

**§ 627.2730 Preservation of equity.**

* * * * *

(b) Notwithstanding paragraph (a) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

* * * * *

12. Part 627 is amended by adding a new subpart D to read as follows:

## Subpart D—Voluntary Liquidation

**§ 627.2795 Voluntary liquidation.**

**§ 627.2797 Preservation of equity.**

**§ 627.2795 Voluntary liquidation.**

(a) A Farm Credit institution may voluntarily liquidate by a resolution of its board of directors, but only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board. Upon adoption of such resolution to liquidate, the Farm Credit institution shall submit the proposed voluntary liquidation plan to the Farm Credit Administration for preliminary approval. The Farm Credit Administration Board, in its discretion, may appoint a receiver as part of an approved liquidation plan. If a receiver is appointed for the Farm Credit institution as part of a voluntary liquidation, the receivership shall be conducted pursuant to subpart B of this part, except to the extent that an approved plan of liquidation provides otherwise.

(b) If the Farm Credit Administration Board gives preliminary approval to the liquidation plan, the board of directors of the Farm Credit institution shall submit the resolution to liquidate and the liquidation plan to the stockholders for approval.

(c) The resolution to liquidate and the liquidation plan shall be approved by the stockholders if agreed to by at least a majority of the voting stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting.

(d) The Farm Credit Administration Board will consider final approval of the liquidation plan after an affirmative stockholder vote on the resolution to liquidate.

(e) Any subsequent amendments, modifications, revisions, or adjustments to the liquidation plan shall require Farm Credit Administration Board approval.

(f) The Farm Credit Administration Board, in its discretion, reserves the right to terminate or modify the liquidation plan at any time.

**§ 627.2797 Preservation of equity.**

(a) Immediately upon the adoption of a resolution by its board of directors to voluntarily liquidate a Farm

Credit institution, the capital stock, participation certificates, equity reserves, and allocated equities of the Farm Credit institution shall not be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities. Such activities could resume if the stockholders of the Farm Credit institution disapprove the resolution to liquidate or the Farm Credit Administration Board disapproves the liquidation plan. In the event the resolution to liquidate is approved by the stockholders of the Farm Credit institution and the liquidation plan is approved by the Farm Credit Administration Board, the liquidation plan shall govern disposition of the equities of the Farm Credit institution, except that if the Farm Credit institution is placed in receivership, the provisions of § 627.2730(a) shall govern further disposition of the equities of the Farm Credit institution.

(b) Notwithstanding paragraph (a) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

Dated: January 27, 1998.

**Floyd Fithian,**

*Secretary,*

*Farm Credit Administration Board.*

[FR Doc. 98–2726 Filed 2–3–98; 8:45 am]

BILLING CODE 6705–01–P]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–334–AD; Amendment 39–10302; AD 98–03–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 737, 747, 757, and 767 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737, 747, 757, and 767 series airplanes, that currently requires a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and the seat tracks are aligned correctly; and re-alignment of the seat tracks, if necessary. This amendment revises the applicability of the existing AD. The actions specified in this AD are intended to prevent uncommanded movement of the pilots' seats during acceleration and take-off of the airplane, and consequent reduced controllability of the airplane.

**DATES:** Effective February 19, 1998.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of February 19, 1998.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 31, 1997 (62 FR 38017, July 16, 1997).

Comments for inclusion in the Rules Docket must be received on or before April 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–334–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

**FOR FURTHER INFORMATION CONTACT:** Meghan Gordon, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2207; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** On July 9, 1997, the FAA issued AD 97–15–06, amendment 39–10079 (62 FR 38017, July 16, 1997), applicable to certain Boeing Model 737, 747, 757, and 767 series airplanes equipped with non-powered IPECO pilots' seats, to require a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and the seat tracks are aligned correctly; and re-alignment of the seat tracks, if necessary. That action was prompted by reports indicating that a pilot's seat slid from the forward position to the aft-most position during acceleration and take-off of the airplane due to misalignment of the seat tracks. The actions required by that AD are intended to prevent uncommanded

movement of the pilots' seats during acceleration and take-off of the airplane, and consequent reduced controllability of the airplane.

### Actions Since Issuance of Previous Rule

Since the issuance of that AD, Boeing has notified the FAA that the effectivity of the Boeing service bulletins referenced in the existing AD (1) does not include airplanes for which the potential for seat track misalignment exists, and (2) incorrectly includes airplanes on which seat track misalignment problems do not exist.

### Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing service bulletins, all dated January 15, 1998:

- 737–25–1334, Revision 1 (for Model 737 series airplanes);
- 747–25–3132, Revision 1 (for Model 747 series airplanes);
- 757–25–0183, Revision 2 (for Model 757 series airplanes); and
- 767–25–0244, Revision 1 (for Model 767 series airplanes).

These revisions are essentially identical to the original issues of the service bulletins. However, the effectivity of these service bulletin revisions has been revised to add certain airplanes equipped with IPECO manually operated (non-powered) flight deck seats, and to delete airplanes on which IPECO non-powered flight deck seats are not installed.

### Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 97–15–06 to continue to require a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and the seat tracks are aligned correctly; and re-alignment of the seat tracks, if necessary. This amendment revises the applicability of the existing AD to add certain airplanes and to remove others.

### Determination of Rule's Effective Date

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

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–334–AD.'' The postcard will be date stamped and returned to the commenter.

### Regulatory Impact

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10079 (62 FR 38017, July 16, 1997), and by adding a new airworthiness directive (AD), amendment 39–10302, to read as follows:

**98–03–10 Boeing:** Amendment 39–10302. Docket 97–NM–334–AD. Supersedes AD 97–15–06, Amendment 39–10079.

*Applicability:* Models 737, 747, 757, and 767 series airplanes, certificated in any category; equipped with non-powered IPECO pilots' seats; and having the following line position numbers:

| Airplane model | Line position Nos. |
|---|---|
| 737 ..... | 1 through 2836 inclusive. |
| 747 ..... | 1 through 1104 inclusive. |
| 757 ..... | 1 through 731 inclusive. |
| 767 ..... | 1 through 642 inclusive. |

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

**Note 2:** Paragraph (a) of this AD merely restates the requirements of paragraph (a) of

AD 97–15–06, amendment 39–10079. As allowed by the phrase, ''unless accomplished previously,'' if those requirements of AD 97–15–06 have already been accomplished, this AD does not require that those actions be repeated.

To prevent uncommanded movement of the pilots' seats during acceleration and take-off of the airplane, and consequent reduced controllability of the airplane, accomplish the following:

(a) For airplanes equipped with non-powered IPECO pilots' seats as listed in Boeing Service Bulletin 737–25–1334, 747–25–3132, 757–25–0183, or 767–25–0244, all dated December 19, 1996: Within 90 days after July 31, 1997 (the effective date of AD 97–15–06, amendment 39–10079), perform a one-time operational test of the pilots' seats and the seat locks to determine that the lock pin of the seat track fully engages in all lock positions of the seat track, in accordance with Boeing Service Bulletin 737–25–1334, dated December 19, 1996, or Revision 1, dated January 15, 1998 (for Model 737 series airplanes); 747–25–3132, dated December 19, 1996, or Revision 1, dated January 15, 1998 (for Model 747 series airplanes); 757–25–0183, dated December 19, 1996, or Revision 2, dated January 15, 1998 (for Model 757 series airplanes); or 767–25–0244, dated December 19, 1996, or Revision 1, dated January 15, 1998 (for Model 767 series airplanes); as applicable.

(1) If the seat lock pin fully engages in all lock positions of the seat track, no further action is required by this AD.

(2) If the seat lock pin does not fully engage in all positions of the seat track, prior to further flight, re-align the seat tracks, in accordance with the applicable service bulletin specified in paragraph (a) of this AD.

(b) For airplanes other than those identified in paragraph (a) of this AD: Within 90 days after the effective date of this AD, perform a one-time operational test of the pilots' seats and the seat locks to determine that the lock pin of the seat track fully engages in all lock positions of the seat track, in accordance with Boeing Service Bulletin 737–25–1334, Revision 1 (for Model 737 series airplanes); 747–25–3132, Revision 1 (for Model 747 series airplanes); 757–25–0183, Revision 2 (for Model 757 series airplanes); or 767–25–0244, Revision 1 (for Model 767 series airplanes); all dated January 15, 1998, as applicable.

(1) If the seat lock pin fully engages in all lock positions of the seat track, no further action is required by this AD.

(2) If the seat lock pin does not fully engage in all positions of the seat track, prior to further flight, re-align the seat tracks, in accordance with the applicable service bulletin specified in paragraph (b) of this AD.

(c)(1) 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Alternative methods of compliance, approved previously in accordance with AD 97–15–06, amendment 39–10079, are approved as alternative methods of compliance for this AD.

(c)(2) Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

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

(e) The actions shall be done in accordance with the following Boeing Service Bulletins, as applicable:

| Service bulletin No. | Revision level | Service bulletin date |
|---|---|---|
| 737–25–1334 | Original | December 19, 1996. |
| 747–25–3132 | Original | December 19, 1996. |
| 757–25–0183 | Original | December 19, 1996. |
| 767–25–0244 | Original | December 19, 1996. |
| 737–25–1334 | 1 | January 15, 1998. |
| 747–25–3132 | 1 | January 15, 1998. |
| 757–25–0183 | 2 | January 15, 1998. |
| 767–25–0244 | 1 | January 15, 1998. |

(1) The incorporation by reference of Boeing Service Bulletin 737–25–1334, Revision 1; Boeing Service Bulletin 747–25–3132, Revision 1; Boeing Service Bulletin 757–25–0183, Revision 2; and Boeing Service Bulletin 767–25–0244, Revision 1; all dated January 15, 1998; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 737–25–1334, Boeing Service Bulletin 747–25–3132, Boeing Service Bulletin 757–25–0183, and Boeing Service Bulletin 767–25–0244; all dated December 19, 1996; was approved previously by the Director of the Federal Register as of July 31, 1997 (62 FR 38017, July 16, 1997).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 19, 1998.

Issued in Renton, Washington, on January 27, 1998.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–2529 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Part 53

**[T.D. ATF–394]**

**RIN 1512–AB42**

## Manufacturers Excise Taxes—Firearms and Ammunition (95R–055P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Final rule (Treasury decision).

**SUMMARY:** This final rule adopts without change temporary regulations published in the **Federal Register** on July 16, 1996. The temporary rule amended the regulations in 27 CFR part 53 that require exemption certificates or vendee statements in support of certain tax-free sales of firearms and ammunition. As amended by the temporary rule and this final rule, the regulations provide that taxpayers may use a preprinted document as an exemption certificate or vendee statement, or design their own certificate and statement using specified information. The regulatory amendments are part of the Administration's efforts to reduce regulatory burdens and streamline requirements.

**EFFECTIVE DATE:** April 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Marsha Baker, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Ave., NW, Washington, DC 20226; (202–927–8476).

**SUPPLEMENTARY INFORMATION:**

### Background

Chapter 32 of the Internal Revenue Code of 1986 imposes an excise tax on

the sale of firearms and ammunition by the manufacturer, producer, or importer thereof. 26 U.S.C. 4181. However, section 4221 of the Code sets forth certain purposes for which an article subject to tax under Chapter 32 may be sold tax-free by the manufacturer, producer, or importer.

Under the regulations appearing in 27 CFR part 53, persons who sell firearms or ammunition tax-free are required to obtain certain exemption certificates or vendee statements to support such sales. Previous regulations included suggested forms for each type of statement and certificate. However, the Bureau of Alcohol, Tobacco and Firearms (ATF) has now made these certificates and statements available as preprinted documents that may be ordered by the taxpayer through the Bureau's Distribution Center and then reproduced as needed.

### Temporary Rule and Notice of Proposed Rulemaking

On July 16, 1996, ATF published in the **Federal Register** a temporary rule (T.D. ATF–380, 61 FR 37005) amending the regulations regarding exemption certificates and statements related to the tax-free sale of firearms and ammunition. The temporary rule provided that taxpayers had the option of either using a preprinted exemption certificate and statement available through the Bureau's Distribution Center or designing their own certificates and statements that reflected the information required by the regulations. Should taxpayers wish to design and use their own certificates or statements, the regulations explain what information is required on such documents.

On July 16, 1996, the Bureau also published a notice of proposed rulemaking cross-referenced to the temporary regulations (Notice No. 831, 61 FR 37022). The notice sought public comment on the changes made by the temporary rule. The comment period for Notice No. 831 closed on October 15, 1996.

### Comments

ATF received no comments in response to Notice No. 831.

### Final Rule

ATF is adopting without change the amendments published in the temporary rule, T.D. ATF–380. The amendments reduce regulatory burdens by making preprinted forms available to taxpayers, while still providing taxpayers the flexibility of creating their own certificates and statements to support tax-free sales.

### Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not required.

### Regulatory Flexibility Act

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking and the temporary rule preceding this regulation were submitted to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on any impact on small business. The SBA did not submit any comments.

### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no new requirement to collect information is imposed.

### Disclosure

Copies of the temporary rule, the notice of proposed rulemaking, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC 20226.

### Drafting Information

The authors of this document are Mary Lou Blake and Marsha D. Baker, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects in 27 CFR Part 53

Administrative practice and procedure, Arms and munitions, Authority delegations, Exports, Imports, Penalties, Reporting and recordkeeping requirements.

## PART 53—MANUFACTURERS EXCISE TAXES—FIREARMS AND AMMUNITION

Accordingly, the temporary rule (TD ATF–380) amending 27 CFR part 53 which was published at 61 FR 37005 on July 16, 1996, is adopted as a final rule without change.

Signed: December 22, 1997.

**John Magaw,**

*Director.*

Approved: January 13, 1998.

**John P. Simpson,**

*Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).*

[FR Doc. 98–2681 Filed 2–3–98; 8:45 am]

BILLING CODE 4810–31–U

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Parts 80, 82, 84, 87, 88, and 90

**[CGD 94–011]**

**RIN 2115–AE71**

## Inland Navigation Rules; Lighting Provisions

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard amends certain lighting provisions and interpretive regulations supplementing the Inland Navigation Rules. These changes bring Inland Navigation Rules into conformity with the November 1995 amendments to the International Regulations for Prevention of Collisions at Sea (COLREGS), and clarify ambiguities in the rules.

**DATES:** This final rule is effective March 6, 1998.

**ADDRESSES:** Documents as indicated in the preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406) [CGD 94–011], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. International Maritime Organization (IMO) documents referenced in the preamble can be ordered from the International Maritime Organization (IMO) at 4 Albert Embankment, London, England SE1 7SR.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Schneider, Office of Vessel Traffic Management, (202) 267–0352.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

On July 20, 1994, the Coast Guard published, in the **Federal Register** (59 FR 37003), a notice of proposed rulemaking (NPRM) entitled, Inland Navigation Rules, Lighting Provisions. On August 24, 1994, the Coast Guard published in the **Federal Register** (59 FR 42620), a correction making minor editorial changes to that NPRM. The Coast Guard received two letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

### Background and Purpose

The Inland Navigation Rules and the International Regulations for Preventing Collisions at Sea (COLREGS) provide the rules governing all vessels on inland

waters and the high seas, respectively. The International Maritime Organization (IMO) adopted amendments to the annexes of the COLREGS, which became effective November 1995. The Coast Guard is revising the Inland Navigation Rules to reflect the COLREGS amendments.

Additionally, the Navigation Safety Advisory Council (NAVSAC), a congressionally authorized advisory group, reviewed the Inland Navigation Rules for consistency with the COLREGS. To clarify ambiguities in practical application of the Inland Navigation Rules and to bring those Rules into conformity with the COLREGS, NAVSAC recommended several changes. The changes primarily concerned light placement requirements. The only proposed change not adopted by this final rule is the mandatory requirement to light barges on the corners in accordance with 33 CFR 88.13.

**Discussion of Comments and Changes**

Two comments were received following the publication of the Notice of Proposed Rulemaking. Both comments supported the proposed rule changes, but both expressed concern that prescribing 4 lights for vessels less than 20 meters in length would place an unnecessary financial burden on small vessel owners. Additionally, the comments disagreed with the Coast Guard's cost estimate for all-round light fixtures and light installation. After reevaluating the original cost estimate, the Coast Guard determined that the original dollar figure was incorrect. Our new assessment, as explained in the *Regulatory Evaluation* section of this rule, determined that the average cost of a permanently installed all-round light fixture and its installation is $315, not $12 as specified in the NPRM. Based on the comments and the reassessed cost data, the Coast Guard has made this requirement optional.

**Discussion of Regulations**

*Corrections to 72 COLREGS Demarcation Lines*

The Coast Guard is correcting errors in the description of COLREGS demarcation lines found in the Inland Navigation Rules in 33 CFR part 80. COLREGS demarcations lines codify boundaries that delineate the applicability of either the Inland Rules or the COLREGS. These lines are marked on navigational charts. While these lines are correctly depicted on navigational charts, their description in 80.501 and 80.520 contains errors.

The errors being corrected in 33 CFR 80.1495 include the misspelling of Johnson Island; the reference to Canton Island, which was returned to the Republic of Kirbati, as a U.S. Possession; and the reference to the dissolved Trust Territory of the Pacific Island.

*Lights for Moored Vessels*

The Coast Guard is adding the interpretive rules 33 CFR 82.5 and 90.5 to the COLREGS and Inland Navigation Rules and revising 33 CFR 88.13 of the pilot rules to clarify the responsibilities of the operators of vessels moored to mooring buoys or other similar devices. The interpretive rules are added to ensure that the term *vessels at anchor* in Rule 30 of the COLREGS and Inland Rules includes vessels moored to a mooring buoy.

Recognizing the need to specify safe lighting requirements for vessels moored to mooring buoys in previous NAVSAC subcommittee meetings, the Coast Guard formally presented the issue to NAVSAC in November 1992. Then, at NAVSAC's request, the issue was forwarded to the Towing Safety Advisory Council (TSAC) and the National Boating Safety Advisory Council (NBSAC) for further consideration. All three advisory groups agreed that a vessel moored to a mooring buoy should be lighted as a vessel at anchor in accordance with Inland Navigation Rule 30. These groups also agreed that barges moored to a mooring buoy should be lighted on the corners in accordance with the scheme of 33 CFR 88.13.

In the NPRM, the Coast Guard proposed requiring that barges moored to mooring buoys be lighted on the corners in accordance with 33 CFR 88.13, instead of in accordance with Rule 30. Based on the comments and a cost reassessment for compliance with the proposed requirements, the Coast Guard has concluded that barges moored to mooring buoys have the option of either displaying the lights of a vessel at anchor as prescribed in Inland Rule 30, or of displaying lights on the corners in accordance with 33 CFR 88.13, found in Annex V to the Inland Rules.

*Section 82.7 Sidelights for Unmanned Barges*

Improper lighting of barges has been a contributory factor in some accidents involving recreational boaters and has been the subject of periodic congressional interest. The U.S. delegation to the IMO Subcommittee on Safety of Navigation raised the issue of sidelights on unmanned barges. IMO agreed that sidelights powered with existing battery technology could not meet the vertical sector requirements for large vessels under the COLREGS. IMO further agreed that an unmanned barge, unable to meet the vertical sector requirements, could meet the requirements of COLREGS and Inland Navigation Rule 24(h). Rule 24(h) allows a vessel or object being towed to exhibit alternative lighting where it is impracticable to light the vessel as prescribed by paragraph (e) or (g) of Rule 24. Paragraph (e) requires sidelights and sternlights for vessels being towed and paragraph (g) requires all-round white lights for partially submerged vessels or objects being towed. This exception has been the source of some confusion.

This rule adopts the interpretation found in Commandant Instruction 16672.3A, International Regulations for Preventing Collisions at Sea, 1972; Lights on Unmanned Barges, which states that those lighting unmanned barges may use the Rule 24(h) exception, and that this exception applies only to the vertical sector requirements. Consistent with the Coast Guard interpretation in the Commandant Instruction, the Coast Guard is adding interpretive rules 33 CFR 82.7 and 90.7 to clarify that the exception provided by Rule 24(h) of the COLREGS of Inland Rules pertains only to the vertical sector requirements.

*Sections 84.01 and 84.27 High-speed Craft*

The Coast Guard is adding a paragraph to 33 CFR 84.01, found in Annex I of the Inland Rules, to include the definition of *high-speed craft* stated in the IMO's *International Code of Safety of High-speed Craft (HSC Code).* The definition of *high-speed craft* is based on a formula that compares displacement to the maximum speed of vessels such as catamarans and hydrofoils. This addition to the Inland Rules parallels the language of the 72 COLREGS amendments.

The Coast Guard is also adding section 84.27 to Annex I of the Inland Rules to allow high-speed craft of unusually wide design to carry masthead lights at a lower level than that prescribed for conventional vessels. This change recognizes that existing light placement requirements based on conventional ship design are impractical when dealing with non-traditional designs such as catamarans, hydrofoils, and other craft of unusually wide design. This addition ensures consistency between the language of the Inland Navigation Rules and the 72 COLREGS amendments.

This new provision applies to vessels that meet the definition of high-speed craft (§ 84.01) and have length to breadth ratios of less than three-to-one. Conventional vessels such as tankers, container ships, and fishing vessels will not meet the definition of high-speed craft. Certain high powered displacement vessels such as frigates or destroyers may meet this definition but would not meet the length to breadth ratio requirements. For example: A high speed catamaran ferry, 59 meters in length with 20 meters in beam, may carry its forward masthead light 5.1 meters above the sidelights instead of 8 meters above the hull.

*Section 84.05 Horizontal Spacing and Positioning of Lights*

The Coast Guard is revising 33 CFR 84.05, found in Annex I of the Inland Rules, to provide that vessels less than 20 meters in length shall carry their masthead lights as far forward as is practicable. This revision creates parallel language between the Inland Navigation Rules and the amended COLREGS. The COLREGS amendment was based on a U.S. proposal to IMO to amend COLREGS rule 23(a)(i) by adopting the language of Inland Navigation Rule 23 (a)(i). However, the IMO chose to amend Annex I of the COLREGS instead of COLREGS rule 23(a)(i).

Inland Navigation Rule 23(a)(i) was deleted by the Coast Guard Authorization Act of 1996 (104 P.L. 324; 110 Stat. 3901; October 19, 1996) in order to conform the Inland Rules with the COLREGS. This revision results in no substantive change because the former Inland Navigation Rule 23(a)(i) provided that vessels less than 20 meters in length may carry their masthead light as far forward as practicable.

*Section 84.17 Horizontal Sectors*

The Coast Guard is revising 33 CFR 84.17, found in Annex I of the Inland Rules, to allow the use of two all-round lights screened or suitably positioned to appear as one light at a distance of one mile. This revision parallels the language between the Inland Navigation Rules and the COLREGS, and provides an alternative to vessels that cannot place all-round lights in a location to meet the angular cut-off requirement of Annex I.

On a vessel with a mast of large diameter, such as a warship or a vessel with a combined smoke stack and mast configuration, it is often impracticable to mount a single all-round light at a sufficient distance to meet the maximum 6 degree angular cutout requirements of the Inland Navigation Rules. Two unscreened all-round lights that are 1.28 meters (4.2 feet) apart or less will appear as one light to the unaided eye at a minimum distance of one nautical mile.

*Seciton 87.1 Need of Assistance*

The Coast Guard is revising 33 CFR 87.1, found in Annex IV to the Inland Rules, to add survival craft radar transponders to the list of distress signals. The 1988 amendments to the Safety of Life at Sea Convention (SOLAS), in Chapter III Part B Regulation 6.2.2, require that cargo and passenger ships subject to SOLAS carry Search and Rescue Transponders (SARTS) for use in survival craft. SARTS automatically respond to most surface navigation radars allowing rescuers to quickly locate a vessel or survival craft.

**Regulatory Evaluation**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1040; February 26, 1979).

The Notice of Proposed Rulemaking proposed requiring that barges moored to mooring buoys display lights on the corners of the barge, as provided in 33 CFR 88.13. This proposal was to be required instead of the lighting requirements of Inland Navigation Rule 30 for vessels at anchor.

The Coast Guard received several comments questioning the original cost estimates. After subsequent research, the Coast Guard determined that the average cost of a permanently fixed all-round white light fixture and its installation is $315). The cost to a barge with lights on all four corners would be $1,260 (4 lights × $315). Given these costs, and the fact that barges moored to mooring buoys are required to be lit as *vessels at anchor* in accordance with Inland Navigation Rule 30, the Coast Guard decided that this provision is to be optional. Barges moored to mooring buoys will have the flexibility of exhibiting all-round lights on the corners, or continuing to exhibit *vessels at anchor* lighting requirements, as prescribed by Inland Navigation Rule 30. Therefore, the rulemaking imposes no costs on the industry. Furthermore, this rulemaking represents a convenience to mariners, as they will be able to continue to use the lighting system that is presently an industry practice.

The other requirements set forth in this rulemaking impose no costs. These amendments bring the Inland Navigation Rules into alignment with the COLREGS in a manner that provides sufficient flexibility to impose no cost upon industry or the mariner. For the reasons set forth, the Coast Guard expects there to be no economic impact as a result of this rule so that a full regulatory evaluation under paragraph 10e of the Regulatory Policies and Procedures of DOT is unnecessary.

**Small Entities**

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

A potential impact would be the cost of purchasing and installing lights for barges moored to mooring buoys. However, installation of these lights are not required. There are no required costs of this rule. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant impact on small entities.

*Assistance for Small Entities*

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offers to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Ms. Diane Schneider, Office of Vessel Traffic Management, (202) 267–0352.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

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

Under 33 U.S.C. 2071, authority to issue regulations to implement and interpret the Inland Navigational Rules is vested in the Secretary of Transportation and delegated to the Coast Guard.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandates cause those entities to spend, in the aggregate, $100 million or more in any one year the UMRA analysis is required. This rule does not impose Federal mandates on any State, local or tribal governments or the private sector.

**Environment**

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

**List of Subjects**

*33 CFR Part 80*

Navigation (water), Treaties, Waterways.

*33 CFR Part 82*

Navigation (water), Treaties.

*33 CFR Part 84*

Navigation (water), Waterways.

*33 CFR Part 87*

Navigation (water), Waterways.

*33 CFR Part 88*

Navigation (water), Waterways.

*33 CFR Part 90*

Navigation (water), Waterways.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR parts 80, 82, 84, 87, 88, and 90 as follows:

## PART 80—COLREGS DEMARCATION LINES

1. The authority citation for part 80 continues to read as follows:

**Authority:** 14 U.S.C. 2; 14 U.S.C. 633; 33 U.S.C. 151(a); 49 CFR 1.46.

2. In § 80.501, revise paragraph (d) to read as follows:

**§ 80.501 Tom's River, NJ to Cape May, NJ.**

* * * * *

(d) A line drawn from the southernmost point of Longport at latitude 39°18.2′ N. longitude 74°33.1′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet.

* * * * *

3. In § 80.520, revise paragraph (a) to read as follows:

**§ 80.520 Cape Hatteras, NC to Cape Lookout, NC.**

(a) A line drawn from Hatteras Inlet Lookout Tower at latitude 35°11.8′ N. longitude 75°44.9′ W. 255° true to the eastern end of Ocracoke Island.

* * * * *

4. Revise § 80.1495 to read as follows:

**§ 80.1495 U.S. Pacific Island Possessions.**

The 72 COLREGS shall apply on the bays, harbors, lagoons, and waters surrounding the U.S. Pacific Island Possessions of American Samoa, Baker, Howland, Jarvis, Johnson, Palmyra, Swains and Wake Islands.

## PART 82—72 COLREGS: INTERPRETATIVE RULES

5. Revise the authority citation for part 82 to read as follows:

**Authority:** 14 U.S.C. 2, 633; 33 U.S.C. 1602; E.O. 11964, 42 FR 4327, 3 CFR, 1977 Comp., p. 88; 49 CFR 1.46(n).

6. Add § 82.5 to read as follows:

**§ 82.5 Lights for moored vessels.**

For the purposes of Rule 30 of the 72 COLREGS, a *vessel at anchor* includes a barge made fast to one or more mooring buoys or other similar device attached to the sea or river floor. Such a barge may be lighted as a vessel at anchor in accordance with Rule 30, or may be lighted on the corners in accordance with 33 CFR 88.13.

7. Add § 82.7 to read as follows:

**§ 82.7 Sidelights for unmanned barges.**

An unmanned barge being towed may use the exception of COLREGS Rule 24(h). However, this exception only applies to the vertical sector requirements.

## PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

8. The authority citation for part 84 continues to read as follows:

**Authority:** 33 U.S.C. 2071; 49 CFR 1.46.

9. In § 84.01, redesignate paragraphs (b) through (c) as paragraphs (c) through (d) and add a new paragraph (b) to read as follows:

**§ 84.01 Definitions.**

* * * * *

(b) *High-speed craft* means a craft capable of maximum speed in meters per second (m/s) equal to or exceeding: $3.7\nabla^{0.1667}$; where $\nabla$ = displacement corresponding to the design waterline (meters $_3$).

**Note to paragraph (b):** The same formula expressed in pounds and knots is maximum speed in knots (kts) equal to exceeding 1.98 (lbs) $\nabla^{0.1667}$; where $\nabla$ = displacement corresponding to design waterline in pounds.

* * * * *

10. In § 84.05, revise paragraph (a), redesignate paragraph (b) as paragraph (e), redesignate paragraphs (c) and (d) as paragraphs (b) and (c), and add a new paragraph (d) to read as follows:

**§ 84.05 Horizontal position and spacing of lights.**

(a) Except as specified in paragraph (e) of this section, when two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them must not be less than one quarter of the length of the vessel but need not be more than 50 meters. The forward light must be placed not more than one half of the length of the vessel from the stem.

* * * * *

(d) When only one masthead light is prescribed for a power-driven vessel, this light must be exhibited forward of amidships. For a vessel of less than 20 meters in length, the vessel shall exhibit one masthead light as far forward as is practicable.

* * * * *

11. In § 84.17, add paragraph (c) to read as follows:

**§ 84.17 Horizontal sectors.**

* * * * *

(c) If it is impracticable to comply with paragraph (b) of this section by exhibiting only one all-round light, two all-round lights shall be used suitably positioned or screened to appear, as far as practicable, as one light at a minimum distance of one nautical mile.

**Note to paragraph (c):** Tow unscreened all-round lights that are 1.28 meters apart or less will appear as one light to the naked eye at a distance of one nautical mile.

12. Add § 84.27 to read as follows:

**§ 84.27 High-speed craft.**

(a) The masthead light of high-speed craft with a length to breadth ratio of

less than 3.0 may be placed at a height related to the breadth lower than that prescribed in § 84.03(a)(1), provided that the base angle of the isosceles triangle formed by the side lights and masthead light when seen in end elevation is not less than 27 degrees as determined by the formula in paragraph (b) of this section.

(b) The minimum height of masthead light above sidelights is to be determined by the following formula: Tan $27° = {}_X/_Y$; where Y is the horizontal distance between the sidelights and X is the height of the forward masthead light.

## PART 87—ANNEX IV: DISTRESS SIGNALS

13. The authority citation for part 87 continues to read as follows:

**Authority:** 33 U.S.C. 2071; 49 CFR 1.46.

14. In § 87.1, revise paragraph (o) to read as follows:

### § 87.1 Need of assistance.

* * * * *

(o) Signals transmitted by radiocommunication systems, including survival craft radar transponders meeting the requirements of 47 CFR 80.1095.

* * * * *

## PART 88—ANNEX V: PILOT RULES

15. The authority citation for part 87 continues to read as follows:

**Authority:** 33 U.S.C. 2071; 49 CFR 1.46.

16. In § 88.13, revise the section heading, revise paragraphs (b) and (c), redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

### § 88.13 Lights on moored barges.

* * * * *

(b) Barges described in paragraph (a) of this section shall carry two unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile and meeting the technical requirements as prescribed in § 84.15 of this chapter.

(c) A barge or group of barges at anchor or made fast to one or more mooring buoys or other similar device, in lieu of the provisions of Inland Navigation Rule 30, may carry unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile that meet the requirements of § 84.15 of this chapter and shall be arranged as follows:

(1) Any barge that projects from a group formation, shall be lighted on its outboard corners.

(2) On a single barge moored in water where other vessels normally navigate on both sides of the barge, lights shall be placed to mark the corner extremities of the barge.

(3) On barges moored in group formation, moored in water where other vessels normally navigate on both sides of the group, lights shall be placed to mark the corner extremities of the group.

(d) The following are exempt from the requirements of this section:

(1) A barge or group of barges moored in a slip or slough used primarily for mooring purposes.

(2) A barge or group of barges moored behind a pierhead.

(3) A barge less than 20 meters in length when moored in a special anchorage area designated in accordance with § 109.10 of this chapter.

* * * * *

## PART 90—INLAND RULES: INTERPRETATIVE RULES

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

**Authority:** 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

18. Add § 90.5 to read as follows:

### § 90.5 Lights for moored vessels.

A *vessel at anchor* includes a vessel made fast to one or more mooring buoys or other similar device attached to the ocean floor. Such vessels may be lighted as a vessel at anchor in accordance with Rule 30, or may be lighted on the corners in accordance with 33 CFR 88.13.

19. Add § 90.7 to read as follows:

### § 90.7 Sidelights for unmanned barges.

An unmanned barge being towed may use the exception of COLREGS Rule 24(h). However, this exception only applies to the vertical sector requirements for sidelights.

Dated: January 28, 1998.

**Joseph J. Angelo,**

*Acting, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 98–2696 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–14–M

## DEPARTMENT OF COMMERCE

## Patent and Trademark Office

## 37 CFR Part 1

**[Docket No. 980108007–8007–01]**

**RIN 0651–AA97**

## Changes to Continued Prosecution Application Practice

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Patent and Trademark Office (Office) is amending its regulations to remove the requirement that the prior application of a continued prosecution application (CPA) must have been filed on or after June 8, 1995. This requirement is being removed in response to requests from the public.

**DATES:** *Effective Date:* February 4, 1998.

*Applicability Date:* This rule change applies to all continued prosecution applications filed on or after December 1, 1997.

*Comment Deadline Date:* To be ensured of consideration, written comments must be received on or before April 6, 1998. No public hearing will be held.

**ADDRESSES:** Comments should be sent by mail message over the Internet addressed to regreform@uspto.gov. Comments may also be submitted by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6916, marked to the attention of Hiram H. Bernstein. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments *via* the Internet. Where comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3¼ inch disk accompanied by a paper copy.

The comments will be available for public inspection in Suite 520, of One Crystal Park, 2011 Crystal Drive, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) *via* the Internet (address: ftp.uspto.gov). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** *Concerning this Interim Rule:* Hiram H. Bernstein or Robert W. Bahr, Senior Legal Advisors, by telephone at (703) 305–9285, or by mail addressed to: Box

Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6916, marked to the attention of Mr. Bernstein.

*Concerning § 1.53 in General:* John F. Gonzales, Fred A. Silverberg, or Robert W. Bahr, Senior Legal Advisors, at the above-mentioned telephone number.

**SUPPLEMENTARY INFORMATION:** Section 1.53(d), as amended on December 1, 1997, provides for the filing of a continued prosecution application (CPA). *See Changes to Patent Practice and Procedure;* Final Rule, 62 FR 53131 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63 (October 21, 1997) (Final Rule). Section 1.53(d)(1)(i) requires, *inter alia,* that the prior application of a CPA under § 1.53(d) had been filed on or after June 8, 1995. *See* Final Rule, 62 FR at 53186, 1203 *Off. Gaz. Pat. Office* at 112. The rationale for this requirement was:

> Permitting the continued prosecution application practice to be applicable in instances in which the prior application was filed prior to June 8, 1995, would result in confusion as to whether the patent issuing from the continued prosecution application is entitled to the provisions of 35 U.S.C. 154(c). As the continued prosecution application practice was not in effect prior to June 8, 1995, no patent issuing from a continued prosecution application is entitled to the provisions of 35 U.S.C. 154(c).
>
> [The] application number of a continued prosecution application will be the application number of the prior application, and the filing date indicated on any patent issuing from a continued prosecution application will be the filing date of the prior application (or, in a chain of continued prosecution applications, the filing date of the application immediately preceding the first continued prosecution application in the chain). Thus, any patent issuing from a continued prosecution application, where the prior application was filed prior to June 8, 1995, will indicate that the filing date of the application for that patent was prior to June 8, 1995, which will confuse the public (and possible [sic] the patentee) into believing that such patent is entitled to the provisions of 35 U.S.C. 154(c).

*See* Final Rule, 62 FR at 53144, 1203 *Off. Gaz. Pat. Office* at 74 (response to comment 25).

The rules of practice formerly permitted an applicant to obtain further examination by the filing of a file wrapper continuing (FWC) application under § 1.62. Effective December 1, 1997, however, FWC practice under § 1.62 was abolished in favor of CPA practice under § 1.54(d). *See* Final Rule, 62 FR at 53147, 1203 *Off. Gaz. Pat. Office* at 76–77. As discussed above, § 1.53(d)(1)(i) requires that the prior application of a CPA be filed on or after June 8, 1995. When the prior application was filed before June 8, 1995, and an applicant desires to file what would formerly have been a file wrapper continuation (or divisional), § 1.53 as adopted requires that such a continuation (or divisional) application be filed under § 1.53(b).

Section 1.53(b) requires that any application filed thereunder (including a continuation or divisional) contain a specification (including at least one claim) and any necessary drawing. While § 1.53(b) permits the submission of a rewritten specification (with all prior amendments incorporated), such an option is only practical to those who have the prior application in electronic form. For those applicants who do not have the prior application in electronic form, their only option is to submit a copy of the prior application (including any appendix) along with a copy of all the amendments made in the prior application, as well as copies of all other papers filed in the prior application (*e.g.,* information disclosure statements (IDS's), affidavits, declarations) that are to be considered in the continuing application.

Subsequent to the adoption of the change to § 1.53(d), the Office has received a number of comments indicating that it will take a considerable amount of time to prepare the papers required by § 1.53(b), even when copied from a prior application.

In view of these concerns, the Office is amending § 1.53(d)(1)(i) to eliminate the requirement that the prior application of a CPA had been filed on or after June 8, 1995. Section 1.53(d)(1)(i) as adopted will require that the prior application of a CPA be a nonprovisional application that is either: (1) complete as defined by § 1.51(b); or (2) the national stage of an international application in compliance with 35 U.S.C. 371.

As noted in the Final Rule (quoted above), no patent issuing from a CPA under § 1.53(d) is entitled to the provisions of 35 U.S.C. 154(c). To avoid confusion as to the term of any patent issuing on a CPA of an application filed before June 8, 1995, the Office will include a notice on any patent issuing on a CPA, other than a reissue or a design patent, that: (1) the patent issued on a CPA; and (2) the patent is subject to the twenty-year patent term set forth in 35 U.S.C. 154(a)(2). The term of a design patent is defined in 35 U.S.C. 173 as fourteen (14) years from the date of grant. The term of a reissue patent is defined in 35 U.S.C. 251 as the unexpired part of the term of the original patent. Since the term of any reissue or design patent is not affected by the filing of a CPA, no notice will be printed on either a reissue or a design patent.

Interested members of the public are invited to present written comments on the change to § 1.53(d)(1)(i) contained in this Interim Rule.

## Other Considerations

The Commissioner of Patents and Trademarks, pursuant to authority at 5 U.S.C. 553(b)(3)(B), finds good cause to adopt the changes made in this Interim Rule without prior notice and an opportunity for public comment, as such procedures are contrary to the public interest. Delay in the promulgation of this rule to provide notice and comment procedures would cause harm to those applicants who must file a continuation or divisional application promptly to meet the copendency requirements of 35 U.S.C. 120 and who would not be permitted to file a CPA due to the restriction in § 1.53(d)(1)(i). Moreover, immediate implementation of this rule is in the public interest because those applicants currently subject to the prohibition will benefit from the efficiencies and savings resulting from the new rule. *See Nat. Customs Brokers & Forwarders Ass'n* v. *U.S.*, 59 F.3d 1219, 1223–24 (Fed. Cir. 1995). Finally, pursuant to authority at 5 U.S.C. 553 (d)(1), this rule may be made immediately effective because it relieves a restriction.

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 6012 *et seq.*, are inapplicable.

This rule involves a collection of information subject to the Paperwork Reduction Act, 44 U.S.C. ch. 35, previously approved by the Office of Management and Budget under OMB Control Number 0651–0032. Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612 (October 26, 1987).

This rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

## List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of

information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

## PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

**Authority:** 35 U.S.C. 6, unless otherwise noted.

2. Section 1.53 is amended by revising paragraph (d)(1)(i) to read as follows:

**§ 1.53 Application number, filing date, and completion of application.**

* * * * *

(d) * * *

(1) * * *

(i) The prior nonprovisional application is either:

(A) Complete as defined by § 1.51(b); or

(B) The national stage of an international application in compliance with 35 U.S.C. 371; and

* * * * *

Dated: January 28, 1998.

**Bruce A. Lehman,**

*Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.*

[FR Doc. 98–2732 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–16–M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 73

**[FRL–5961–4]**

## Acid Rain Program; Auction Offerors to Set Minimum Prices in Increments of $0.01

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Title IV of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (the Act), authorized the Environmental Protection Agency (EPA) to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. The program utilizes an innovative system of marketable allowances that are allocated to electric utilities. Title IV mandates that EPA hold yearly auctions of allowances for a small portion of the total allowances allocated each year. Private parties may also offer their allowances for sale in the EPA auctions and specify a minimum sales price. Currently, the regulations require that an offeror's minimum sales price be in whole dollars (see 40 CFR part 73, Subpart E, § 73.70 ). No such restriction applies to auction bidders and since 1995, EPA has allowed bidders to submit bids in increments of less than a dollar. The restriction on minimum offer prices was originally intended to facilitate administrative ease, but allowing minimum sales prices in increments of $0.01 would not change the design, operation, or administrative burden of the auctions in any way. In addition, it would be consistent with the flexibility afforded auction bidders. Thus, EPA is proposing to amend the current regulations to allow offerors to submit their minimum offer price in increments of $0.01.

Because this rule revision was discussed in an Advance Notice of Proposed Rulemaking (see the June 6, 1996 **Federal Register**, Vol. 61, Number 110, pp. 28995–28998) and EPA received no adverse comments, this revision is being issued as a direct final rule.

**DATES:** This direct final rule will be effective on March 11, 1998, unless significant, adverse comments are received by March 6, 1998. If significant, adverse comments are received on this direct final rule, the direct final rule will be withdrawn through a notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Kenon Smith, U.S. Environmental Protection Agency, Acid Rain Division (6204J), 401 M Street SW, Washington, DC 20460, (202) 564–9164.

**SUPPLEMENTARY INFORMATION:** Any significant adverse comments received on this direct final rule, by the date listed above, will be addressed in a subsequent final rule. That final rule will be based on the rule revision that is noticed as a proposed rule in the Proposed Rule Section of this **Federal Register** and that is identical to this direct final rule.

EPA's Acid Rain Program established an innovative, market-based allowance trading system to reduce $SO_2$ emissions, one of the primary precursors of acid rain. Under this system, fossil fuel-fired power plants, the principal emitters of $SO_2$, were allotted tradeable allowances based on their past fuel usage and emissions. Each allowance entitles a boiler unit in a plant to emit 1 ton of $SO_2$ during or after the year specified in the allowance serial number. At the end of the year, the number of allowances a unit holds must equal or exceed the total emissions at that unit; otherwise, stringent penalties will apply. After the year 2000, the total number of allowances allocated each year will be about half of what the utility industry emitted in 1980.

Allowances may be bought, sold, or banked like any other commodity. If a unit has surplus allowances, it may sell them to units whose emissions levels exceed their allowance supply, or it may bank the allowances for future years.

Because the availability of allowances and allowance price information is crucial to ensure the economic efficiency of the emissions limitation program and facilitate the addition of new electric-generating capacity, title IV mandates that EPA hold or sponsor yearly auctions for a small portion of the total allowances allocated each year. The Act also allows private holders of allowances to use the auctions as a vehicle to sell excess allowances. Offerors can set a minimum sales price to insure that their allowances will not sell for less than that price. Both the auction bid prices and minimum offer prices are revealed to the public each year to better inform the allowance market.

### Administrative Requirements

*A. Executive Order 12866*

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because the rule does not meet any of the criteria listed above. As such, this action was not submitted to OMB for review.

*B. Unfunded Mandates Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this direct final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

*C. Paperwork Reduction Act*

This rule does not provide for any new collection of information.

Send comments regarding this collection of analysis or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, Information Policy Branch, EPA, 401 M Street, S.W. (Mail Code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

*D. Regulatory Flexibility Act*

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. Because this rule only affects the minimum price one may specify when offering allowances for sale in the allowance auction, the maximum economic impact it could have is $0.99 per allowance offered. In the 1997 allowance auction, no allowances were offered for sale in the private auction, so the economic impact was nil.

*E. Submission to Congress*

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).

*F. Miscellaneous*

In accordance with section 117 of the Act, issuance of this rule was preceded by consultation with any appropriate advisory committees, independent experts, and federal departments and agencies.

**List of Subjects in 40 CFR Part 73**

Environmental protection, Acid rain, Air pollution control, Electric utilities, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 29, 1998.

**Carol M. Browner,**

*Administrator, U.S. Environmental Protection Agency.*

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

## PART 73—[AMENDED]

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

**Authority:** 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 73.70 is amended by revising paragraph (c)(3) to read as follows:

**§ 73.70 Auctions.**

* * * * *

(c) * * *

(3) Any minimum price; and

* * * * *

[FR Doc. 98–2719 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300611; FRL–5768–1]**
**RIN 2070–AB78**

## Terbacil; Extension of Tolerance for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the herbicide terbacil and its metabolites in or on watermelon at 0.4 parts per million (ppm) for an additional 1-year period, to May 30, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on watermelon. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective February 4, 1998. Objections and requests for hearings must be received by EPA, on or before April 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300611], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300611], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk

may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Virginia Dietrich, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9059; e-mail:VDietrich@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of June 20, 1997 (62 FR 33557) (FRL–5718–7), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of terbacil and its metabolites in or on watermelon at 0.4 ppm, with an expiration date of May 30, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of terbacil on watermelon for this year's growing season due to no efficacious pesticide being registered for the control of weeds in watermelons since the suspension of dinoseb in 1987. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of terbacil on watermelon for control of weeds in watermelon.

EPA assessed the potential risks presented by residues of terbacil in or on watermelon. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 20, 1997 (62 FR 33557). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. Although this tolerance will expire and is revoked on May 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on watermelon after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in **ADDRESSES** at the beginning of this document.

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300611]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

## III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerancethat was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final

rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## IV. Submission to Congress and the General Accounting Office

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

## List of Subjects in 40 CFR Part 180

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

Dated: January 21, 1998.

**James Jones,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180— [AMENDED]

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

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

### § 180.209 [Amended]

2. In § 180.209, by amending paragraph (b) in the table, for the commodity ''watermelon'' by removing the date ''5/30/98'' and by adding in its place ''5/30/99''.

[FR Doc. 98–2613 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300610; FRL–5767–9]**
**RIN 2070–AB78**

## Oxyfluorfen; Extension of Tolerance for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the herbicide oxyfluorfen and its metabolites in or on strawberries at 0.05 parts per million (ppm) for an additional 1-year period, to April 15, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on strawberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective February 4, 1998. Objections and requests for hearings must be received by EPA, on or before April 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300610], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300610], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Virginia Dietrich, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9359; e-mail:VDietrich@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of April 25, 1997 (62 FR 20104) (FRL–5713–1), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of oxyfluorfen and its metabolites in or on strawberries at 0.05 ppm, with an expiration date of April 15, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of oxyfluorfen on strawberries for this year's growing season due to a lack of effective weed control materials.

After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of oxyfluorfen on strawberries for control of various broadleaf weeds in strawberries.

EPA assessed the potential risks presented by residues of oxyfluorfen in or on strawberries. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of April 25, 1997 (62 FR 20104). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. Although this tolerance will expire and is revoked on April 15, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in **ADDRESSES** at the beginning of this document.

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300610]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

## III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance that was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## IV. Submission to Congress and the General Accounting Office

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

## List of Subjects in 40 CFR Part 180

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

Dated: January 21, 1998.

**James Jones,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

### § 180.381 [Amended]

2. In § 180.381, by amending paragraph (b) in the table, for the commodity ''strawberries'' by removing the date ''April 15, 1998'' and by adding in its place ''4/15/99''.

[FR Doc. 98–2612 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 244 and 245

**[FRL–5957–2 ]**

## Clarification to Technical Amendments to Solid Waste Programs; Management Guidelines for Beverage Containers and Resource Recovery Facilities Guidelines

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; clarification of technical amendment.

**SUMMARY:** On January 7, 1998 (63 FR 683), the Environmental Protection Agency (EPA) published in the **Federal Register** a technical amendment correcting the effective date of a direct final rule published on December 31, 1996 (61 FR 69032) that concerned the removal of obsolete solid waste guidelines (40 CFR parts 244 and 245). The amendment corrected the effective date of the direct final rule to December 30, 1997 in order to be consistent with sections 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act. This document clarifies that the January 7, 1998 technical amendment established a new effective date of December 30, 1997 for the removal of 40 CFR part 245 but had no effect on the status of 40 CFR part 244 because of a prior notice that was published on May 2, 1997 (62 FR 24051) that announced the withdrawal, effective March 3, 1997, of the portion of the December 31, 1996 direct final rule which affected 40 CFR part 244.

**EFFECTIVE DATE:** January 22, 1998.

**FOR FURTHER INFORMATION CONTACT:** Deborah Gallman, 703–308–8600. U.S. EPA, Office of Solid Waste, 401 M Street, SW (5306W), Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** The December 31, 1996 action was a direct final rule that concerned the removal of obsolete solid waste management guidelines for beverage containers (40 CFR part 244) and guidelines for resource recovery facilities (40 CFR part 245). In the final rule, EPA stated that the rule would become effective March 3, 1997 unless adverse public comments were received on the accompanying proposal that was published the same day (61 FR 69059). The rule also stated that if adverse public comments were received then the final rule would be withdrawn.

Adverse public comments were received with regard to the removal of part 244 only. Therefore, on May 2, 1997, EPA published a partial withdrawal notice announcing that part 244 was not removed from the Code of Federal Regulations. The withdrawal notice also stated that the removal of 40 CFR part 245 was not affected and that part 245 was removed effective March 3, 1997.

Section 801 of the Congressional Review Act (CRA) precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). As stated in the January 7, 1998 technical amendment, EPA inadvertently failed to submit the December 31, 1996 direct final rule to Congress and to GAO as required by the CRA. After EPA discovered the error, the rule was submitted to both Houses of Congress and GAO on December 11, 1997. Subsequently, EPA issued the technical amendment to correct the March 3, 1997 effective date to December 30, 1997. However, the technical amendment did not clarify that the new effective date applied to the removal of 40 CFR part 245 only and had no effect on 40 CFR part 244 because of the prior partial withdrawal notice that was published on May 2, 1997. The proposal to remove part 244 from the CFR is pending further evaluation by EPA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is clarifying the effect of the January 7, 1998 technical amendment in light of the May 2, 1997 partial withdrawal notice. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements or change the legal status of the May 2, 1997, and January 7, 1998 actions, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 31, 1996 **Federal Register** notice.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory

Enforcement Fairness Act of 1996, EPA will submit 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; however, in accordance with 5 U.S.C. 808(2), this rule is effective on January 22, 1998. This rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

Dated: January 22, 1998.

**Matthew Hale,**

*Acting Director, Office of Solid Waste.*

[FR Doc. 98–2721 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 721

**[OPPTS–50620D; FRL–5757–3]**

**RIN 2070–AB27**

## Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-; Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- which is the subject of premanufacture notice (PMN) P–93–1111. This rule would require persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

**DATES:** This rule is effective March 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

*Electronic Availability:* Electronic copies of this document are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

This final SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of P–93–1111 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

### I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

### II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a ''User Fee Rule'' (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

### III. Background and Response to Comments

EPA published a direct final SNUR for the chemical substance, which was the subject of PMN P–93–1111 and a TSCA section 5(e) consent order issued by EPA in the **Federal Register** of March 1, 1995 (60 FR 11033) (FRL–4868–4). EPA received a notice of intent to submit adverse comments for this chemical substance following publication. Therefore, as required by § 721.160, the final SNUR for P–93–1111 was withdrawn on June 26, 1997 (62 FR 34413) (FRL–5723–3) and a proposed rule on the substance was issued on June 26, 1997 (62 FR 34424) (FRL–5723–4).

The background and reasons for the SNUR are set forth in the preamble to the proposed rule. EPA received one comment concerning the category of substances which is the basis of this rule but not on the issuance of this specific rule. EPA's response to the comment is discussed in this document and EPA is issuing the final rule.

The commenter agreed with hazard and risk concerns for release of 3,3′-dichlorobenzidine (DCB) from processing or use of DCB pigments at high temperatures (greater than 200 degrees centigrade) as described in the category statement for ''Dichlorobenzidine-based Pigments,'' found in the document ''TSCA New Chemicals Program (NCP) Chemical Categories'' (http://www.epa.gov/opptintr/chemcat). The commenter disagreed with EPA's category statement that pigments containing DCB may biodegrade in the environment over a period of months. The commenter stated that diarylide pigments containing DCB have been extensively tested for breakdown in living organisms and found to remain intact, that diarylide pigments do not bioaccumulate or bioconcentrate in organisms, and that there is no evidence for the biodegradation of diarylide pigments over a period of months. However, the commenter submitted no data to support the contention concerning the biodegradation of diaryl pigments.

EPA is neither disputing that DCB pigments are relatively stable nor

contending that these pigments bioaccumulate or bioconcentrate in living organisms. EPA's concern for substances that fall within this category are based solely on the potential release, toxicity, and bioaccumulation of DCB. As stated in the category statement and the section 5(e) consent order for P–93–1111, EPA is concerned for the potential anaerobic biodegradation of these types of pigments if they reach sediments. EPA does not have data that indicate these substances do not biodegrade in the environment over a period of months. If any currently ongoing or unpublished anaerobic or natural sediment biodegradation studies can address this issue, EPA encourages the commenter to submit these data. While EPA does not expect any significant anaerobic biodegradation of DCB pigments under typical conditions of processing, use, and disposal (as permitted under the terms of the TSCA section 5(e) consent order and SNUR), it is appropriate and reasonable to identify testing that would address potential risks to human health and the environment in the event of more widespread use and greater production volume, and consequently greater potential for release of and exposure to this (or other) DCB based pigments. This is especially prudent when considering the significant cancer potency of 3,3′-dichlorobenzidine. Although the existence of a category for DCB-based pigments does not represent a policy of regulation for such substances per se, EPA will continue to evaluate the potential risk for these types of PMN substances based on all relevant use, exposure, and environmental release information available at the time of the PMN submission.

## IV. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on March 1, 1995, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after March 1, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

## V. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in the final rule. The Agency's complete economic analysis is available in the public record for this final rule (OPPTS–50620D).

## VI. Public Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS–50620D (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Non Confidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

## VII. Regulatory Assessment Requirements

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

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has previously certified, as a generic matter that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL–5597–1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**.

This is not a major rule as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 721**

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 23, 1998.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

## PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.1907 to subpart E to read as follows:

**§ 721.1907 Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- (PMN P–93–1111) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5). The following additional statements shall appear on each label and Material Safety Data Sheet (MSDS) as specified by this paragraph: This substance decomposes in polymers or sheet metal coatings at temperatures greater than 280 °C to give 3,3′ DCB a suspect human carcinogen.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and processing or use at temperatures above 280 °C.

(iii) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1). When the substance is processed or used as a colorant for dyeing plastics, this section does not apply.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 98–2715 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–F

## GENERAL SERVICES ADMINISTRATION

## 41 CFR Part 302–10

**[FTR Amendment 69]**

**RIN 3090–AG62**

## Federal Travel Regulation; Ship Privately Owned Vehicles (POV)—International

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal Travel Regulation (FTR) to allow an agency to authorize or approve the return transportation of a privately owned vehicle (POV) from outside the continental United States (OCONUS). This amendment allows for POV shipments from OCONUS to continental United States (CONUS) in those cases where no POV was shipped to the OCONUS post of duty.

**DATES:** This final rule is retroactively effective May 14, 1997, and applies to an employee whose effective date of transfer (date the employee reports for duty at the new official station) is on or after May 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Calvin L. Pittman, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202–501–1538.

**SUPPLEMENTARY INFORMATION:** A multi-agency travel reinvention task force was organized in August 1994 under the auspices of the Joint Financial Management Improvement Program (JFMIP) to reengineer Federal travel rules and procedures. The task force developed 25 recommended travel management improvements published in a JFMIP report entitled *Improving Travel Management Governmentwide,* dated December 1995. One recommendation suggested giving agencies the flexibility to authorize and pay for the shipment of a POV (from a post of duty outside the United States), back to the United States even though a POV was not originally shipped to the overseas post of duty.

Currently the FTR specifies that a transferee whose POV was transported at Government expense to an official station outside the continental United States (CONUS) may have that vehicle returned to the United States at Government expense (not to exceed certain limitations). Thus, return of a POV (not necessarily the same vehicle) to the United States when the overseas tour is completed requires that a POV must have been shipped at Government expense to the overseas official station. Transferees who are relocated overseas without a POV, but who acquire a vehicle overseas, cannot avail themselves of this benefit.

This amendment provides agencies with the flexibility to authorize and pay for the shipment of a POV (from a post of duty outside the United States) back to the United States even though a POV was not originally shipped to the overseas post of duty.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

**List of Subjects in 41 CFR Part 302–10**

Government employees, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR chapter 302 is amended as follows:

## PART 302–10—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY STORAGE OF A PRIVATELY OWNED VEHICLE

1. The authority citation for part 302–10 is amended to read as follows:

**Authority:** 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

### Subpart C—Return Transportation of a POV From a Post of Duty

2. Section 302–10.200 is amended by revising the section heading and paragraph (b) to read as follows:

**§ 302–10.200 When am I eligible for transportation of a POV from my post of duty?**

* * * * *

(b) You have a POV at the post of duty.

3. Section 302–10.201 is amended by revising paragraphs (d) and (e) to read as follows:

**§ 302–10.201 In what situations will my agency pay to transport a POV transported from my post of duty?**

* * * * *

(d) You separate from Government service after completion of an agreed period of service at the post of duty where your agency determined the use of a POV to be in the interest of the Government;

(e) You separate from Government service prior to completion of an agreed period of service at the post of duty where your agency determined the use of a POV to be in the interest of the Government, and the separation is for reasons beyond your control and acceptable to your agency; or

* * * * *

4. Section 302–10.202 is amended by revising the section heading and paragraphs (a), (b), and (c) to read as follows:

**§ 302–10.202 When do I become entitled to transportation of my POV from my post of duty to an authorized destination?**

* * * * *

(a) Your agency determined the use of a POV at your post of duty was in the interest of the Government;

(b) You have a POV at your post of duty; and

(c) You have completed your service agreement.

Dated: January 15, 1998.

**David J. Barram,**

*Administrator of General Services.*

[FR Doc. 98–2630 Filed 2–3–98; 8:45 am]

BILLING CODE 6820–34–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Parts 43, 63, and 64

**[IB Docket No. 97–142, FCC 97–398]**

## Foreign Participation in the U.S. Telecommunications Market

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction; announcement of effective date.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of December 9, 1997, a summary of a Report and Order that it adopted on November 25, 1997, that created a new regulatory framework for international telecommunications. The amendment to part 43 of the final rule included an incorrect amendatory instruction. This document corrects that instruction.

Certain of the rules adopted in the November 25 Report and Order contained new or modified information collections. This document announces the effective date of those rules.

**EFFECTIVE DATE:** The amendments to §§ 43.61, 63.10, 63.11, 63.12, 63.13, 63.14, 63.17, 63.18, 63.21, 64.1001(c)–(d), and 64.1002 published at 62 FR 64741 will become effective on February 9, 1998. The correction to amendatory instruction 3 for § 43.61 is effective as of February 9, 1998.

**FOR FURTHER INFORMATION CONTACT:** Douglas A. Klein, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–0424; Susan O'Connell, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1484.

**SUPPLEMENTARY INFORMATION:**

1. In FR Doc. No. 97–32013, published in the **Federal Register** of December 9, 1997 (62 FR 64741), the Commission inadvertently stated that it was revising § 43.61(c). The Commission intended to add the provided language as a new paragraph (c). This correction corrects the amendatory language of the amendment published on December 9, 1997.

2. On January 12, 1998, the FCC released an Errata correcting that amendatory instruction and other minor errors in the Report and Order as released by the Commission.

3. Certain of the amendments to the Commission's rules imposed new or modified information collection requirements. We stated that ''the policies, rules, and requirements established in this decision shall take effect thirty days after publication in the **Federal Register** or in accordance with the requirements of 5 U.S.C. § 801(a)(3) and 44 U.S.C. § 3507. The Commission will publish a document at a later date announcing the effective date. The Commission reserves the right to reconsider the effective date of this decision if the WTO Basic Telecom Agreement does not take effect on January 1, 1998.'' The information collections were approved by the Office of Management and Budget on January 21, 1998. See OMB No. 3060–0686. The WTO Basic Telecom Agreement will enter into force on February 5, 1998. Because of congressional review procedures required by the Contract with America Advancement Act, 5 U.S.C. § 801–808, the rules adopted in the Report and Order cannot become effective before February 9, 1998. The Commission therefore concludes that it serves the public interest for the rules and policies adopted in the Report and Order to become effective on February 9, 1998. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

### Correction

In FR Doc. 97–32013, published on December 9, 1997 (62 FR 64741), make the following correction. On page 64752, in column 1, correct amendatory instruction 3 to read as follows:

3. § 43.61 is amended by adding paragraph (c) to read as follows:

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 98–2852 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[MM Docket No. 97–196, RM–9151]**

## Radio Broadcasting Services; LaFayette, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document deletes Channel 298A from LaFayette, Georgia, because this allotment cannot be implemented because of FAA restrictions. This deletion also requires the dismissal of a construction permit application for this allotment by Radix Broadcasting, Inc. (File No. BPH–920304MH). *See* 62 FR 47787, September 9, 1997. With this action the proceeding is terminated.

**EFFECTIVE DATE:** March 9, 1998.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418–2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order* in MM Docket No. 97–196 adopted January 14, 1998, and released January 23, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 20th Street, NW., Washington, DC 20036.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—[AMENDED]

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

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 298A at LaFayette.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98–2635 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[MM Docket No. 89–585; RM–7035, RM–7320]**

## Radio Broadcasting Services; Eatonton and Sandy Springs, GA; and Anniston and Lineville, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; Application for Review.

**SUMMARY:** This document dismisses an Application for Review filed by WNNX License Investment Co. directed to an *Order* dismissing an earlier Application for Review in this proceeding. 62 FR 38245 (July 17, 1997). With this action, the proceeding is terminated.

**EFFECTIVE DATE:** February 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418–2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Order*, MM Docket No. 89–585, adopted January 14, 1998, and released January 23, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3805, 1231 M Street, NW, Washington, DC 20036.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

**Authority:** 47 U.S.C. 154, 303, 334, 336.

Federal Communications Commission.

**Douglas W. Webbink,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98–2634 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–P

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## DEPARTMENT OF DEFENSE

## 48 CFR Parts 225 and 252

**[DFARS Case 97–D321]**

## Defense Federal Acquisition Regulation Supplement; Waiver of Domestic Source Restrictions

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 811 of the National Defense Authorization Act for Fiscal Year 1998. Section 811 limits the authority for waiver of the domestic source restrictions of 10 U.S.C. 2534(a).

**DATES:** *Effective date:* February 4, 1998.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before April 6, 1998, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, *Attn:* Ms. Amy Williams, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. *Telefax number:* (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 97–D321 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97–D321 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0131.

**SUPPLEMENTARY INFORMATION:**

### A. Background

10 U.S.C. 2534(a) contains domestic source restrictions applicable to procurement of the following items: buses, chemical weapons antidote, components for naval vessels (including air circuit breakers, anchor and mooring chain, and totally enclosed lifeboats), and ball and roller bearings. Section 810 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) added authority at 10 U.S.C. 2534(d) to permit DoD to waive the restrictions of 10 U.S.C. 2534(a), if application of the restrictions would impede the reciprocal procurement of defense items under a memorandum of understanding with a foreign country. On April 7, 1997, the Under Secretary of Defense (Acquisition and Technology) exercised this authority by waiving the restrictions of 10 U.S.C. 2534(a) for items procured from qualifying countries, i.e., the countries listed in DFARS 225.872–1. The provisions of the waiver were incorporated in an interim DFARS rule published in the **Federal Register** on June 24, 1997 (62 FR 34114) (DAC 91–12, Item XVIII, DFARS Case 96–319).

Section 811 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) amended 10 U.S.C. 2534 to provide that DoD may exercise the waiver authority of 10 U.S.C. 2534(d) only if the waiver is made for a particular item and for a particular foreign country. Therefore, the blanket waiver signed by the Under Secretary of Defense (Acquisition and Technology) on April 1, 1997, is no longer applicable. This interim rule amends DFARS Parts 225 and 252 to implement Section 811 of Public Law 105–85. DFARS Case 96–D319 has been closed into this new DFARS Case 97–D321.

### B. Regulatory Flexibility Act

This interim 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., because there are no known small business manufacturers of buses, air circuit breakers, or the restricted chemical weapons antidote; the acquisition of anchor and mooring chain, totally enclosed lifeboat survival systems, and noncommercial ball and roller bearings is presently restricted to domestic sources by defense appropriations acts; and the restrictions of 10 U.S.C. 2534(a) do not apply to purchases of commercial items incorporating ball or roller bearings. An initial regulatory flexibility analysis has therefore not been prepared. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D321 in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because this interim rule does not impose any information

collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

**D. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 811 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85). Section 811 limits the waiver authority provided in 10 U.S.C. 2534(d). Therefore, the waiver of the restrictions of 10 U.S.C. 2534(a), that was signed by the Under Secretary of Defense (Acquisition and Technology) on April 7, 1997, under the prior authority of 10 U.S.C. 2534(d), is no longer applicable. Section 811 was effective upon enactment on November 18, 1997. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

**List of Subjects in 48 CFR Parts 225 and 252**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 525 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

## PART 225—FOREIGN ACQUISITION

**225.872–1 [Amended]**

2. Section 225.872–1 is amended by removing paragraph (d).

3. Section 225.7005 is revised to read as follows:

**225.7005 Waiver of certain restrictions.**

Where provided for elsewhere in this subpart, the restrictions on certain foreign purchases under 10 U.S.C. 2534(a) may be waived as follows:

(a)(1) The Under Secretary of Defense (Acquisition and Technology), without power of delegation, may waive the restriction for a particular item for a particular foreign country upon determination that—

(i) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or

(ii) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(2) A notice of determination to exercise the waiver authority must be published in the **Federal Register** and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

(3) Such waiver shall be in effect for a period not greater than 1 year.

(b) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(1) The restriction would cause unreasonable delays.

(2) Satisfactory quality items manufactured in the United States or Canada are not available.

(3) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(4) Application of the restriction is not in the national security interests of the United States.

(5) Application of the restriction would adversely affect a U.S. company.

(c) The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

4. Section 225.7007–1 is revised to read as follows:

**225.7007–1 Restriction.**

In accordance with 10 U.S.C. 2534, do not acquire a multipassenger motor vehicle (bus) unless it is manufactured in the United States or Canada.

5. Section 225.7007–3 is revised to read as follows:

**225.7007–3 Exceptions.**

This restriction does not apply in any of the following circumstances:

(a) Buses manufactured outside the United States and Canada are needed for temporary use because buses manufactured in the United States or Canada are not available to satisfy requirements that cannot be postponed. Such use may not, however, exceed the lead time required for acquisition and delivery of buses manufactured in the United States or Canada.

(b) The requirement for buses is temporary in nature. For example, to meet a special, nonrecurring requirement or a sporadic and infrequent recurring requirement, buses manufactured outside the United States and Canada may be used for temporary periods of time. Such use may not, however, exceed the period of time needed to meet the special requirement.

(c) Buses manufactured outside the United States and Canada are available at no cost to the U.S. Government.

(d) The acquisition is for an amount that does not exceed the simplified acquisition threshold.

6. Section 225.7007–4 is revised to read as follows:

**225.7007–4 Waiver.**

The waiver criteria at 225.7005 apply to this restriction.

7. Section 225.7010–1 is amended by revising the introductory text to read as follows:

**225.7010–1 Restriction.**

In accordance with 10 U.S.C. 2534 and defense industrial mobilization requirements (see subpart 208.72), do not acquire chemical weapons antidote contained in automatic injectors, or the components for such injectors, unless the chemical weapons antidote or component is manufactured in the United States or Canada by a company that—

* * * * *

8. Section 225.7010–2 is revised to read as follows:

**225.7010–2 Exception.**

The restriction of 225.7010–1 does not apply if—the acquisition is for an amount that does not exceed the simplified acquisition threshold.

9. Section 227.7010–3 is revised to read as follows:

**225.7010–3 Waiver.**

The waiver criteria at 225.7005 apply to this restriction.

10. Section 225.7016–1 is revised to read as follows:

**225.7016–1 Restriction.**

In accordance with 10 U.S.C. 2534, do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States or Canada.

11. Section 225.7016–2 is amended in paragraph (b) by revising the first sentence to read as follows:

**225.7016–2 Exceptions.**

* * * * *

(b) Spare or repair parts are needed to support air circuit breakers manufactured outside the United States and Canada.* * *

12. Section 225.7016–3 is revised to read as follows:

**225.7016–3 Waiver.**

The waiver criteria at 225.7005 apply to this restriction.

13. Section 225.7019–1 is amended by revising paragraph (a) to read as follows:

**225.7019–1 Restrictions.**

(a) In accordance with 10 U.S.C. 2534, through fiscal year 2000, do not acquire ball and roller bearings or bearing components that are not manufactured in the United States or Canada.

* * * * *

14. Section 225.7019–3 is amended by removing paragraphs (a)(1)(iii) and (iv); redesignating paragraphs (a)(1)(v), (vi), and (vii) as paragraphs (a)(1)(iii), (iv), and (v), respectively; redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

**225.7019–3 Waiver.**

* * * * *

(b)(1) The Under Secretary of Defense (Acquisition and Technology), without power of delegation, may waive the restriction in 225.7019–1(a) for a particular foreign country upon determination that—

(i) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or

(ii) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(2) A notice of the determination to exercise the waiver authority must be published in the **Federal Register** and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

(3) Such waiver shall be in effect for a period not greater than 1 year.

* * * * *

15. Section 225.7022–1 is amended in paragraph (b) by revising the first sentence to read as follows:

**225.7022–1 Restrictions.**

* * * * *

(b) In accordance with 10 U.S.C. 2534(a)(3)(B), do not purchase a totally enclosed lifeboat that is a component of a naval vessel, unless it is manufactured in the United States or Canada. * * *

16. Section 225.7022–2 is amended by revising paragraph (b) to read as follows:

**225.7022–2 Exceptions.**

* * * * *

(b) Spare or repair parts are needed to support totally enclosed lifeboats manufactured outside the United States and Canada.

17. Section 225.7022–3 is revised to read as follows:

**225.7022–3 Waiver.**

The waiver criteria at 225.7005 apply only to the restriction of 225.7022–1(b).

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

18. Section 252.225–7016 is amended by revising the clause date and paragraph (c)(1) to read as follows:

**252.225–7016 Restriction on Acquisition of Ball and Roller Bearings.**

* * * * *

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (FEB 1998)

* * * * *

(c)(1) The restriction in paragraph (b) of this clause does not apply to the extent that the end items or components containing ball or roller bearings are commercial items.

* * * * *

19. Section 252.225–7029 is revised to read as follows:

**252.225–7029 Preference for United States or Canadian Air Circuit Breakers.**

As prescribed in 225.7016–4, use the following clause:

PREFERENCE FOR UNITED STATES OR CANADIAN AIR CIRCUIT BREAKERS (FEB 1998)

(a) Unless otherwise specified in its offer, the Contractor agrees that air circuit breakers for naval vessels provided under this contract shall be manufactured in the United States or Canada.

(b) Unless an exception applies or a waiver is granted under 225.7005 (a) or (b) of the Defense Federal Acquisition Regulation Supplement, preference will be given to air circuit breakers manufactured in the United States or Canada by adding 50 percent for evaluation purposes to the offered price of all other air circuit breakers.

[End of clause]

[FR Doc. 98–2649 Filed 2–3–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 572

**[Docket No. NHTSA–98–3296]**

**RIN 2127–AF41**

## Anthropomorphic Test Dummy; Occupant Crash Protection

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** In December 1996, NHTSA published a rule amending the specifications for the Hybrid III test dummy. The dummy is specified by the agency for use in compliance testing under its occupant protection standard. The amendments made minor modifications in the dummy's femurs and ankles to improve biofidelity. In response to petitions for reconsideration, this document makes minor technical amendments and corrections to that rule.

**DATES:** *Effective Date:* The amendments are effective March 6, 1998.

*Petitions:* Petitions for reconsideration must be received by March 23, 1998.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** For nonlegal issues: Stan Backaitis, Office of Crashworthiness Standards (telephone: 202–366–4912). For legal issues: Edward Glancy, Office of the Chief Counsel (202–366–2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

**SUPPLEMENTARY INFORMATION:** On December 26, 1996, NHTSA published in the **Federal Register** (61 FR 67953) a rule amending the specifications for the Hybrid III test dummy. The dummy is specified by the agency for use in compliance testing under Standard No. 208, *Occupant Crash Protection.* The amendments made minor modifications in the dummy's femurs and ankles to improve biofidelity. The agency

explained that while the modifications may have some minimal effect on head injury criterion (HIC), chest, and femur test data, the resulting improvement in data quality and reliability will more than offset these differences and make the dummy more useful in tests at the more severe impact conditions of some research and vehicle development programs.

The American Automobile Manufacturers Association (AAMA) submitted a petition for reconsideration of those amendments, requesting ''minor technical corrections to the hip-femur flexion test portion of the amendment based on discovery of some apparently inadvertent revisions in the transcript of the final rule.'' That organization noted that the revised dummy femur/hip joint and ankle/foot specifications were based on a cooperative effort between the auto industry, dummy manufacturers, and the agency. This work was conducted primarily through the Society of Automotive Engineers (SAE) Dummy Family Task Group.

AAMA explained its requested changes as follows:

Section 572.35(c)(1) of the amendment specifies the new hip joint femur flexion verification test. The first part of the associated performance specification states that ''* * * the femur rotation at 50 ft-lbf of torque will not be more than 36 deg. from its initial horizontal orientation * * *.'' The description of this requirement in the amendment ''preamble'' is ''* * * a load [moment] of 50 ft-lbf cannot be exceeded before the femur rotates 36 degrees.'' Data from SAE Task Group round-robin testing * * * show that some pelvises (especially new ones) would not meet the ''specification'' described in the preamble. This may cause some unintended confusion. Accordingly, we recommend the following minor change in the regulatory language for clarification, based on the SAE Task Group data: ''* * * the femur torque at 30 degrees rotation from its initial horizontal orientation will not be more than 70 ft-lbf * * *.''

The second part of the section 572.35(c)(1) performance specification states that ''* * * at 150 ft-lbf of torque [the femur rotation] will not be less than 46 deg. or more than 52 deg.'' The SAE Task Group agreed at its meeting of May 24, 1995 that the flexion angle range should be approximately 41 to 48 degrees at 150 ft-lbf of applied torque, based on the round robin testing data. The 46 to 52 degree angle range corresponded to a torque of 250 ft-lbf. The 150 ft-lbf torque with its corresponding angle range was chosen because (1) the 250 ft-lbf torque had been shown to damage the pelvis flesh, and (2) use of the 150 ft lbf torque would facilitate detection of changes in the hip-femur range of motion without significant damage to the pelvis. Thus, the 150 ft-lbf specification with its corresponding angle range is sufficient for the purpose of the verification test. Accordingly, consistent with the SAE Task Group data and round-off convention, we recommend the following minor change to the specification: ''* * * at 150 ft-lbf of torque will not be less than 40 deg. or more than 50 deg.''

NHTSA has evaluated the minor technical changes recommended by AAMA and concluded that they have merit. With respect to specification of femur torque at 30 deg. of rotation, AAMA's recommendation provides a more precise definition of when the torque measurement is to be made. The current specification allows the torque to reach the 50 ft-lbf value at any rotation at or before 36 deg. This torque level was established on the basis of tests with several modified, but previously used dummies whose femur flesh is somewhat less resistant to femur motion than that of newly manufactured dummies. At this range of femur rotation resistance torque is made up primarily of vinyl flesh compression rather than direct femur to pelvis bone bumper engagement. The slightly higher torque in the AAMA recommendation is small enough not to have any effect on the dummy's impact response, but will allow newly manufactured dummies to pass the calibration test specifications.

In addition, the AAMA recommendation to measure the resisting torque at a given femur rotation will provide a more consistent measurement of torque at a point just before the engagement with the femur bumper occurs instead of at any rotation before the 36 degrees are reached. Data submitted by AAMA show that torque measurement at various rotation levels would allow more variation than needed and would serve no purpose.

AAMA also recommended centering the femur rotation window at the 150 ft-lbf torque level by lowering the top limit from 52 deg to 50 deg. and the bottom limit from 46 deg. to 40 deg. This adjusted range is needed to accommodate new dummies whose new and unexercised flesh provides slightly more resistance to rotation than those dummies that have been previously exposed to impacts.

Both requested adjustments are minor corrections of the originally specified ranges. They have been derived and evaluated by the SAE Task Group. NHTSA agrees they are sufficient for the purpose of verification tests.

NHTSA also received a petition for reconsideration concerning the hip-femur flexion test portion of the amendment from Applied Safety Technologies Corporation, and a request for technical amendment from Toyota. Those companies raised similar issues to those raised by AAMA, and the amendments being made respond to their concerns.

AAMA also identified two typographical errors in the final rule. That organization stated:

First, in the drawing list table following section 572.31(a)(3), the date listed for the ''78051–123 arm assembly—complete (LH)'' is ''May 20, *1996*'' (emphasis added). We are not aware of any changes made to the arm assembly drawing in 1996, and believe that the correct year is 1978 (consistent with the date listed for the right hand arm assembly, for example). Second, paragraph (c)(2)(v) at the end of the revised section 572.35 regulatory text in the amendment transcript references ''paragraph (c)(3) of this section'' regarding operating environment and temperature specifications. There is no such paragraph in the revised section 572.35. Temperature and humidity conditions are specified in paragraph (b)(2)(ii) of revised section 572.35. Accordingly, this should be the reference in paragraph (c)(2)(v) of this section.

NHTSA agrees that these were typographical errors and is correcting them.

These minor technical amendments were not reviewed under E.O. 12866. NHTSA has considered costs and other factors associated with these amendments, and determined that these amendments do not change any of the conclusions in the December 1996 final rule regarding the impacts of that final rule, including the impacts on small businesses, manufacturers and other entities.

**List of Subjects in 49 CFR Part 572**

Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR part 572 as follows:

## PART 572—[AMENDED]

1. The authority citation for part 572 continues to read as follows:

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

## Subpart E—Hybrid III Dummy

2. Section 572.31 is amended by revising paragraph (a)(3) to read as follows:

### § 572.31 General description.

(a) * * *

(3) A General Motors Drawing No. 78051–218, revision S, titled ''Hybrid III Anthropomorphic Test Dummy,'' dated May 20, 1978, the following component assemblies, and subordinate drawings:

| Drawing No. | Revision |
|---|---|
| 78051–61 head assembly—complete, dated May 20, 1978. | (T) |
| 78051–90 neck assembly—complete, dated May 20, 1978. | (A) |
| 78051–89 upper torso assembly—complete, dated May 20, 1978. | (K) |
| 78051–70 lower torso assembly—complete, dated August 20, 1996, except for drawing No. 78051–55, ''Instrumentation Assembly—Pelvic Accelerometer,'' dated August 2, 1979. | (E) |
| 86–5001–001 leg assembly—complete (LH), dated March 26, 1996. | (A) |
| 86–5001–002 leg assembly—complete (RH), dated March 26, 1996. | (A) |
| 78051–123 arm assembly—complete (LH), dated May 20, 1978. | (D) |
| 78051–124 arm assembly—complete (RH), dated May 20, 1978. | (D) |

* * * * *

3. Section 572.35 is amended by revising paragraphs (c)(1) and (c)(2)(v) to read as follows:

**§ 572.35 Limbs.**

* * * * *

(c) *Hip joint-femur flexion.* (1) When each femur is rotated in the flexion direction in accordance with paragraph (c)(2) of this section, the femur torque at 30 deg. rotation from its initial horizontal orientation will not be more than 70 ft-lbf, and at 150 ft-lbf of torque will not be less than 40 deg. or more than 50 deg.

(2) * * *

(v) Operating environment and temperature are the same as specified in paragraph (b)(2)(ii) of this section.

* * * * *

Issued: January 29, 1998.

**Ricardo Martinez,**

*Administrator.*

[FR Doc. 98–2645 Filed 2–3–98; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 229

**[Docket No. 970515117–8020–02; I.D. 050797D]**

**RIN 0648–AJ85**

## Final List of Fisheries for 1998

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), NMFS publishes its final List of Fisheries (LOF) for 1998. The LOF classifies fisheries as Category I, II, or III, based on their levels of incidental mortalities and serious injuries of marine mammals. The LOF informs the public of the level of interactions with marine mammals in various U.S. commercial fisheries and of fisheries' requirements under certain MMPA provisions, to register for Authorization Certificates or carry fishery observers.

**DATES:** The changes to the List of Fisheries for 1998 are effective on February 4, 1998.

**ADDRESSES:** Information and registration materials for the region in which a fishery occurs and reporting forms may be obtained from the following addresses:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, Attn: Sandra Arvilla; NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702, Attn: Joyce Mochrie;

NMFS, Southwest Region, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Don Peterson;

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office; NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Ursula Jorgensen.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Hwy, Silver Spring, MD 20910 and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Cathy Eisele, Office of Protected Resources, 301–713–2322; Kim Thounhurst, Northeast Region, 508–281–9138; Kathy Wang, Southeast Region, 813–570–5312; Irma Lagomarsino, Southwest Region, 562–980–4016; Brent Norberg, Northwest Region, 206–526–6733; Steven Zimmerman, Alaska Region, 907–586–7235.

**SUPPLEMENTARY INFORMATION:** Publication of the LOF, which places all U.S. commercial fisheries into one of the three categories based on their levels of incidental mortality and serious injury of marine mammals, is required by section 118 of the MMPA. The proposed LOF for 1998 was published on May 27, 1997 (62 FR 28657). The fishery classification criteria are specified in the implementing regulations for section 118 of the MMPA (50 CFR part 229, see also a discussion of these criteria at 60 FR 45086, August 30, 1995).

### Registration Requirements for Vessels Participating in Category I and II Fisheries

Vessel or gear owners participating in Category I or II fisheries must register under the MMPA, as required by 50 CFR 229.4. Registration under the MMPA is administered by NMFS regional offices. Thus, the procedures and fees associated with registration differ between Regions. Under 50 CFR 229.4, the granting and administration of Marine Mammal Authorization Program (MMAP) certificates are to be integrated and coordinated with existing state and Federal fishery license, registration, or permit systems and related programs, whenever possible. Alternative registration programs have been implemented in the Alaska Region, Northwest Region, and Northeast Region. Special procedures and instructions for registration in these Regions are set forth below.

For fisheries in which the granting and administration of authorizations have not been integrated with state licensing, registration, or permitting systems, owners of vessels or gear must register with the NMFS Region in which their fishery operates. NMFS Regional Offices annually send renewal packets to participants in Category I or II fisheries that have previously registered with NMFS; however, it is the responsibility of fishers to ensure that registration or renewal forms are submitted to NMFS at least 30 days in advance of fishing. If fishers have not received a renewal packet by January 1, or are registering for the first time, requests for registration forms should be sent to the appropriate NMFS Regional Offices listed in this notice under **ADDRESSES**.

Registrants must return the registration form and a $25 fee to the NMFS Regional Office in which their fishery operates. NMFS will send the vessel owner an Authorization Certificate, a program decal, and reporting forms within 30 days of receiving the registration or renewal form and application fee.

**Region-Specific Registration Requirements for Category I and II Fisheries**

These registration procedures were outlined in the 1997 LOF (62 FR 33, January 2, 1997) and are clarified here to provide further guidance for registration in the Alaska, Northwest, and Northeast Regions.

*Alaska Region MMAP Registration for 1998*

The Alaska Region has integrated MMAP registration for Alaska Category II fisheries with the Alaska State system for registering commercial vessels and permitting commercial fishers. The information required for MMAP registration will be obtained by NMFS directly from the State of Alaska and will be automatically incorporated into the NMFS MMAP database. At the beginning of each calendar year, permitted vessel owners and set net operators will be sent an MMAP certificate for that year, an MMAP decal, the terms and conditions of the authorization, and marine mammal injury and mortality reporting forms. MMAP certificates will be valid only if presented with a valid fishing permit.

This integration process is in effect for all Category II Alaska fisheries. If a vessel owner plans to participate in one or more of the Category II fisheries and is licensed under the State of Alaska's Commercial Fisheries Entry Program, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee.

*Northwest Region MMAP Registration for 1998*

In the Northwest Region, the States of Washington and Oregon have agreed to continue issuing MMAP certificates for Category I and II fishers as part of the fishing license renewal process. MMAP certificates will be valid only if presented with a valid fishing permit. This integration process is in effect for all WA and OR Category II fisheries. If a vessel owner plans to participate in one or more of the Category II fisheries and has a license issued by the State of Oregon or Washington, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee.

*Northeast Region MMAP Registration for 1998*

The Northeast Region has integrated MMAP registration with Federal and/or state permit processes for the following fisheries: Gulf of Maine, U.S. mid-Atlantic lobster fishery; Atlantic squid, mackerel, butterfish trawl fishery; and the New England multispecies sink gillnet fishery (including, but not limited to, species as defined in the Northeast Multispecies Fishery Management Plan, dogfish, and monkfish). The Category I sink gillnet fishery includes regulated and non-regulated fisheries. Participants in the federally regulated segment will be registerd in the MMAP automatically through integration with the Federal permit process. Fishers who do not hold a Federal multispecies sink gillnet permit and who fish with sink gillnet in state waters and/or for non-regulated species (dogfish and monkfish) are required to submit an MMAP registration form and processing fee to NMFS.

Federally permitted participants in the squid, mackerel, butterfish trawl fishery will be registered in the MMAP automatically through integration with the Federal permit process. Fishers who do not hold a Federal squid, mackerel, butterfish trawl permit and who trawl for those species are required to submit an MMAP registration form and processing fee to NMFS.

State and federally permitted participants in the lobster trap/pot fishery will be registered in the MMAP automatically through integration with other permit processes.

For all participants in fisheries for which NMFS has integrated registration with permit processes, the vessel owner will be registered automatically in the MMAP and will not have to submit MMAP registration, or renewal materials, or a processing fee. At the beginning of each calendar year, these vessel owners will be sent an MMAP certificate for that year, the terms and conditions of the authorization, and marine mammal and injury reporting forms. MMAP certificates will be valid only if presented with a valid state or Federal fishing permit.

All fishers who plan to participate in any other Category I and II fisheries in the Northeast Region must register under the MMAP by submitting a registration or renewal form and the processing fee to NMFS.

*General Requirements*

Vessel owners or operators or fishers (in the case of non-vessel fisheries) in Category I, II, or III fisheries must comply with 50 CFR 229.6 and report all incidental mortality and injury of marine mammals during the course of commercial fishing operations to NMFS Headquarters. Instructions for submission of reports are found at 50 CFR 229.6.

Fishers participating in Category I and II fisheries may be required, upon request, to accommodate an observer aboard their vessels. Observer requirements may be found at 50 CFR 229.7.

*Responses to Comments*

NMFS received four letters of comment on the proposed LOF for 1998, which raised several points of concern. These issues and concerns are summarized and responded to as follows:

*General Comments*

*Comment 1:* How is a gillnet fishery down-listed? What specific levels of observer coverage for individual fisheries are considered enough?

*Response:* A fishery is down-listed when the annual mortality and serious injury estimate decreases to the level defined for the lower category. For example, a Category I fishery is defined as having an annual mortality and serious injury of any marine mammal stock that is greater than or equal to 50 percent of the Potential Biological Removal (PBR) level. Generally, a fishery is considered a Category II fishery if the annual mortality and serious injury of a stock in that fishery is greater than 1 percent and less than 50 percent of the PBR level. Thus, a Category I fishery will be down listed to Category II when the annual mortality and serious injury decreases to below 50 percent of the PBR level.

The level of observer coverage is indirectly related to the categorization of a particular fishery. Higher levels of observer coverage increase the confidence associated with mortality estimates. Lower levels of observer coverage may result in lower confidence levels and higher coefficients of variation (CVs) associated with mortality estimates. NMFS' guidelines for calculating PBR levels state that, if CVs are high, recovery factors can be adjusted downward for threatened and depleted stocks or stocks of unknown status (Wade and Angliss, 1997). Lower recovery factors may slightly decrease PBR values, which could affect the categorization of fisheries; however, the largest potential decrease in a recovery factor would be from 0.50 to 0.40, which would result in a relatively small decrease in the PBR level (approximately 20 percent). The likelihood that a small decrease in the PBR level would change the categorization of a fishery is remote.

The level of observer coverage is based on a desired CV that is needed for a particular estimate. For example, if the objective of sampling is to estimate total

harbor porpoise mortality, the quantity of sampling will be adjusted to attain a certain CV for the harbor porpoise mortality estimate. The CV of the bycatch estimate consists of two components: the CV of the harbor porpoise bycatch rate and the total fishing effort. These two components determine the CV of the total estimate and, therefore, are used in developing a sampling schedule.

**Comments on Fisheries in the Southwest Region**

*Comments on the California Squid Seine Fishery*

*Comment 2:* Technical changes that have occurred in the CA squid seine fishery since 1986 have greatly reduced the likelihood of incidental takes of marine mammals. Additionally, past mortalities of pilot whales and Risso's dolphins that have been attributed to this fishery are likely to have been incidences of intentional killing of marine mammals rather than of incidental takes. Before an observer program is considered for this recently recategorized Category II fishery, additional enforcement measures should be undertaken, in conjunction with fishery workshops, to ensure that fishers understand and comply with regulations regarding takings of marine mammals.

*Response:* In 1997, the California squid purse seine fishery was reclassified from Category III to Category II. This reclassification was based on the recent increase in squid purse seine fishing effort in California, the presence of pilot whales in the fishing areas, and historical evidence of serious injury and mortality of pilot whales in the fishery.

Under section 118 of the MMPA, NMFS has authority to place observers on any vessel participating in a Category I or II fishery. At this time, NMFS does not have the funding needed to support an observer program for the California squid purse seine fishery. However, due to the recent increase in fishing effort in the fishery, the California State Legislature recently established a new management and research program for the California squid purse seine fishery to regulate the fishery more efficiently and to collect information on the biology and status of market squid (*Loligo opalescens*). As part of this research program, observers may be placed on purse seine vessels to collect biological data. If the California Department of Fish and Game (CDFG) establishes an observer program for the fishery, NMFS will work with it to facilitate the collection of information on the fishery's interactions with marine mammals, both incidental and intentional.

The Southwest Region, NMFS, Office of Law Enforcement currently implements public outreach programs to educate fishers about Federal laws, including the Magnuson-Stevenson Fishery Conservation and Management Act, and the MMPA. These efforts include providing fishers with public outreach materials and speaking to them at the docks. NMFS will continue to investigate reports of MMPA violations in the California squid purse seine fishery (e.g., illegal shootings) and, if necessary, to better enforce the MMPA. NMFS will explore the possibility of conducting fishers education workshops.

*Comments on the California/Oregon Shark/Swordfish Drift Gillnet Fishery*

*Comment 3:* The California/Oregon shark/swordfish drift gillnet fishery should be renamed the ''Pacific pelagic drift net fishery'' to better describe both the type of gear employed and the variety of species harvested in this fishery.

*Response:* The California/Oregon drift gillnet fishery originally targeted common thresher shark. Swordfish and shortfin mako shark later became commercially important components of the catch. Although swordfish, common thresher shark, and mako shark represent approximately 90 percent of the total catch by the fishery, other species that are commonly caught and landed include opah, big-eye thresher, louvar, barracuda, Pacific bonito, dolphinfish, mackerel, sardines, white seabass, and tunas (Hanan, et al., 1993). NMFS agrees that the nets deployed by the fishery do not capture the fish by the gills, rather fish are captured by entanglement in the nets. Nevertheless, the CDFG currently refers to the fishery as ''California drift gill net fishery for thresher shark and swordfish'' and the Oregon Department of Fish and Wildlife (ODFW) refers to the Oregon portion of the fishery as the ''Oregon swordfish drift gill net fishery.'' Although NMFS recently issued a rule that requires new training, equipment, and gear modifications for operators and vessels participating in the fishery (62 FR 51805, October 3, 1997), the CDFG and the ODFW have the major responsibility for managing the fishery at this time. For this reason, NMFS will continue to defer to the CDFG's and the ODFW's designation of the fishery as the ''California/Oregon drift gillnet fishery for thresher shark and swordfish.''

*Comments on the California Shark and Bonito Longline Fishery*

*Comment 4:* The commenter questioned the classification of the California shark and bonito longline fishery as Category III because longline gear is known to interact with marine mammals in other fisheries.

*Response:* The California shark/bonito longline fishery is a very small fishery, with less than 10 vessels currently operating. NMFS has found no evidence of serious injuries or mortalities of marine mammals associated with this fishery; thus, this fishery will remain in Category III. However, because this longline fishery primarily targets swordfish, and secondarily targets tunas and several other fish species, NMFS is renaming this fishery the ''California offshore longline'' fishery.

*Comments on Fisheries in the Northwest Region*

*Oregon Swordfish Floating Longline and Oregon Blue Shark Floating Longline Fisheries*

*Comment 5:* The commenter questioned the classification of the Oregon swordfish longline and blue shark longline fishery as Category III because longline gear is known to interact with marine mammals in other fisheries.

*Response:* The commenter is mistaken; the fisheries to which the commenter refers are currently placed in Category II. The Oregon swordfish/blue shark surface longline fishery, a Category II fishery, was divided in 1997 into two separate Category II fisheries to parallel more closely the State developmental fisheries licensing practices for these fisheries. These fisheries were placed in Category II and renamed the ''OR swordfish floating longline fishery'' and the ''OR blue shark floating longline fishery.'' NMFS believes that the Oregon swordfish floating longline fishery and the Oregon blue shark floating longline fisheries should remain in Category II.

*Other Comments on Fisheries in the Northwest Region*

*Comment 6:* The commenter questioned the classification of the Washington, Oregon, North Pacific halibut longline fishery and the Washington, Oregon, California groundfish, bottomfish longline/set line fishery as Category III because longlines are known to interact with marine mammals in many areas.

*Response:* In recent years, there have been no marine mammal mortalities or serious injuries documented for the Washington, Oregon, North Pacific

halibut longline/set line fishery or for the Washington, Oregon, California groundfish, bottomfish longline/set line fishery. For this reason, these fisheries will remain Category III fisheries. If new information becomes available on incidental takes of marine mammals in this fishery, NMFS will examine the information and determine whether their current classifications are appropriate.

*Comments on Fisheries in the Alaska Region*

*Comment 7:* The commenter questioned the classification of the Alaska State waters sablefish longline/set line and the Alaska octopus/squid longline fisheries as Category III fisheries because longlines are known to interact with marine mammals in other areas.

*Response:* The Alaska State waters sablefish longline/set line fishery was reclassified from Category II to Category III in the 1996 LOF (60 FR 67085, December 28, 1995) based on the prohibition of intentional lethal takes of marine mammals. Based on Hill, *et al.* (''Alaska Marine Mammal Stock Assessments, 1996,'' Appendix 3, 1997) there were no reported mortalities or serious injuries of marine mammals in either of these fisheries between 1990 and 1994; however, these fisheries have never been observed. Additionally, there were no reported mortalities and serious injuries in these fisheries from logbook data collected between 1990 and 1993 or from stranding data between 1990 and 1994.

At a recent meeting of the AK Scientific Review Group (SRG), the SRG recommended that, in the absence of information, NMFS should not assume that fishers are likely to not report or under-report incidental mortalities of marine mammals in the course of commercial fishing operations. The current information supports the placement of these fisheries in Category III. NMFS will evaluate any new information that becomes available on the rate of serious injury and mortality incidental to these fisheries and will make changes to the LOF, as appropriate.

*Comment 8:* The commenter expressed concern about the lack of observer programs in Alaska and in other areas of the northwest and believes that many of the Category II and Category III gillnet fisheries are likely to have interactions that are greater than what is being documented. There are several fisheries in Alaska that are stated to have no documented interactions with marine mammals.

*Response:* NMFS agrees. A marine mammal observer program is needed in Alaska to provide the data needed to classify fisheries and to otherwise manage incidental takes of marine mammals. NMFS is in the process of implementing an observer program to monitor incidental takes of marine mammals by commercial fisheries in Alaskan nearshore waters. This multi-year program will focus on Category II Alaskan fisheries. Observers will be deployed in 8 of the 11 Category II fisheries in Alaska over the next 5 years. The observed fisheries will include: AK Cook Inlet salmon set gillnet, AK Cook Inlet drift gillnet, AK Yakutat salmon set gillnet, AK Bristol Bay set driftnet, AK Bristol Bay drift gillnet, AK Kodiak salmon set gillnet, Southeast AK salmon drift gillnet, and the AK Southeast salmon purse seine fishery. Funding limitations may delay the start date of this program until the summer of 1999.

**Comments on Fisheries in the Northeast and Southeast Regions**

*Comments on the U.S. Mid-Atlantic Coastal Gillnet Fishery*

*Comment 9:* The commenter questioned how NMFS can justify placing the mid-Atlantic gillnet fishery in Category II for bottlenose dolphin, when the PBR level for the coastal bottlenose dolphin stock is unknown. The commenter does not support the current calculated PBR level of 25 animals.

*Response:* The current PBR level for the Atlantic coastal bottlenose dolphin is based on the best available information. This PBR level was calculated based on survey results as described in the Atlantic Marine Mammal Stock Assessment Report and was peer-reviewed by the Atlantic Scientific Review Group, an external panel convened to advise NMFS on its Stock Assessment Reports (SARs). Although it is true that the exact stock structure for coastal bottlenose dolphins is unknown and, thus, the PBR level is necessarily uncertain, a significant body of knowledge regarding this stock structure is currently available and forms the basis for the current PBR level.

NMFS has allocated funding in 1998 to expand observer coverage in the mid-Atlantic coastal gillnet fishery and to support research aimed at defining the stock structure and at generating better population estimates for Atlantic coastal bottlenose dolphin. As new information becomes available on this fishery and on the rate of serious injury and mortality incidental to this fishery, NMFS will analyze this information to determine whether it warrants reclassification of the fishery.

*Comment 10:* The mid-Atlantic coastal gillnet fishery should not be subdivided at this time. It would be difficult to divide this fishery using the target species as the criterion because, in many of these fisheries, the target species differs from the predominant catch. In addition, data on marine mammal bycatch are so few that no justification exists at the time for sub-dividing a fishery by whether certain components seem more or less likely to interact with marine mammals. These fisheries should remain combined until complete and accurate data are collected on marine mammals bycatch levels and on the individual fisheries in this region.

*Response:* NMFS agrees. The information currently available on the composition and distribution of the Mid-Atlantic coastal gillnet fishery and on its incidental take levels is insufficient to identify distinct sub-components of this fishery.

NMFS has allocated funding in 1998 to expand its observer coverage of this fishery and to obtain a better characterization of the individual sub-components that comprise it.

*Comment 11:* Regarding the U.S. mid-Atlantic coastal gillnet fishery, NMFS should, where feasible, separate the sink gillnet fisheries according to their target species.

*Response:* See response to Comment 10.

*Comments on the North Atlantic Bottom Trawl Fishery*

*Comment 12:* Information presented at the serious injury and mortality workshop regarding the North Atlantic bottom trawl fishery documents interactions with marine mammals. Given the limited observer coverage to date in this fishery and the inability of NMFS to put observers aboard Category III vessels, this information supports recategorizing this fishery from Category III to Category II, so that additional information on marine mammal bycatch may be gathered.

*Response:* NMFS is evaluating the levels of marine mammal mortality and serious injuries that occur incidentally to this fishery. This fishery is difficult to characterize because it is not a homogeneous fishery relative to target species, spatial/temporal fishing operations, vessel fishing power and net size, and other factors.

There is currently a very low level of observer coverage in this fishery (approximately 1 percent). Because the fishery is so diverse, NMFS cannot assume that the likelihood of

encountering a marine mammal is similar in all areas where bottom trawl fishing occurs (i.e., inshore vs. offshore; low relief vs. more complex bottom topography). As a result, NMFS believes that it may be inappropriate to extrapolate this limited observer data across the entire fishery.

At this time, there are no clear trends in the current observer data set that can be used to discern problem fishing areas and identify sub-components of this fishery.

NMFS plans to conduct a thorough evaluation of marine mammal bycatch and total effort in this fishery in order to determine whether this fishery should be proposed for reclassification in 1999.

**Comments on Category III Trap/Pot Fisheries in the Atlantic**

*Comment 13:* The lobster pot fishery is a Category I fishery partly because of its potential to entangle marine mammals in its buoy lines. By analogy, all Category III trap/pot fisheries in the Atlantic should be placed in Category I.

*Response:* NMFS considers classification by analogy, especially if there is other information, such as a significant overlap in the distribution of marine mammals and the geographic location of a fishery, that provide evidence of a high probability of interactions with marine mammals. In this case, the NMFS Southeast Regional Office examined various pot/trap fisheries in waters of the southeastern U.S. and found that the geographic distribution of these fisheries generally precluded them from interacting with right whales. NMFS is continuing to analyze various trap/pot gear and the locations where they are used to determine whether the current classification is appropriate. If new information becomes available on the potential for serious injury or mortality of marine mammals in Atlantic trap/pot fisheries, NMFS will evaluate this information and propose recategorization as appropriate.

**Justification for the Categorization of Commercial Fisheries**

The following are justifications for the final categorization of commercial fisheries into Category I, II, or III based on the classification scheme defined in the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995). Discussions are presented for those fisheries specifically addressed in the proposed LOF for 1998 (62 FR 28657, May 27, 1997) as well as one additional fishery.

*U.S. Mid-Atlantic Coastal Gillnet Fishery*

The U.S. mid-Atlantic coastal gillnet fishery was classified in Category II in the 1992 LOF (57 FR 20328, May 12, 1992), based on a level of incidental mortality and serious injury of several species of marine mammals, including mid-Atlantic coastal bottlenose dolphins, harbor porpoise, and humpback whales. Since then, new information has become available on the interactions of this fishery with harbor porpoise and coastal bottlenose dolphin. NMFS has two sources of data on the level of serious injury and mortality in this fishery: (1) Observed mortalities of harbor porpoise on vessels targeting monkfish and dogfish; and (2) evidence from bottlenose dolphin strandings that were likely caused by interactions with gillnet vessels.

The Northeast Fisheries Science Center presented preliminary data at a recent meeting of the Mid-Atlantic Take Reduction Team that estimated that 192 harbor porpoise are killed annually in the observed portion of the fishery (NMFS, unpublished data). Based on observer data, the estimated serious injury and mortality of harbor porpoise in this segment of the fishery is under 50 percent of the PBR level for harbor porpoise, which is currently 483 animals; thus, the retention of this fishery in Category II on the basis of harbor porpoise takes is justified at this time based on extrapolations from currently available observer data.

Between 1993 and early October 15, 1997, stranded bottlenose dolphins from New Jersey to North Carolina were necropsied and examined for signs of fishery interaction. Examination of these carcasses indicated that an average of 17.6 bottlenose dolphins (86 total animals) which stranded annually during this time period had identifiable evidence of fishing interactions (NMFS, unpublished data). Of these animals, net marks were found on an average of 12.51 animals per year. The current PBR level for coastal bottlenose dolphin is 25 animals. A conservative interpretation of the stranding data suggests a level of incidental mortality of almost exactly 50 percent of the PBR level. Because this take level places this fishery on the borderline between Category II and Category I and is based exclusively on stranding data, a recategorization of this fishery from Category III to Category II is not appropriate at this time. NMFS plans to conduct a closer analysis of stranding data in the mid-Atlantic region and will propose a recategorization of the mid-Atlantic coastal gillnet fishery in 1999, if appropriate.

*U.S. Mid-Atlantic Tuna Gillnet Fishery*

In the proposed LOF for 1998, NMFS requested public comments on whether a new drift gillnet fishery was operating in the U.S. mid-Atlantic region, targeting primarily yellowfin and albacore tunas. NMFS did not receive any comments providing new information on this fishery. If a fishery is operating in the U.S. mid-Atlantic region targeting yellowfin and albacore tunas, as well as bonito and little tunny, NMFS believes that it is operating with similar mesh gear and in the same relatively shallow waters as the Mid-Atlantic coastal gillnet fishery. NMFS does not believe that this fishery operates in the same area or with the same gear as the ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet'' fishery. Accordingly, NMFS believes that this fishery should be considered part of the Mid-Atlantic coastal gillnet fishery. The Mid-Atlantic coastal gillnet fishery, as described in the 1997 LOF (62 FR 33, January 2, 1997), includes all gillnet fishing in coastal waters (inside the 100 fathom curve) from 72°30′W. long to the North Carolina-South Carolina border, except for gillnet fisheries in Category III that occur solely within bays, estuaries, and rivers. Subsequently, this fishery would be subject to any regulations that were developed for the Mid-Atlantic coastal gillnet fishery, including those specified in both the Large Whale Take Reduction Plan (62 FR 39157, July 22, 1997) and the Mid-Atlantic Take Reduction Plan (a proposed Mid-Atlantic Take Reduction Plan is expected to be published in February 1998).

NMFS will continue to collect information on the use of this gear and to characterize this component of the Mid-Atlantic coastal gillnet fishery with respect to geographic location, number of participants, target species, gear type, and fishing methods.

*Atlantic Pelagic Mid-water Herring Trawl Fishery*

The current LOF includes a classification for the Gulf of Maine, Southern North Atlantic, Gulf of Mexico coastal herring trawl fishery, a Category III fishery. Based on information provided in association with Framework Adjustment 18 to the Northeast Multispecies Fishery Management Plan (FMP), NMFS believes that a further-offshore Atlantic herring trawl fishery also exists. NMFS believes that this fishery is comprised of approximately 35 vessels operating in the Gulf of Maine/Northwest Atlantic. NMFS notes

that this pelagic mid-water trawl fishery utilizes different gear than the coastal fishery and may be operating at time and in locations where there is a high density of harbor porpoise.

This fishery utilizes gear that is similar to gear used in the Atlantic squid, mackerel, butterfish trawl fishery, a Category II fishery. Because of the similarities between these two fisheries, NMFS anticipates that several of the vessels that operate in the pelagic herring trawl fishery would be registered in the MMAP as participants in the Atlantic squid, mackerel, butterfish trawl fishery. In addition, NMFS believes that some herring trawl vessels may have permits to operate in the Northeast multispecies sink gillnet fishery.

Because this herring trawl fishery uses similar gear to the Atlantic squid, mackerel, butterfish trawl fishery (a Category II fishery), and because of its potential to interact with harbor porpoise, it should be considered a Category II fishery. However, in order to provide sufficient opportunity for public notice and comment, NMFS is not adding this fishery to the LOF at this time. NMFS plans to propose a categorization for this fishery in the proposed 1999 LOF and provide opportunity for public comment at that time.

Although this fishery is not being added to the LOF at this time, NMFS will continue to have the authority to place observers on pelagic herring trawl vessels under the Magnuson-Stevenson Fishery Conservation and Management Act. NMFS will continue to evaluate observer data and any new information that becomes available on the levels of serious injury and mortality of marine mammals that are occurring incidental to this fishery.

## Summary of Changes to the LOF for 1998

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 1997, and, thus, the majority of the LOF for 1997 remains valid in 1998. The following summarizes the changes in fishery definitions, the number of participants in a particular fishery, the species that are designated as strategic stocks, and the species and/or stocks that are incidentally killed or seriously injured that are made final by this LOF for 1998:

Fishery definition: The ''California shark/bonito longline'' fishery is renamed the ''California offshore longline'' fishery.

## Changes Resulting From Final 1996 SARs

The table in the LOF that lists all U.S. commercial fisheries, the number of participants in each fishery, and the marine mammal species and/or stocks incidentally killed or injured in each fishery was updated to include the following changes in the final SARs which were made available to the public on January 2, 1998 (63 FR 60):

The Western North Atlantic stock of offshore bottlenose dolphin was designated as non-strategic.

The stock formerly known as the Alaska harbor porpoise was divided into three stocks: the Southeast Alaska stock, the Gulf of Alaska stock, and the Bering Sea stock.

The Cook Inlet stock of beluga whales was designated as strategic.

## Other Changes to the LOF

The number of participants in both the ''North Carolina haul seine'' fishery and the southeastern ''U.S. Atlantic, Caribbean haul seine'' fishery were updated in 1998 and changes are reflected in Tables 1 and 2 of this document.

The Western North Atlantic stock of coastal bottlenose dolphin are added to the list of species that incurs incidental injury or mortality incidental to the ''Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot'' fishery.

The Hawaiian stock of spinner dolphin and the Hawaiian stock of short-finned pilot whale were added to the list of species that incurs incidental injury or mortality incidental to the ''Hawaii swordfish, tuna, billfish, mahi mahi, wahoo, oceanic, sharks longline/set line'' fishery.

The Southeast Alaska stock of harbor porpoise was added to the list of species that incurs incidental injury or mortality to the ''Alaska crustacean pot'' fishery.

In addition to these changes, there were several typographical errors that have been corrected since the publication of the tables in the 1998 proposed LOF. These corrections are reflected in Tables 1 and 2 of this final LOF.

## List of Fisheries

The following two tables list the commercial fisheries of the United States according to their assigned categories under section 118 of the MMPA. The estimated number of vessels is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the 1996 LOF is used. The information on which marine mammal species/stocks are involved in interactions with the fishery is based on observer data, logbook data, stranding reports, and fishers' reports. Only those species or stocks known to incur injury or mortality are listed. There are a few fisheries that are in Category II and have no recent documented interactions with marine mammals. Justifications for placement of these fisheries are found in the final LOF for 1996 (60 FR 45086, December 28, 1995).

### References

Wade Paul R. and Robyn P. Angliss, ''Guidelines for Assessing Marine Mammal Stocks: Report of the GAAMS Workshop April 3–5, 1996,'' Seattle, Washington, U.S. Dep. Commer., NOAA Tech. Memo. NMFS–OPR–12,93p, 1997.

Hanan, D.A., D.B. Holts, and A.L. Coan, Jr., ''The California drift gill net fishery for sharks and swordfish, 1981–82 through 1990–91.'' California Department of Fish and Game. Fish Bulletin 175, 1993.

TABLE 1.—LIST OF FISHERIES

[Commercial Fisheries in the Pacific Ocean]

| Fishery description | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| **Category I:** | | |
| Gillnet fisheries: | | |
| CA angel shark/halibut and other species large mesh (>3.5in) set gillnet fishery. | 58 | Harbor porpoise, central CA.<br>Common dolphin, short-beaked, CA/OR/WA.<br>Common dolphin, long-beaked CA.<br>California sea lion, U.S.<br>Harbor seal, CA.<br>Northern elephant seal, CA breeding. |
| CA/OR thresher shark/swordfish drift gillnet fishery | 150 | Steller sea lion, Eastern U.S.*+<br>Sperm whale, CA to WA.*+<br>Dall's porpoise, CA/OR/WA.<br>Pacific white sided dolphin, CA/OR/WA.<br>Risso's dolphin, CA/OR/WA.<br>Bottlenose dolphin, CA/OR/WA offshore.<br>Common dolphin, short-beaked, CA/OR/WA.<br>Common dolphin, long-beaked, CA.<br>Northern right whale dolphin, CA/OR/WA.<br>Short-finned pilot whale, CA/OR/WA.*<br>Baird's beaked whale, CA/OR/WA.<br>Mesoplodont beaked whales, CA to WA.*<br>Cuvier's beaked whale, CA/OR/WA.<br>Pygmy sperm whale, CA/OR/WA.*<br>California sea lion, U.S.<br>Harbor seal, CA.<br>Northern elephant seal, CA breeding.<br>Harbor porpoise, OR/WA coastal.<br>Humpback whale, CA/OR/WA-Mexico.<br>Minke whale, CA/OR/WA.* |
| **Category II:** | | |
| Gillnet fisheries: | | |
| AK Prince William Sound salmon drift gillnet | 518 | Steller sea lion, Western U.S.*+<br>Northern fur seal, North Pacific.*<br>Harbor seal, GOA.*<br>Pacific white-sided dolphin, central North Pacific.<br>Harbor porpoise, GOA.<br>Dall's porpoise, AK. |
| AK Peninsula/Aleutians salmon drift gillnet fishery | 164 | Northern fur seal, North Pacific.<br>Harbor seal, GOA.<br>Harbor seal, Bering Sea.<br>Harbor porpoise, Bering Sea.<br>Dall's porpoise, AK.<br>Northern (Alaska) sea otter, Pacific. |
| AK Peninsula/ Aleutian Island salmon set gillnet | 109 | Steller sea lion, Western U.S.*+<br>Harbor porpoise, Bering Sea. |
| Southeast Alaska salmon drift gillnet fishery | 452 | Steller sea lion, Eastern U.S.*+<br>Harbor seal, Southeast AK.<br>Pacific white-sided dolphin, central North Pacific.<br>Harbor porpoise, Southeast Alaska.<br>Dall's porpoise, AK.<br>Humpback whale, central North Pacific.*+ |
| AK Cook Inlet drift gillnet | 577 | Steller sea lion, Western U.S.*+<br>Harbor seal, GOA.*<br>Harbor porpoise, GOA.<br>Dall's porpoise, AK. |
| AK Cook Inlet salmon set gillnet | 625 | Steller sea lion, Western U.S.*+<br>Harbor seal, GOA.*<br>Harbor porpoise, GOA.<br>Beluga, Cook Inlet.* |
| AK Yakutat salmon set gillnet | 147 | Harbor seal, Southeast AK. |
| AK Kodiak salmon set gillnet | 173 | Harbor seal, GOA.*<br>Harbor porpoise, GOA. |

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

| Fishery description | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| AK Bristol Bay drift gillnet | 1,882. | Steller sea lion, Western U.S.*+<br>Northern fur seal, North Pacific.*<br>Harbor seal, Bering Sea.<br>Beluga, Bristol Bay.<br>Gray whale, Eastern North Pacific.<br>Spotted seal, AK.<br>Pacific white-sided dolphin, central North Pacific. |
| AK Bristol Bay set gillnet | 967 | Harbor seal, Bering Sea.<br>Beluga, Bristol Bay.<br>Gray whale, Eastern North Pacific.<br>Northern fur seal, North Pacific. |
| AK Metlakatla/Annette Island salmon drift gillnet | 60 | None documented. |
| WA Puget Sound Region salmon drift gillnet fishery (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded). | 900 | Harbor porpoise, inland WA.<br>Dall's porpoise, CA/OR/WA.<br>Harbor seal, WA inland. |
| Purse seine fisheries: | | |
| CA anchovy, mackerel, tuna purse seine | 150 | Bottlenose dolphin, CA/OR/WA offshore.<br>California sea lion, U.S.<br>Harbor seal, CA. |
| CA squid purse seine | 65 | Pilot whales, short-finned, CA/OR/WA. |
| AK Southeast salmon purse seine | 373 | Humpback whale, central North Pacific.+ |
| Trawl fisheries: | | |
| AK pair trawl | 2 | None documented. |
| Longline fisheries: | | |
| OR swordfish floating longline fishery | 2 | None documented. |
| OR blue shark floating longline fishery | 1 | None documented. |
| **Category III** | | |
| Gillnet fisheries: | | |
| AK Prince William Sound set gillnet | 22 | Steller sea lion, Western U.S.*+<br>Harbor seal, GOA. |
| AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet. | 1,690 | None documented. |
| AK roe herring and food/bait herring gillnet | 16 | None documented. |
| WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet. | 913 | None documented. |
| WA Willapa Bay drift gillnet | 82 | Harbor seal, OR/WA coast.<br>Northern elephant seal, CA breeding. |
| WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing). | 24 | Harbor seal, OR/WA coast. |
| WA, OR lower Columbia River (includes tributaries) drift gillnet. | 110 | California sea lion, U.S.<br>Harbor seal, OR/WA coast. |
| CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less. | 341 | None documented. |
| AK miscellaneous finfish set gillnet | 9 | Steller sea lion, Western U.S.+ |
| Hawaii gillnet | 115 | Bottlenose dolphin, Hawaiian.<br>Spinner dolphin, Hawaiian. |
| Purse seine, beach seine, round haul and throw net fisheries: | | |
| AK salmon purse seine (except Southeast Alaska, which is in Category II). | 763 | Harbor seal, GOA. |
| AK salmon beach seine | 8 | None documented. |
| AK roe herring and food/bait herring purse seine | 480 | None documented. |
| AK roe herring and food/bait herring beach seine | 7 | None documented. |
| AK Metlakatla purse seine | 10 | None documented. |
| AK octopus/squid purse seine | 6 | None documented. |
| CA herring purse seine | 100 | California sea lion, U.S.<br>Harbor seal, CA. |
| CA sardine purse seine | 120 | None documented. |
| AK miscellaneous finfish purse seine | 7 | None documented. |
| AK miscellaneous finfish beach seine | 1 | None documented. |
| WA salmon purse seine | 440 | None documented. |
| WA salmon reef net | 53 | None documented. |
| WA, OR herring, smelt, squid purse seine or lampara | 130 | None documented. |
| WA (all species) beach seine or drag seine | 235 | None documented. |
| HI purse seine | 18 | None documented. |
| HI opelu/akule net | 16 | None documented. |
| HI throw net, cast net | 47 | None documented. |

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

| Fishery description | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| Dip net fisheries: | | |
| WA, OR smelt, herring dip net | 119 | None documented. |
| CA squid dip net | 115 | None documented. |
| Marine aquaculture fisheries: | | |
| WA, OR salmon net pens | 21 | California sea lion, U.S. |
| CA salmon enhancement rearing pen | >1 | None documented. |
| OR salmon ranch | 1 | None documented. |
| Troll fisheries: | | |
| AK salmon troll | 1,278 | Steller sea lion, Eastern U.S.*+ |
| CA/OR/WA salmon troll | 4,300 | None documented. |
| AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll. | 1,354 | None documented. |
| HI trolling, rod and reel | 1,795 | None documented. |
| Guam tuna troll | 50 | None documented. |
| Commonwealth of the Northern Mariana Islands tuna troll | 50 | None documented. |
| American Samoa tuna troll | <50 | None documented. |
| HI net unclassified | 106 | None documented. |
| Longline/set line fisheries: | | |
| AK state waters sablefish long line/set line | 240 | None documented. |
| Miscellaneous finfish/groundfish longline/set line | 1,220 | Harbor seal, GOA.*<br>Harbor seal, Bering Sea.<br>Northern elephant seal, CA breeding.<br>Dall's porpoise, AK.<br>Steller sea lion, Western U.S.<br>Harbor seal, Southeast AK. |
| HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line. | 140 | Hawaiian monk seal, HI.*+<br>Humpback whale, Central North Pacific.*+<br>Risso's dolphin, Hawaiian.<br>Bottlenose dolphin, Hawaiian.<br>Spinner dolphin, Hawaiian.<br>Short-finned pilot whale, Hawaiian. |
| WA, OR North Pacific halibut longline/set line | 350 | None documented. |
| AK southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska sablefish longline/set line (federally regulated waters). | 226 | Northern elephant seal, CA breeding.<br>Killer whale, resident.<br>Killer whale, transient.<br>Steller sea lion, western U.S.<br>Pacific white-sided dolphin, central North Pacific. |
| AK halibut longline/set line (state and Federal waters) | 2,396 | Steller sea lion, Western U.S.*+ |
| WA, OR, CA groundfish, bottomfish longline/set line | 367 | None documented. |
| AK octopus/squid longline | 2 | None documented. |
| CA offshore longline | 10 | None documented. |
| Trawl fisheries: | | |
| WA, OR, CA shrimp trawl | 300 | None documented. |
| AK shrimp otter trawl and beam trawl (statewide and Cook Inlet). | 48 | None documented. |
| AK Gulf of Alaska groundfish trawl | 209 | Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific* Harbor seal, GOA* Dall's porpoise, AK Northern elephant seal, CA breeding. |
| AK Bering Sea and Aleutian Islands groundfish trawl | 186 | Steller sea lion, Western U.S.*+<br>Northern fur seal, North Pacific*.<br>Killer whale, resident.<br>Killer whale, transient.<br>Pacific white-sided dolphin, central.<br>North Pacific.<br>Harbor porpoise, Bering Sea.<br>Harbor seal, Bering Sea.<br>Harbor seal, GOA*.<br>Bearded seal, AK.<br>Ringed seal, AK.<br>Dall's porpoise, AK.<br>Ribbon seal, AK.<br>Northern elephant seal, CA breeding.<br>Northern (Alaska) sea otter, Pacific.<br>Walrus, Pacific. |
| AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl. | 8 | None documented. |

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

| Fishery description | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| AK miscellaneous finfish otter or beam trawl | 391 | None documented. |
| AK food/bait herring trawl | 3 | None documented. |
| WA, OR, CA groundfish trawl | 585 | Steller sea lion, Western U.S.*+<br>Northern fur seal, North Pacific*.<br>Pacific white-sided dolphin, central.<br>North Pacific.<br>Dall's porpoise, CA/OR/WA.<br>California sea lion, U.S.<br>Harbor seal, OR/WA coast. |
| Pot, ring net, and trap fisheries: | | |
| AK crustacean pot | 1,511 | Harbor porpoise, Southeast Alaska. |
| AK Bering Sea, Gulf of Alaska finfish pot | 486 | Harbor seal, GOA*.<br>Harbor seal, Bering Sea.<br>Northern (AK) sea otter, Pacific. |
| WA, OR, CA sablefish pot | 176 | None documented. |
| WA, OR, CA crab pot | 1,478 | None documented. |
| WA, OR shrimp pot & trap | 254 | None documented. |
| CA lobster, prawn, shrimp, rock crab, fish pot | 608 | None documented. |
| OR, CA hagfish pot or trap | 25 | None documented. |
| HI lobster trap | 15 | Hawaiian monk seal, HI.*+ |
| HI crab trap | 22 | None documented. |
| HI fish trap | 19 | None documented. |
| HI shrimp trap | 5 | None documented. |
| Handline and jig fisheries: | | |
| AK North Pacific halibut handline and mechanical jig | 119 | None documented. |
| AK other finfish handline and mechanical jig | 598 | None documented. |
| AK octopus/squid handline | 2 | None documented. |
| WA groundfish, bottomfish jig | 679 | None documented. |
| HI aku boat, pole and line | 54 | None documented. |
| HI inshore handline | 650 | Bottlenose dolphin, HI. |
| HI deep sea bottomfish | 434 | Hawaiian monk seal, HI.*+ |
| HI tuna | 144 | Rough-toothed dolphin, HI. Bottlenose dolphin, HI Hawaiian monk seal, HI.*+ |
| Guam bottomfish | <50 | None documented. |
| Commonwealth of the Northern Mariana Islands bottomfish | <50 | None documented. |
| American Samoa bottomfish | <50 | None documented |
| Harpoon fisheries: | | |
| CA swordfish harpoon | 228 | None documented. |
| Pound net/weir fisheries: | | |
| AK Southeast Alaska herring food/bait pound net | 4 | None documented. |
| WA herring brush weir | 1 | None documented. |
| Bait pens: | | |
| WA/OR/CA bait pens | 13 | None documented. |
| Dredge fisheries: | | |
| Coastwide scallop dredge | 106 | None documented. |
| Dive, hand/mechanical collection fisheries: | | |
| AK abalone | 44 | None documented. |
| AK dungeness crab | 2 | None documented. |
| AK herring spawn-on-kelp | 314 | None documented. |
| AK urchin and other fish/shellfish | 17 | None documented. |
| AK clam hand shovel | 53 | None documented. |
| AK clam mechanical/hydraulic fishery | 104 | None documented. |
| WA herring spawn-on-kelp | 4 | None documented. |
| WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection. | 637 | None documented. |
| CA abalone | 111 | None documented |
| CA sea urchin | 583 | None documented. |
| HI squiding, spear | 267 | None documented. |
| HI lobster diving | 6 | None documented. |
| HI coral diving | 2 | None documented. |
| HI handpick | 135 | None documented. |
| WA shellfish aquaculture | 684 | None documented. |
| WA, CA kelp | 4 | None documented. |
| HI fish pond | 10 | None documented. |

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

| Fishery description | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| Commercial passenger fishing vessel (charter boat) fisheries: | | |
| AK, WA, OR, CA commercial passenger fishing vessel | >17,000 (16,276 AK only) | None documented. |
| AK octopus/squid ''other'' | 19 | None documented. |
| HI ''other'' | 114 | None documented. |
| Live finfish/shellfish fisheries: | | |
| CA finfish and shellfish live trap/hook-and-line | 93 | None documented. |

* Marine mammal stock is strategic.
+ Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA.
List of Abbreviations Used in Table 1.
AK—Alaska.
CA—California.
HI—Hawaii.
OR—Oregon.
GOA—Gulf of Alaska.
WA—Washington.

TABLE 2.—LIST OF FISHERIES

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

| Description of fishery | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| **Category I** | | |
| Gillnet fisheries: | | |
| Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet. | 15 | North Atlantic right whale, WNA.*+<br>Humpback whale, WNA.*+<br>Sperm whale, WNA.*+<br>Dwarf sperm whale, WNA.*<br>Pygmy sperm whale, WNA.*<br>Cuvier's beaked whale, WNA.*<br>True's beaked whale, WNA.*<br>Gervais' beaked whale, WNA.*<br>Blainville's beaked whale, WNA.*<br>Risso's dolphin, WNA.<br>Long-finned pilot whale, WNA.*<br>Short-finned pilot whale, WNA.*<br>White-sided dolphin, WNA.<br>Common dolphin, WNA.*<br>Atlantic spotted dolphin, WNA.*<br>Pantropical spotted dolphin, WNA.*<br>Striped dolphin, WNA.<br>Spinner dolphin, WNA.<br>Bottlenose dolphin, WNA offshore.<br>Harbor porpoise, GME/BF.* |
| Northeast multispecies sink gillnet (including species as defined in the Multispecies Fisheries Management Plan and spiny dogfish and monkfish). | 341 | North Atlantic right whale, WNA.*+<br>Humpback whale, WNA.*+<br>Minke whale, Canadian east coast.<br>Killer whale, WNA.<br>White-sided dolphin, WNA.<br>Striped dolphin, WNA.<br>Bottlenose dolphin, WNA offshore.<br>Harbor porpoise, GME/BF.*<br>Harbor seal, WNA.<br>Gray seal, Northwest North Atlantic.<br>Common dolphin.<br>Fin whale.<br>Spotted dolphin.<br>False killer whale.<br>Harp seal. |

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

| Description of fishery | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| Longline fisheries: | | |
| Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline. | 361 | Humpback whale, WNA.*+<br>Minke whale, Canadian east coast.<br>Risso's dolphin, WNA.<br>Long-finned pilot whale, WNA.*<br>Short-finned pilot whale, WNA.*<br>Common dolphin, WNA.*<br>Atlantic spotted dolphin, WNA.*<br>Pantropical spotted dolphin, WNA.*<br>Striped dolphin, WNA.<br>Bottlenose dolphin, WNA offshore.<br>Bottlenose dolphin, GMX Outer. Continental Shelf.<br>Bottlenose dolphin, GMX Continental. Shelf Edge and Slope.<br>Atlantic spotted dolphin, Northern. GMX.<br>Pantropical spotted dolphin, Northern GMX.<br>Risso's dolphin, Northern GMX.<br>Harbor porpoise, GME/BF.* |
| Trap/pot fisheries—lobster | | |
| Gulf of Maine, U.S. mid-Atlantic lobster trap/pot | 13,000 | North Atlantic right whale, WNA.*+<br>Humpback whale, WNA.*+<br>Fin whale, WNA.*<br>Minke whale, Canadian east coast.<br>White-sided dolphin, WNA.<br>Harbor seal, WNA. |
| **Category II** | | |
| Gillnet fisheries: | | |
| U.S. mid-Atlantic coastal gillnet fishery | >655 | Humpback whale, WNA.*+<br>Minke whale, Canadian east coast.<br>Bottlenose dolphin, WNA offshore.<br>Bottlenose dolphin, WNA coastal.*+<br>Harbor porpoise, GME/BF.* |
| Gulf of Maine small pelagics surface gillnet | 133 | Humpback whale, WNA.*+<br>White-sided dolphin, WNA.<br>Harbor seal, WNA. |
| Southeastern U.S. Atlantic shark gillnet fishery | 10 | Bottlenose dolphin, WNA coastal.*<br>North Atlantic right whale, WNA.*+ |
| Trawl fisheries: | | |
| Atlantic squid, mackerel, butterfish trawl | 620 | Common dolphin, WNA.*<br>Risso's dolphin, WNA.*<br>Long-finned pilot whale, WNA.*<br>Short-finned pilot whale, WNA.*<br>White-sided dolphin, WNA. |
| Haul seine fisheries: | | |
| North Carolina haul seine | 25 | Bottlenose dolphin, WNA coastal.*<br>Harbor porpoise, GME/BF.* |
| Stop net fisheries: | | |
| North Carolina roe mullet stop net | 13 | Bottlenose dolphin, WNA coastal.* |
| **Category III:** | | |
| Gillnet fisheries: | | |
| Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet. | 32 | Humpback whale, WNA.*+<br>Bottlenose dolphin, WNA coastal.*+<br>Harbor porpoise, GME/BF.* |
| Long Island Sound inshore gillnet | 20 | Humpback whale, WNA.*+<br>Bottlenose dolphin, WNA coastal.*+<br>Harbor porpoise, GME/BF.* |
| Delaware Bay inshore gillnet | 60 | Humpback whale, WNA.*+<br>Bottlenose dolphin, WNA coastal.*+<br>Harbor porpoise, GME/BF.* |
| Chesapeake Bay inshore gillnet | 45 | None documented. |
| North Carolina inshore gillnet | 94 | None documented. |
| Gulf of Mexico inshore gillnet (black drum, sheepshead, weakfish, mullet, spot, croaker. | (1) | None documented. |

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

| Description of fishery | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet (includes waters of North Carolina). | 1,285 | Minke whale, Canadian east coast<br>Harbor porpoise, GME/BF.*<br>Bottlenose dolphin, WNA coastal.*+ |
| Gulf of Mexico coastal gillnet (includes mullet gillnet fishery in LA and MS). | (1) | Bottlenose dolphin, Western GMX coastal.<br>Bottlenose dolphin, Northern GMX coastal.<br>Bottlenose dolphin, Eastern GMX coastal.<br>Bottlenose dolphin, GMX Bay, Sound, & Estuarine.* |
| Florida east coast, Gulf of Mexico pelagics king and Spanish mackerel gillnet. | 271 | Bottlenose dolphin, Western GMX coastal.<br>Bottlenose dolphin, Northern GMX coastal.<br>Bottlenose dolphin, Eastern GMX coastal.<br>Bottlenose dolphin, GMX Bay, Sound, & Estuarine.* |
| Trawl fisheries: | | |
| North Atlantic bottom trawl | 1,052 | Long-finned pilot whale, WNA.*<br>Short-finned pilot whale, WNA.*<br>White-sided dolphin, WNA.<br>Striped dolphin, WNA.<br>Bottlenose dolphin, WNA offshore. |
| Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl. | >18,000 | Bottlenose dolphin, WNA coastal.*+ |
| Gulf of Maine northern shrimp trawl | 320 | None documented. |
| Gulf of Maine, Mid-Atlantic sea scallop trawl | 215 | None documented. |
| Gulf of Maine, U.S. mid-Atlantic, coastal herring trawl | 5 | None documented. |
| Mid-Atlantic mixed species trawl | >1,000 | None documented. |
| Gulf of Mexico butterfish trawl | 2 | Atlantic spotted dolphin, Eastern GMX.<br>Pantropical spotted dolphin, Eastern GMX. |
| Georgia, South Carolina, Maryland whelk trawl | 25 | None documented. |
| Calico scallops trawl | 200 | None documented. |
| Bluefish, croaker, flounder trawl | 550 | None documented. |
| Crab trawl | 400 | None documented. |
| U.S. Atlantic monkfish trawl | (1) | Common dolphins, WNA.* |
| Marine aquaculture fisheries: | | |
| Finfish aquaculture | 48 | Harbor seals, WNA. |
| Shellfish aquaculture | (1) | None documented. |
| Purse seine fisheries: | | |
| Gulf of Maine Atlantic herring purse seine | 30 | Harbor porpoise, GME/BF.*<br>Harbor seal, WNA.<br>Gray seal, Northwest North Atlantic. |
| Mid-Atlantic menhaden purse seine | 22 | Bottlenose dolphin, WNA coastal.*+ |
| Gulf of Maine menhaden purse seine | 50 | None documented. |
| Gulf of Mexico menhaden purse seine | 50 | Bottlenose dolphin, Northern GMX coastal. |
| Florida west coast sardine purse seine | 10 | Bottlenose dolphin, Eastern GMX coastal. |
| U.S. Atlantic tuna purse seine | (1) | None documented. |
| U.S. mid-Atlantic hand seine | >250 | None documented. |
| Longline/hook-and-line fisheries: | | |
| Gulf of Maine tub trawl groundfish bottom longline/hook-and-line. | 46 | Harbor seal, WNA.<br>Gray seal, Northwest North Atlantic. |
| Southeastern U.S. Atlantic, Gulf of Mexico snapper-grouper and other reef fish bottom longline/hook-and-line. | 3,800 | None documented. |
| Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line. | 124 | None documented. |
| Gulf of Maine, U.S. mid-Atlantic tuna, shark swordfish hook-and-line/harpoon. | 26,223 | None documented. |
| Southeastern U.S. Atlantic, Gulf of Mexico & U.S. mid-Atlantic pelagic hook-and-line/harpoon. | 1,446 | None documented. |
| Trap/pot fisheries—lobster, crab, and fish: | | |
| Gulf of Maine, U.S. mid-Atlantic mixed species trap/pot | 100 | North Atlantic right whale, WNA.*+<br>Humpback whale, WNA.*+<br>Minke whale, Canadian east coast.<br>Harbor porpoise, GME/BF.*<br>Harbor seal, WNA.<br>Gray seal, Northwest North Atlantic. |
| U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot. | 30 | None documented. |
| U.S. mid-Atlantic eel trap/pot | >700 | None documented. |

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

| Description of fishery | Estimated No. of vessels/persons | Marine mammal species/stocks incidentally injured/killed |
|---|---|---|
| Atlantic Ocean, Gulf of Mexico blue crab trap/pot | 20,500 | Bottlenose dolphin, WNA coastal.*<br>Bottlenose dolphin, Western GMX coastal.<br>Bottlenose dolphin, Northern GMX coastal.<br>Bottlenose dolphin, Eastern GMX coastal.<br>Bottlenose dolphin, GMX Bay, Sound, & Estuarine.*<br>West Indian manatee, FL.*+ |
| Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot. | 750 | West Indian manatee, FL.*+<br>Bottlenose dolphin, WNA coastal.*+ |
| Stop seine/weir/pound fisheries: | | |
| Gulf of Maine herring and Atlantic mackerel stop seine/weir | 50 | North Atlantic right whale, WNA.*<br>Humpback whale, WNA.*+<br>Minke whale, Canadian east coast.<br>Harbor porpoise, GME/BF.*<br>Harbor seal, WNA.<br>Gray seal, Northwest North Atlantic. |
| U.S. mid-Atlantic mixed species stop/seine/weir (except the North Carolina roe mullet stop net). | 500 | None documented. |
| U.S. mid-Atlantic crab stop seine/weir | 2,600 | None documented. |
| Dredge fisheries: | | |
| Gulf of Maine, U.S. mid-Atlantic sea scallop dredge | 233 | None documented. |
| U.S. mid-Atlantic offshore surfclam and quahog dredge | 100 | None documented. |
| Gulf of Maine mussel | >50 | None documented. |
| U.S. mid-Atlantic/Gulf of Mexico oyster | 7,000 | None documented. |
| Haul seine fisheries: | | |
| Southeastern U.S. Atlantic, Caribbean haul seine | 25 | None documented. |
| Beach seine fisheries: | | |
| Caribbean beach seine | 15 | West Indian manatee, FL.+ |
| Dive, hand/mechanical collection fisheries: | | |
| Gulf of Maine urchin dive, hand/mechanical collection | >50 | None documented. |
| Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection. | 20,000 | None documented. |
| Commercial passenger fishing vessel (charter boat) fisheries: | | |
| Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel. | 4,000 | None documented. |

* Marine mammal stock is strategic.
+ Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA.
[1] Unknown.
List of Abbreviations Used in Table 2.
FL—Florida.
GA—Georgia.
GME/BF—Gulf of Maine/Bay of Fundy.
GMX—Gulf of Mexico.
NC—North Carolina.
SC—South Carolina.
TX—Texas.
WNA—Western North Atlantic.

## Classification

This rule does not alter the existing requirements for registration, the accommodation of observers, or other substantive requirements. In addition, this final rule does not change the classification of any commercial fisheries. Accordingly, this rule imposes no new burdens on the public. For these reasons, under 5 U.S.C 553(d)(3), the Assistant Administrator finds that it is unnecessary to provide for the normal 30-day delay in the effective date of this final rule. The changes to the List of Fisheries for 1998 are effective on the date of publication in the **Federal Register**.

This action has been determined to be not significant for the purposes of E.O. 12866.

When this LOF for 1998 was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration certified that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This action makes minor changes to the current List of Fisheries and reflects new information on commercial fisheries, marine mammals, and interactions between commercial fisheries and marine mammals. This final LOF informs the public which U.S. commercial fisheries in 1998 are subject to the registration and reporting requirements specified under 50 CFR 229.4.

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

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the

requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

The collection of information required for reporting of marine mammal injuries or mortalities to NMFS and for registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control numbers 0648–0292 (0.15 hours per report) and 0648–0293 (0.25 hours per registration). Currently, there are 14,000 Category I and II fishers who are required to register under section 118 of the MMPA. This final rule does not make any changes to fishery classification and will not require the registration of additional fishers; therefore, this final rule is not expected to change the collection of information burdens significantly. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS and OMB (see **ADDRESSES**).

Dated: January 29, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Services.*

[FR Doc. 98–2749 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–22–W

# Proposed Rules

Federal Register
Vol. 63, No. 23
Wednesday, February 4, 1998

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 97–CE–30–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; AlliedSignal Aerospace KT 76A Air Traffic Control (ATC) Transponders

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain AlliedSignal Aerospace (AlliedSignal) KT 76A ATC transponders that are installed on aircraft. The proposed AD would require incorporating a modification on the affected transponders that consists of replacing two resistor network modules with glass-coated modules. The proposed AD is the result of reports of these ATC transponders transmitting misleading encoding altimeter information to ground-based ATC radar sites and nearby Traffic Alert and Collision Avoidance System (TCAS)-equipped aircraft. The actions specified by the proposed AD are intended to prevent the transmission of misleading encoding altimeter information between affected aircraft caused by the inability of these ATC transponders to coordinate with ground-based ATC radar sites and nearby TCAS-equipped aircraft.

**DATES:** Comments must be received on or before April 10, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from AlliedSignal Inc., General Aviation Avionics, 400 N. Rogers Road, Olathe, Kansas 66062–1212. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger A. Souter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–30–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

### Discussion

Several customer complaints relating to the altitude reporting accuracy of AlliedSignal KT 76A ATC transponders; part number (P/N) 066–1062–00/10/02; serial numbers 93,000 through 109,999, that are installed on aircraft prompted AlliedSignal to conduct testing of these transponder systems. From this testing, AlliedSignal identified that these ATC transponders are transmitting misleading encoding altimeter information to ground-based ATC radar sites and nearby TCAS-equipped aircraft.

The condition is the result of ''silver migration'' on the substrate of a resistor network that is connected to the Gilham Altitude outputs of an external encoding altimeter. This creates low impedance paths between adjacent resistors in the network, which causes the transponder unit to incorrectly interpret the output of the encoding altimeter. Blocking diodes that are internal to the AlliedSignal KT 76A ATC transponders prevent this ''silver migration'' problem from affecting other users of the Gilham outputs.

### Relevant Service Information

AlliedSignal has issued Service Bulletin SB KT 76A–7, dated July 1996, which includes procedures for replacing two resistor network modules, RM401 and RM402, with new glass-coated parts. When accomplished, this replacement is referred to as Mod 7.

### The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent the transmission of misleading encoding altimeter information between affected aircraft caused by the inability of these ATC transponders to coordinate with ground-based ATC radar sites and nearby TCAS-equipped aircraft.

### Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in airplanes that have AlliedSignal KT 76A ATC transponders; part number (P/N) 066–1062–00/10/02; serial numbers 93,000 through 109,999, the FAA is proposing AD action. The

proposed AD would require replacing two resistor network modules, RM401 and RM402, with new glass-coated parts. When accomplished, this replacement is referred to as Mod 7. Accomplishment of the proposed replacement would be required in accordance with AlliedSignal Service Bulletin SB KT 76A–7, dated July 1996.

### Compliance Time of the Proposed AD

The condition specified by the proposed AD is not caused by actual hours time-in-service (TIS) of the aircraft where the affected ATC transponders are installed. The need for the hardware modification has no correlation to the number of times the equipment is utilized or the age of the equipment. For this reason, the compliance time of the proposed AD is presented in calendar time instead of hours TIS.

### Cost Impact

The FAA estimates that 20,000 transponder units could be affected by the proposed AD if all were installed in aircraft of U.S. registry. Approximately 2 workhours would be needed to accomplish the proposed action, at an average labor rate of $60 an hour. Parts will be provided by AlliedSignal at no cost to the owners/operators of airplanes with the affected transponder units installed. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,400,000, or $120 per airplane.

These figures are based on the presumption that all of the affected transponder units are installed in aircraft and the units do not incorporate Mod 7. AlliedSignal has informed the FAA that parts have been distributed to incorporate Mod 7 on approximately 300 transponder units. Presuming that each set of parts has been installed on an airplane equipped with one of the affected transponder units, the cost impact of the proposed AD would be reduced $36,000 from $2,400,000 to $2,364,000.

### Regulatory Impact

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**AlliedSignal Inc.:** Docket No. 97–CE–30–AD.

*Applicability:* AlliedSignal KT 76A Air Traffic Control (ATC) transponders; part number (P/N) 066–1062–00/10/02; serial numbers 93,000 through 109,999, as installed on, but not limited to the following airplanes (all serial numbers), certificated in any category:

Cessna Aircraft Company: 172, 182, R182, T182, 206, P206, U206, TP206, 210, T210, P210, 310, E310, T310, and 421 series airplanes.

Twin Commander Aircraft Company: 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes.

The New Piper Aircraft Corporation: PA–31, PA–32, and PA–34 series airplanes.

Raytheon Aircraft Company: E33, F33, G33, 35, J35, K35, L35, K35, M35, P35, S35, V35, 36, A26, B36, D55, E55, 56, A56, 58, 58A, 95, B95, D95, and E95 series airplanes.

Mooney Aircraft Corporation: M20 series airplanes.

McDonnell Douglas Helicopter Company: Model 500N rotorcraft.

**Note 1:** This AD applies to each airplane equipped with a transponder that is identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required within the next 6 months after the effective date of this AD, unless already accomplished.

To prevent the transmission of misleading encoding altimeter information between affected aircraft caused by the inability of the affected ATC transponders to coordinate with ground-based air traffic control (ATC) radar sites and nearby Traffic Alert and Collision Avoidance System (TCAS)-equipped aircraft, accomplish the following:

(a) Replace the two resistor network modules, RM401 and RM402, with new glass-coated parts in accordance with the MODIFICATION PROCEDURE section of AlliedSignal Service Bulletin SB KT 76A–7, dated July 1996. When accomplished, this replacement is referred to as Mod 7.

(b) As of the effective date of this AD, no person may install an AlliedSignal KT 76A ATC transponder; part number (P/N) 066–1062–00/10/02; serial numbers 93,000 through 109,999, in an aircraft without first incorporating Mod 7 as specified in paragraph (a) of this AD.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to AlliedSignal Inc., General Aviation Avionics, 400 N. Rogers Road, Olathe, Kansas 66062–1212; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 28, 1998.

**Terry L. Chasteen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–2643 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–13–U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 97–CE–149–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. Model PC–7 airplanes. The proposed AD would require replacing the rudder and elevator pivot arms with parts of improved design. The proposed AD results from reports of cracks in the elevator and rudder trim tab pivot arms on the above-referenced airplanes. The actions specified by the proposed AD are intended to prevent failure of the elevator and rudder caused by fatigue cracking of the pivot arms, which could result in reduced airplane controllability and possible loss of control of the airplane.

**DATES:** Comments must be received on or before March 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–149–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This information also may be examined at the Rules Docket at the address above.

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–149–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–149–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

### Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA reports that fatigue cracks are forming in the elevator and rudder pivot arms of the above-referenced airplanes.

This condition, if not corrected in a timely manner, could result in failure of the elevator or rudder, reduced airplane controllability, and/or possible loss of control of the airplane.

### Relevant Service Information

Pilatus has issued Service Bulletin No. PC7–55–001, Revision No. 1, dated June 20, 1995, which specifies procedures for replacing the rudder and elevator pivot arms with parts of improved design.

### The FAA's Determination

This airplane model is manufactured in Switzerland 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 the bilateral airworthiness agreement, the FOCA has kept the FAA informed of the situation described above.

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

### Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–7 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the rudder and elevator pivot arms with parts of improved design. Accomplishment of the proposed replacement would be in accordance with the previously referenced service bulletin.

### Cost Impact

The FAA estimates that 8 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Modification kits cost approximately $300 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,280, or $660 per airplane.

### Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Pilatus Aircraft Ltd.:** Docket No. 97–CE–149–AD.

*Applicability:* Model PC–7 airplanes, serial numbers MSN 001 through MSN 564, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required upon accumulating 1,000 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent fatigue failure of the elevator and rudder trim tab pivot arms because of cracks, which could result in the loss of airplane control, accomplish the following:

(a) Replace the rudder and elevator pivot arms with parts of improved design as specified in and in accordance with Pilatus Service Bulletin No. PC7–55–001, Revision No. 1, dated June 20, 1995.

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

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

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Pilatus Service Bulletin No. PC7–55–001, Revision No. 1, dated June 20, 1995, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 28, 1998.

**Terry L. Chasteen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–2642 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket Nos. 97–NM–09–AD, 97–NM–97–AD, 97–NM–80–AD, and 97–NM–81–AD]**

**RIN Nos. 2120–AA64**

## Airworthiness Directives: Boeing 727 Series Airplanes; Notice of Public Meetings

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meetings, reopening of comment period.

**SUMMARY:** This notice reopens the comment period and announces two public meetings on the subject proposed airworthiness directives (AD's) that would reduce payload limits for converted Boeing 727 cargo airplanes. The purpose of the meeting is to discuss technical issues related to loads and stresses on cargo floors and margins of safety. The comment period is being reopened to facilitate collection and consideration of data concerning these technical issues.

**DATES:** The public meetings will be held February 18–19 and April 1–3, 1998, at 9:00 a.m., in Seattle, Washington. Registration will begin at 8:30 a.m. on the day of each meeting. Comments must be received no later than April 24, 1998.

**ADDRESSES:** The public meetings will be held at the following location:

The Radisson Hotel, 17001 Pacific Highway South, Seattle Washington 98188, *Telephone* 206–244–6000.

Persons who are unable to attend the meeting may mail their comments (clearly marked with the docket numbers) in triplicate to: Federal Aviation Administration, Northwest Mountain Region, Regulations Branch (ANM–114), 1601 Lind Avenue, SW, Renton, Washington 98055–4056.

Written comments to the dockets will receive the same consideration as statements made at the public meeting.

**FOR FURTHER INFORMATION CONTACT:** Requests to present a statement at the public meetings and questions regarding the logistics of the meeting should be directed to Gerald Lakin, Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate (ANM–115), 1601 Lind Avenue, SW, Renton, Washington, 98055–4056, telephone (425) 227–1187, fax (425) 227–1320.

Questions concerning the proposed Airworthiness Directives should be directed to Paul Sconyers, Associate Manager, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 303349; telephone (770) 703–6076; fax (770) 703–6097.

**SUPPLEMENTARY INFORMATION:**

### Participation at the Public Meeting on the Proposed Airworthiness Directives

Requests from persons who wish to present oral statements at the public meetings should be received by the FAA no later than 10 days prior to each meeting. Such requests should be submitted to Gerald Lakin as listed in the section titled **FOR FURTHER INFORMATION CONTACT** above, and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Those persons desiring to have available

audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

**Background**

On July 15, 1997, the Federal Aviation Administration (FAA) published in the **Federal Register** (62 FR 37798) for public comment four proposed AD's that would be applicable to certain Boeing Model 727 airplanes that have been converted from a passenger to a cargo-carrying (or combination) configuration in accordance with one of several Supplemental Type Certificates (STC's). The AD's proposed to require the limitation of payloads on the main cargo deck. The AD's also proposed to provide for the submission of data and analyses that substantiate the strength of the main cargo deck, or modification of the main cargo deck, as optional terminating action for the payload restrictions.

The comment period on the proposed rules closed on August 22, 1997. Since that time, the FAA has received several additional comments and has been contacted by various interested parties. Records of these contacts are included in the dockets for these rules. The FAA has received comments as late as January 20, 1998.

Based on the content of the comments and the interest in the rules expressed by various operators of modified aircraft, the STC holders, and other interested parties, the FAA has determined that it is in the public interest to reopen the comment period on these rules in order to seek additional data and the supporting methodologies concerning allowable loads for cargo floors on converted Boeing 727 airplanes.

Accordingly, the FAA will conduct two public meetings in Seattle, Washington for the purpose of gathering additional information.

The comment periods on these proposed rules will remain open until April 24, 1998, three weeks after the close of the second meeting. The FAA anticipates that the agency and the industry will use these public meetings as a forum to resolve the approach used to analyze floor structure on converted Boeing 727 airplanes, including the methodology and technical assumptions used in the calculation of allowable loads; and to seek additional data and supporting methodologies from industry.

Persons interested in obtaining a copy of the proposed airworthiness directives as published in the **Federal Register** should contact Gerald Lakin at the address or telephone number provided in **FOR FURTHER INFORMATION CONTACT**.

An electronic copy of these documents may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: (703) 321–3339) or the **Federal Register** electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's webpage at http://www.faa.gov or the **Federal Register** webpage at http://www.access.gpo.gov/su__docs to access recently published rulemaking documents.

**Public Meeting Procedures**

Persons who plan to attend the meeting should be aware of the following procedures that have been established for this meeting:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all persons who have requested in advance to present statements, or who register on the day of the meeting (between 8:30 a.m. and 9:00 a.m.) subject to availability of space in the meeting room.

2. Representatives from the FAA will conduct the public meeting. A technical panel of FAA experts will be established to discuss information presented by participants.

3. The public meetings are intended as a forum to resolve the approach used to analyze the floor structure on converted Boeing 727 airplanes, including the methodology and technical assumptions used in the calculation of allowable loads, and to seek additional data and supporting methodologies from industry. Participants must limit their presentations and submissions of data to this issue.

4. The meetings will offer the opportunity for all interested parties to present any additional information not currently available to the FAA, and an opportunity for FAA to explain the methodology and technical assumptions supporting its current conclusions.

5. FAA experts, industry, and public participants are expected to engage in a full discussion of all technical material presented at the meetings. Anyone presenting conclusions will be expected to submit to the FAA data supporting those conclusions; any proprietary data submitted will be protected by the FAA from disclosure.

6. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group. If necessary, the meetings may be extended to evenings or additional days. If practicable, the meetings may be accelerated to enable adjournment in less than the time scheduled.

7. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

8. The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public dockets. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

9. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the proposed airworthiness directives may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; others copies may be provided to the audience at the discretion of the participant.

10. Statements made by members of the panel are intended to facilitate discussion of the issues or to clarify issues. Comments made at these public meetings will be considered by the FAA before making a final decision on issuance of the airworthiness directives.

11. The meetings are designed to solicit public views and more complete information on the proposed airworthiness directives. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC, on January 30, 1998.

**Douglas Kirkpatrick,**

*Acting Director, Aircraft Certification Service.*

[FR Doc. 98–2834 Filed 2–2–98; 12:45 pm]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Chapter I

## 46 CFR Chapter I

**[USCG–97–3198]**

## Alternate Convention Tonnage

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** The Coast Guard is considering developing alternate tonnage thresholds for certain vessels based on the measurement system established under the International Convention on Tonnage Measurement of Ships, 1969. Existing tonnage thresholds in domestic laws and regulations are based on the U.S. regulatory measurement system. Establishing alternate convention tonnages as an option for applying domestic regulations may result in the building of safer, more efficient vessels and may enable designers and operators of U.S. vessels to be more competitive in the international market. The Coast Guard asks for comments on the issues raised and questions listed in the document.

**DATES:** Comments must reach the Docket Management Facility on or before May 15, 1998.

**ADDRESSES:** You may mail comments to the Docket Management Facility, (USCG–97–3198), U.S. Department of Transportation, room PL–400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Iternet at http://dms.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paulette Twine, Chief, Documentary Services Division, Department of Transportation, telephone 202–366–9329, for questions on the docket or Lieutenant John G. White, Office of Standards Evaluation and Development (G–MSR–2), Coast Guard, telephone 202–267–6885, for questions on this document.

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

The Coast Guard encourages you to participate in this request by submitting written data, views, or arguments. If you submit comments, you should include your name and address, identify this document (USCG–97–3198) and the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comments, you should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard may schedule a public meeting depending on input received in response to this notice. You may request a public meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a public meeting should be held, it will hold the meeting at a time and place announced by a later document in the **Federal Register.**

## Purpose

As explained later in this preamble, the Coast Guard is authorized to establish vessel tonnage thresholds based on the system for measuring the tonnage of vessels known as the ''convention measurement system.'' These thresholds are alternatives to the thresholds in certain U.S. statutes that are based instead on the ''regulatory measurement system.'' This document is intended to get your ideas and information on whether the Coast Guard should establish these alternate thresholds and, if so, what the tonnages should be. This project affects every segment of the maritime industry subject to a tonnage threshold, which includes vessel design and construction, vessel inspection, vessel manning, and merchant mariner licensing. The alternate tonnages chosen could have significant economic and safety impacts within the industry. When establishing alternate tonnages, the Coast Guard's goal will be (1) to encourage the use of convention measurement, thus allowing vessel owners and builders to focus more on vessel safety and operating requirements rather than on tonnage and (2) to avoid, in the process, the adverse economic impacts of over-regulation.

There are several complex issues involved in establishing alternate tonnages which must be addressed before a regulatory proposal can be developed. This document provides background information to help you understand these issues, poses several questions for you to consider, and requests your feedback on how the Coast Guard should proceed with establishing alternate convention tonnages.

## Background

Federal shipping laws are usually based on the gross tonnage of a vessel. Gross tonnage is a measurement of the volume of the interior spaces of a vessel, with one ton equal to 100 cubic feet of space under older measurement systems. The gross tonnage specified in a law is often the threshold used to determine whether or not that law applies to a particular vessel. For example, to be subject to the laws for seagoing motor vessels, a seagoing vessel must meet or exceed the tonnage threshold of 300 gross tons (46 U.S.C. 2101 (33). Tonnage thresholds are used in hundreds of domestic and international laws and regulations affecting issues such as vessel design and construction, vessel inspection, vessel manning, civil penalty liability, financial responsibility, and merchant mariner licensing.

The traditional system used in the United States for measuring the tonnage of a vessel is called the ''regulatory measurement system.'' The regulatory measurement system is authorized under 46 U.S.C. chapter 145. It consists of the ''standard'', ''dual'', and ''simplified'' measurement systems and is implemented under 46 CFR part 69, subparts C, D, and E, respectively. The regulatory measurement system, with the exception of the simplified system used primarily for smaller vessels, uses a complex series of internal measurements and exemptions to arrive at gross tonnage. Over time, this system became increasingly susceptible to manipulation through the use of tonnage reduction techniques in designing vessels. These techniques, such as the inclusion of tonnage openings and extensive framing in a vessel's design, enabled the designers to artificially reduce a vessel's total volume when calculating the vessel's gross tonnage. As a result, larger and larger vessels have been built that remain under the same regulatory tonnage threshold. In many cases, the use of these techniques has had a negative impact on the safety, performance, construction and maintenance costs, and efficiency of vessels.

This situation was not unique to the United States. Other nations established tonnages using systems similar to the regulatory measurement system, which were also subject to manipulation, though in different ways. This resulted in tonnage disparities between identically-sized vessels of different flags.

In response, the International Convention on Tonnage Measurement of

Ships, 1969, (the Convention) was developed with the view of establishing a worldwide measurement system that provides a genuine representation of a vessel's size. The United States ratified the Convention in 1982. The Omnibus Reconciliation Act of 1986 (the Tonnage Act) adopted a measurement system based on the Convention as the required measurement system for U.S. vessels greater than 79 feet in length (with certain exceptions based on the vessel's type and build date). This system, known as the ''convention measurement system,'' is authorized under 46 U.S.C. chapter 143 and is implemented in 46 CFR part 69, subpart B.

Under the convention measurement system, gross tonnage is based on a logarithmic function of the total enclosed volume of a vessel and is not subject to manipulation through the use of tonnage reduction techniques. Because of the differences between regulatory measurement and convention measurement, the measured tonnage for a single vessel could differ substantially (*e.g.*, by thousands of tons for a 200 foot vessel). Since convention measurement does not allow for the use of tonnage reduction techniques, vessels measured using this system are often greater in tonnage than vessels measured using regulatory measurement. The convention measurement system is desirable because it provides a reliable gauge of a vessel's size, allows vessel owners and builders to focus vessel design around safety and operating requirements, and allows for uniform application of international regulations.

To prevent possible adverse economic impacts on vessel owners during the transition to the convention measurement system, the Tonnage Act provides for the retention of the existing regulatory measurement system. Under the Tonnage Act, the owner of a vessel required to be measured under the convention measurement system can request that the vessel also be measured under the regulatory measurement system. Once a regulatory tonnage is assigned, that figure must be used for determining the applicability of certain domestic and international regulations. For example, the Coast Guard would use that regulatory tonnage figure when evaluating a merchant mariner's experience for licensing purposes.

Operating under two tonnage measurement systems has proven to be very complex and difficult. Currently, new or newly modified, U.S.-flag vessels must use convention tonnage for several important international conventions but may use their often lower regulatory tonnage for domestic laws and regulations. As a result, U.S. vessels that were designed to stay below a certain domestic regulatory threshold by using costly and inefficient tonnage reduction techniques may be less competitive in the international marketplace. For example, a 192-foot-long passenger vessel that was designed to measure under 100 gross regulatory tons using tonnage reduction techniques measured approximately 2,100 gross tons under the convention measurement system. The extensive use of tonnage reduction techniques can require additional hull material without adding strength to the vessel, create substantial areas of wasted space, increase construction cost as much as 10 to 15 percent, and add significantly to the lightship weight of the vessel.

## Alternate Convention Tonnages

For many years, the Coast Guard has worked with the maritime industry to ease the transition to the convention measurement system. The first step was to seek a change in the shipping statutes to allow the Coast Guard to prescribe alternate convention tonnages for its regulatory tonnage thresholds. The rationale was that reasonably high alternate tonnages would give vessel owners little incentive to opt for regulatory tonnage measurement. The use of costly and inefficient tonnage reduction techniques would no longer be necessary to remain competitive in the domestic market.

The Coast Guard Authorization Act of 1996 (the Authorization Act) amended certain statutes to authorize, but not require, the Coast Guard to establish alternate tonnage thresholds based on the convention measurement system. With alternate convention tonnages in place, a vessel constructed without tonnage reduction techniques would be regulated under the same domestic standards that currently apply to a comparably sized vessel constructed with tonnage reduction techniques. Once alternate thresholds are established, regulatory tonnage will remain available, by law, for regulating existing and future vessels at the vessel owner's option.

## Table of Statutes Authorizing the Establishment of Alternate Convention Tonnage Thresholds

The following table lists the statutes amended by the Authorization Act to allow the Coast Guard to prescribe alternate convention tonnages. The table is arranged by section in the Authorization Act (sections 703 through 744). The second column lists the U.S. Code citation of the statutes amended. The third column gives a brief description of the subject of each statute and its existing regulatory tonnage threshold. The table indicates only the statutes affected and none of the regulations based on these statutory thresholds. Should the Coast Guard elect to establish alternate tonnages, it will address the changes to applicable regulations in future rulemaking documents.

| Authorization act section | Title 33 U.S. Code cite | Description |
|---|---|---|
| 703 | 903(d)(3) | Addresses death or disability compensation for employees at facilities engaged exclusively in building, repairing, or dismantling certain commercial vessels less than 1,600 gross tons. |
| 704 | 1203(a)(2) | Requires vessels of 100 gross tons and upward carrying more than one passenger for hire to have a radiotelephone capable of operating from the navigational bridge and capable of transmitting on certain frequencies in accordance with Federal Communications Commission (FCC) standards. |
| 705 | 1223(a)(3) | Precludes the Coast Guard from requiring fishing vessels under 300 gross tons to carry specified navigational or safety equipment. |
| 706 | App. 883–1 | Allows relaxation of Jones Act citizenship requirements for motor vessels less than 500 gross tons engaged in specific mining and manufacturing trades. |
| 707 | App. 883(a) | Requires a report to the Coast Guard if a documented vessel of more than 500 gross tons is rebuilt abroad. |
| 708 | App. 1295a(4)(a) | Defines a merchant marine officer as any person who holds a Coast Guard-issued license authorizing service as a master, mate, or pilot on board any vessel of 1,000 gross tons or more which is documented in the U.S. and which operates on the oceans or Great Lakes. |

| Authorization act section | Title 33 U.S. Code cite | Description |
|---|---|---|
| 709(1) | 2101(13) | Defines ''freight vessel'' as a motor vessel of more than 15 gross tons that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel. |
| 709(2) | 2101(13a) | Defines ''Great Lakes barge'' as a non-self-propelled vessel of at least 3,500 gross tons operating on the Great Lakes. |
| 709(3) | 2101(19) | Defines ''offshore supply vessel'' as a motor vessel of more than 15 gross tons but less than 500 gross tons that regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources. Previous rulemaking (61 FR 66613) established 6,000 gross tons as the alternate Convention tonnage threshold under this definition. |

| Authorization act section | Title 46 U.S. Code cite | Description |
|---|---|---|
| 709(4) | 2101(22) | Defines ''passenger vessel'' as a vessel of at least 100 gross tons that carries more than 12 passengers, including at least one passenger for hire; or that is chartered and carriers more than 12 passengers. |
| 709(5) | 2101(30)(A) | Defines ''sailing school vessel'' as a vessel of less than 500 gross tons carrying more than 6 individuals who are instructors or students, is principally equipped for sail propulsion, and meets specific ownership criteria. |
| 709(6) | 2101(32) | Defines ''seagoing barge'' as a non-self-propelled vessel of at least 100 gross tons making voyages beyond the Boundary Line. |
| 709(7) | 2101(33) | Defines ''seagoing motor vessel'' as a motor vessel of at least 300 gross tons making voyages beyond the Boundary Line. |
| 709(8) | 2101(35) | Defines ''small passenger vessel'' as a vessel of less than 100 gross tons carrying more than 6 passengers, including at least one passenger for hire; that is chartered with a crew provided or specified by the owner and carrying more than 6 passengers; or that is chartered with no crew provided or specified and carrying more than 12 passengers. |
| 709(9) | 2101(42) | Defines and ''uninspected passenger vessel'' as (1) a vessel of at least 100 gross tons carrying not more than 12 passengers, including at least one passenger for hire, or that is chartered with a crew carrying not more than 12 passengers; or (2) a vessel of less than 100 gross tons carrying not more than 6 passengers, including at least one passenger for hire, or that is chartered with the crew provided or specified and carrying not more than 6 passengers. |
| 710(1) | 2113(4) | Allows the Coast Guard to establish alternate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages. |
| 710(2) | 2113(5) | Allows the Coast Guard to establish alternate structural fire protection, manning, operating, and equipment requirements for former U.S. public vessels of at least 100 gross tons but less than 500 gross tons, carrying not more than 150 passengers on domestic voyages. |
| 711(1) | 3302(c)(1) | Exempts a fish processing vessel of not more than 5,000 gross tons from certain inspection requirements. |
| 711(2) | 3302(c)(2) | Exempts a fish tender vessel of not more than 500 gross tons from certain inspection requirements. |
| 711(3) | 3302(c)(4)(A) | Exempts a fish tender vessel of not more than 500 gross tons engaged in the Aleutian trade from certain inspection requirements. |
| 711(4) | 3302(d)(1) | Exempts a motor vessel of less than 150 gross tons, constructed before August 23, 1958, from certain freight vessel inspection requirements if certain criteria are met. |
| 711(5) | 3302(i)(1)(A) | Allows the Coast Guard to exempt from certain inspection requirements a vessel of not more than 300 gross tons transporting cargo from place in Alaska to another place in Alaska provided that certain criteria are met. |
| 711(6) | 3302(j) | Allows the Coast Guard to not inspect a nautical school vessel of not more than 15 gross tons when certain criteria are met. |
| 712(1) | 3306(h) | Allows the Coast Guard to establish structural fire protection, manning, operational, and equipment requirements for vessels of at least 100 gross tons and less than 300 gross tons that carry not more than 150 passengers. |
| 712(2) | 3306(i) | Allows the Coast Guard to establish structural fire protection, manning, operational, and equipment requirements for former U.S. public vessels of at least 100 gross tons but less than 500 gross tons that carry no more than 150 passengers. |
| 713(1) | 3318(a) | Sets the civil penalty liability at not more than $5,000 for the violation of inspection regulations applicable to a freight vessel of less than 100 gross tons. |
| 713(2) | 3318(j)(1) | Sets the civil penalty liability at $2,000 a day for a vessel of less than 1,600 gross tons operating without a certificate of inspection. |
| 714(1) | 3702(b)(1) | Excludes from tank vessel inspection requirements a documented vessel of not more than 500 gross tons that is considered a tank vessel only due to the transfer of fuel from fuel supply tanks to offshore drilling or production facilities. |
| 714(2) | 3702(c) | Excludes from tank vessel inspection requirements a fishing or fish tender vessel of not more than 500 gross tons when engaged only in the fishing industry. |
| 714(3) | 3702(d) | Excludes from tank vessel inspection requirements a fish processing vessel of not more than 5,000 gross tons (unless the vessel carries flammable or combustible liquid cargo in bulk). |

| Authorization act section | Title 46 U.S. Code cite | Description |
|---|---|---|
| 715(1) | 3703a(b)(2) | Exempts a tank vessel of less than 5,000 gross tons from double hull requirements if the vessel is equipped with a double containment system determined effective by the Coast Guard. |
| 715(2) | 3703a(c)(2) | Establishes double hull requirements for tank vessels of less than 5,000 gross tons. |
| 715(3) | 3703a(c)(3)(A) | Establishes double hull requirements for tank vessels of at least 5,000 gross tons but less than 15,000 gross tons. |
| 715(4) | 3703a(c)(3)(B) | Establishes double hull requirements for tank vessels of at least 15,000 gross tons but less than 30,000 gross tons. |
| 715(5) | 3703a(c)(3)(C) | Establishes double hull requirements for tank vessels of at least 30,000 gross tons. |
| 716(1) | 3707(a) | Requires a new tanker of at least 10,000 gross tons to be equipped with specified vessel steering control equipment. |
| 716(2) | 3707(b) | Requires an existing tanker of at least 10,000 gross tons to be equipped with specified vessel steering control equipment. |
| 717 | 3708 | Requires a self-propelled tank vessel of at least 10,000 gross tons to be equipped with specified vessel navigation equipment. |
| 718 | 4701(1) | Defines the term abandon as to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days. |
| 719(1) | 5102(b)(4) | Exempts certain fish processing vessels of not more than 5,000 gross tons from Load Line requirements. |
| 719(2) | 5102(b)(5) | Exempts certain fish tender vessels of not more than 500 gross tons from Load Line requirements. |
| 719(3) | 5102(b)(10) | Exempts certain ''existing vessels'' of not more than 150 gross tons from Load Line requirements. |
| 720 | 7101(e)(3) | Exempts individuals who serve only as a pilot on a vessel of less than 1,600 gross tons from the licensing requirement to obtain a thorough physical examination each year while holding the license. |
| 721 | 7308 | Establishes the required service for the endorsement of able seamen-limited as 18 months' service on deck aboard vessels of at least 100 gross tons operating on oceans or navigable waters of the U.S. |
| 722 | 7310 | Requires at least 6 months' service on deck aboard vessels operating on the oceans or the navigable waters of the U.S. to qualify for rating as an able seaman-offshore supply vessel for service on a vessel of less than 500 gross tons engaged in the offshore industry. |
| 723(1) | 7312(b) | Permits individuals qualified as able seamen-limited to constitute all able seamen required on a vessel of less than 1,600 gross tons. |
| 723(2) | 7312(c)(1) | Permits individuals qualified as able seamen-special to constitute all able seamen required on a vessel of not more than 500 gross tons, or on a seagoing barge or towing vessel. |
| 723(3) | 7312(d) | Permits individuals qualified as able seamen-offshore supply vessel to constitute all able seamen required on board a vessel of less than 500 gross tons engaged in support of the offshore industry. |
| 723(4) | 7312(f)(1) | Permits individuals qualified as able seamen-fishing industry to constitute all able seamen required on certain fish processing vessels of more than 1,600 gross tons but not more than 5,000 gross tons. |
| 723(5) | 7312(f)(2) | Permits individuals qualified as able seamen-fishing industry to constitute all able seamen required on certain fish processing vessels of more than 5,000 gross tons. |
| 724 | 7313(a) | Provides for prescribing by regulation classes of endorsement as qualified members of the engine department on vessels of at least 100 gross tons. |
| 725 | 8101(h) | Sets the civil penalty liability for a violation of vessel manning laws by an owner, charterer, or managing operator of a freight vessel of less than 100 gross tons at $1,000. |
| 726 | 8102(b) | Requires that a fish processing vessel of more than 100 gross tons keep a suitable number of watchmen trained in firefighting on board during hotwork operations. |
| 727 | 8103(b)(3)(A) | Provides that the Coast Guard may waive a citizenship requirement for all but the master of a documented offshore supply vessel or similarly engaged vessel that is less than 1,600 gross tons and operated from a foreign port. |
| 728(1) | 8104(b) | Provides that on an oceangoing or coastwise vessel of not more than 100 gross tons (except a fishing, fish processing, or fish tender vessel), a licensed individual may not be required to work more than 9 of 24 hours when in port or more than 12 of 24 hours at sea. |
| 728(2) | 8104(d) | Requires division of licensed individuals, sailors, coal passers, firemen, oilers, and water tenders into at least 3 watches when at sea on merchant vessels of more than 100 gross tons. Applies to radio officers only when at least 3 radio officers are employed. Licensed individuals and seamen in the deck and engine departments may not be required to work more than 8 hours in one day. Exempts fish processing vessels of not more than 5,000 gross tons from these requirements. |
| 728(3) | 8104(l)(1) | Requires division of licensed personnel and deck crew on uninspected fish processing vessels entered into service before January 1, 1988, and more than 1,600 gross tons into 2 watches. |
| 728(4) | 8104(m)(1) | Exempts fish processing vessels entered into service before January 1, 1988, and less than 1,600 gross tons from watch section requirements. |
| 728(5) | 8104(o)(1) | Requires division of licensed individuals and crewmembers on fish tender vessels of not more than 500 gross tons and engaged in the Aleutian trade into at least 3 watches. |
| 728(6) | 8104(o)(2) | Requires division of licensed individuals and crewmembers on certain fish tender vessels of not more than 500 gross tons engaged in the Aleutian trade into at least 2 watches. |
| 729(1) | 8301(a)(2) | Requires 3 licensed mates on all inspected vessels over 1,000 gross tons propelled by machinery, with certain exceptions. |

| Authorization act section | Title 46 U.S. Code cite | Description |
|---|---|---|
| 729(2) | 8301(a)(3) | Requires 2 licensed mates on vessels of at least 200 gross tons but less than 1,000 gross tons propelled by machinery. |
| 729(3) | 8301(a)(4) | Requires one licensed mate on vessels of at least 100 gross tons but less than 200 gross tons propelled by machinery, unless the vessel is on a voyage of more than 24 hours, in which case it must have 2 licensed mates. |
| 729(4) | 8301(a)(5) | Requires one licensed engineer on a freight vessel or passenger vessel of at least 300 gross tons and propelled by machinery. |
| 729(5) | 8301(b) | Requires one licensed engineer on an offshore supply vessel of more than 200 gross tons. |
| 730 | 8304(b)(4) | Exempts a vessel of less than 200 gross tons from compliance with the Officers' Competency Certificates Convention, 1936. |
| 731(1) | 8701(a) | Requires that individuals serving on board a merchant vessel of at least 100 gross tons have merchant mariners' documents, with certain exceptions. |
| 731(2) | 8701(a)(6) | Exempts fish processing vessels of not more than 1,600 gross tons that entered into service before January 1, 1998, from the requirement that individuals serving on board have merchant mariners' documents. |
| 732(1) | 8702(a) | Requires that on vessels of 100 gross tons and greater, 75% of the crew understand orders spoken by officers and 65% of the deck crew have merchant mariners' documents endorsed for the rating of at least able seamen. |
| 732(2) | 8702(a)(6) | Exempts fish processing vessels entered into service before January 1, 1988, and not more than 1,600 gross tons from the requirements in 46 U.S.C. 8702(a). |
| 733 | 8901 | Requires that a freight vessel of less than 100 gross tons be operated by an individual licensed by the Coast Guard to operate that type of vessel in a particular geographic area. |
| 734 | 8905(b) | Exempts vessels of less than 200 gross tons engaged in the offshore mineral and oil industry from towing vessel manning requirements in 46 U.S.C. 8904. |
| 735 | 9303(a)(2) | Requires each applicant for the U.S. registered pilot service to have acquired at least 24 months licensed service or equivalent experience on vessels or integrated towing vessels and tows of at least 4,000 gross tons, operating on the Great Lakes or oceans, with a minimum of 6 months service or experience having been on the Great Lakes. |
| 736 | 10101(4)(B) | Includes certain fish processing vessels of not more than 1,600 gross tons in the definition of fishing vessel. |
| 737 | 10301(a)(2) | Requires shipping articles on vessels of at least 75 gross tons engaged on voyages between a U.S. port on the Atlantic Ocean and a U.S. port on the Pacific Ocean. |
| 738 | 10501(a) | Requires Master/Crew agreements on vessels of at least 50 gross tons engaged on voyages between a port in one State and a port in another State (except an adjoining State). |
| 739 | 10601(a)(1) | Requires fishing agreements between a Master or individual in charge and the crew on fishing, fish processing, or fish tender vessels of at least 20 gross tons engaged on a voyage from a port in the U.S. |
| 740 | 11101(a) | Exempts a vessel of less than 100 gross tons from certain seamen accommodation requirements. |
| 741 | 11102(a) | Requires that a medicine chest be provided on a vessel of at least 75 gross tons on a voyage between a port of the U.S. on the Atlantic Ocean and Pacific Ocean. |
| 742 | 11301(a)(2) | Requires that U.S. vessels of at least 100 gross tons on a voyage between a port of the U.S. on the Atlantic Ocean and the Pacific Ocean have an official logbook. |
| 743 | 12106(c)(1) | Provides for the issuance of a coastwise trade endorsement on foreign built vessels of less than 200 gross tons engaged in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands. |
| 744 | 12108(c)(1) | Provides for the issuance of a fishery endorsement to engage in fishing in the territorial sea or fishery conservation zone adjacent to Guam, American Samoa, and Northern Mariana Islands for foreign built vessels of less than 200 gross tons. |

**Problems With Determining Alternate Tonnages**

While the Coast Guard now has the necessary statutory authority to establish alternate convention tonnage thresholds, determining these thresholds is a very complex task. The extent to which different classes of vessels currently rely on tonnage reduction techniques varies, so a single conversion factor would not be appropriate for all tonnage thresholds. Rather, each threshold must be carefully considered based on the class or classes of vessel it applies to and its relationship to other thresholds.

When establishing an alternate convention threshold, the Coast Guard hopes to arrive at a figure high enough to capture the majority of existing vessels and future vessels of comparable sizes. However, if an alternate threshold is set too high, certain vessels may be inadvertently exempted from important safety regulations. If an alternate threshold is set too low, some vessels may be burdened by additional regulations.

The following examples illustrate the complexities involved:

1. *Small passenger vessels.* A passenger vessel qualifies as ''small'' if it is under 100 gross regulatory tons. Suppose that an alternate to this threshold is set at 500 gross convention tons. Suppose that your vessel measure 99 gross regulatory tons and 499 gross convention tons. According to 46 U.S.C. 8301, as shown in the table below, you would need two licensed mates under your convention tonnage, but none under your regulatory tonnage. Clearly, this creates a severe disincentive for you to have your vessel regulated under alternate convention tonnages (thereby allowing removal of tonnage reduction features), unless alternate tonnages are established for § 8301 as well.

| Number of licensed mates required | Tonnage of vessel (with certain exceptions) |
|---|---|
| 3 | 1,000 GT or more (46 U.S.C. 8301(a)(2)). |

| Number of licensed mates required | Tonnage of vessel (with certain exceptions) |
|---|---|
| 2 | 200 GT to less than 1,000 GT (46 U.S.C. 8301(a)(3)). |
| 1 | 100 GT to less than 200 GT (46 U.S.C. 8301 (a)(4)). |
| No provision | Under 100 GT. |

You might think that this problem could be solved by simply establishing higher alternate tonnages in section 8301 to provide parity to small passenger vessels measured under the convention system. Unfortunately, however, section 8301 does not apply just to small passenger vessels but to virtually all commercial vessels. Furthermore, different classes of vessels differ in the range between regulatory and convention tonnages. For example, a freight vessel of 175 regulatory tons might measure 175 convention tons. If the alternate tonnage under section 8301 was set higher than the regulatory tonnage to address small passenger vessels, it may result in fewer mates on convention-measured freight vessels.

2. *Merchant mariner licensing.* The problem of establishing alternate tonnages is further compounded by the interrelationship among the shipping statutes, such as in the case of merchant mariner licensing. The tonnage of the vessel on which you have served may make a difference in the licenses for which you are eligible or the vessels upon which you may serve. For example, you may have earned your license based on service on a vessel with an assigned regulatory tonnage. If you decide to change jobs and serve on a comparably-sized vessel of the same class that is regulated according to a higher convention tonnage, you may not be eligible to serve on the vessel unless your license is adjusted accordingly. This situation may also affect the way in which the Coast Guard determines your eligibility to renew or upgrade your license.

The international community took steps to address this issue in the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW). STCW specifies alternate convention tonnages that may be adopted by an Administration (such as the Coast Guard for the United States) for reissuing or revalidating licenses (i.e., 500 gross convention tons for the 200 gross regulatory ton threshold and 3,000 gross convention tons for the 1,600 gross regulatory ton threshold). In response to a request for comments in an interim rule published on June 26, 1997 (62 FR 34506), the Coast Guard received several comments generally supporting the STCW licensing thresholds but deferred deciding whether to adopt the thresholds until the problems addressed in this notice are resolved.

## Previous Effort To Establish an Alternate Tonnage Threshold

On December 18, 1996, the Coast Guard established a maximum alternate tonnage for offshore supply vessels (61 FR 66613). A quick response was necessary to respond to the offshore supply vessel industry's pressing need for a new, technologically-advanced fleet. This maximum alternate tonnage value of 6,000 convention gross tons was used in the recent final rule for offshore supply vessels published in the **Federal Register** on September 19, 1997 (62 FR 49308).

## Questions

The process of establishing alternate convention tonnages could take many years. It could affect many regulations and virtually all of the maritime industry. The Coast Guard encourages you to become involved in the earliest stages of this project.

We especially need your help in answering the following questions, although additional information is welcome. In responding to each question, please explain your reasons for each answer so that we can carefully weigh the consequences and impacts of any future actions we may take.

1. For the type or types of vessel you design, build, or operate and the nature of your operations, should the Coast Guard establish alternate convention tonnage thresholds? Please explain.

2. Based on your circumstances, what advantages, disadvantages, or both do you foresee with alternate Convention tonnages?

3. Which threshold or thresholds should the Coast Guard establish first? Why? What timeline should the Coast Guard use? Why?

4. If an alternate threshold is needed, what convention tonnage should be specified? Please relate your answer to specific subjects (e.g., vessel manning), to vessel classes (e.g., small passenger vessels), or to statutory provisions listed in the table of statutes.

5. What other strategies, besides implementing alternate tonnages, do you think could be used by the Coast Guard and industry to discourage the use of undesirable tonnage reduction techniques? Why?

6. When establishing alternate tonnages, how should the Coast Guard address tonnage thresholds that apply to many vessel classes, such as manning requirements?

7. Where an international convention, such as STCW, specifies an alternate convention threshold for certain purposes, should the Coast Guard adopt that figure as its alternate convention threshold for those purposes?

Dated: January 28, 1998.

**Joseph J. Angelo,**

*Acting, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 98–2697 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–14–M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 73

**[FRL–5961–5]**

## Acid Rain Program; Auction Offerors to Set Minimum Prices in Increments of $0.01

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Title IV of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (the Act), authorized the Environmental Protection Agency (EPA) to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. The program utilizes an innovative system of marketable allowances that are allocated to electric utilities. Title IV mandates that EPA hold yearly auctions of allowances for a small portion of the total allowances allocated each year. Private parties may also offer their allowances for sale in the EPA auctions and specify a minimum sales price. Currently, the regulations require that an offeror's minimum sales price be in whole dollars (see 40 CFR part 73, Subpart E, § 73.70 ). No such restriction applies to auction bidders and since 1995, EPA has allowed bidders to submit bids in increments of less than a dollar. The restriction on minimum offer prices was originally intended to facilitate administrative ease, but allowing minimum sales prices in increments of $0.01 would not change the design, operation, or administrative burden of the auctions in any way. In addition, it would be consistent with the flexibility afforded auction bidders. Thus, EPA is proposing to amend the current regulations to allow offerors to submit their minimum offer price in increments of $0.01.

Because this rule revision was discussed in an Advance Notice of

Proposed Rulemaking (see the June 6, 1996 **Federal Register**, 61 FR 28995–28998) and EPA received no adverse comments, this revision is also being issued as a direct final rule in the Final Rules section of this **Federal Register**.

**DATES:** Comments on the regulations proposed by this action must be received on or before March 6, 1998.

**ADDRESSES:** *Comments.* All written comments must be identified with the appropriate docket number (Docket No. A–96–19) and must be submitted in duplicate to U.S. Environmental Protection Agency, EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M St. SW, Washington, DC 20460.

*Docket.* Docket No. A–96–19, containing information considered during development of the promulgated standards and requirements in this proposal, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section at the above address. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Kenon Smith, U.S. Environmental Protection Agency, Acid Rain Division (6204J), 401 M Street SW, Washington, DC 20460, (202) 564–9164.

**SUPPLEMENTARY INFORMATION:** If no significant, adverse comments are received by the close of the comment period, no further activity is contemplated in relation to this proposed rule and the direct final rule in the Final Rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If significant, adverse comments are received, they will be addressed in a subsequent final rule. Because the Agency will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, and the rule revision, see the information provided in the direct final rule in the Final Rules section of this **Federal Register**.

### List of Subjects in 40 CFR Part 73

Environmental protection, Acid rain, Air pollution control, Electric Utilities, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 29, 1998.

**Carol M. Browner,**

*Administrator, U.S. Environmental Protection Agency.*

[FR Doc. 98–2718 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 531

**[Docket No. NHTSA–97–3205; Notice 1]**

## Passenger Automobile Average Fuel Economy Standards; Proposed Decision to Grant Exemption

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

**ACTION:** Proposed decision.

**SUMMARY:** This proposed decision responds to a joint petition filed by Lamborghini and Vector requesting that each company be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 1998 and 1999, and that lower alternative standards be established. In this document, NHTSA proposes that the requested exemption be granted and that alternative standards of 12.4 mpg be established for MYs 1998 and 1999, for Lamborghini and Vector.

**DATES:** Comments on this proposed decision must be received on or before April 6, 1998.

**ADDRESSES:** Comments on this proposal must refer to the docket number and notice number in the heading of this document and be submitted, preferably in two copies, to: US Department of Transportation Docket Management, PL–401, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours are 10:00 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ms. Henrietta Spinner, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Spinner's telephone number is: (202) 366–4802.

**SUPPLEMENTARY INFORMATION:**

### Statutory Background

Pursuant to 49 U.S.C. section 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

(1) Technological feasibility
(2) Economic practicability
(3) The effect of other motor vehicle standards of the Government on fuel economy, and
(4) The need of the United States to conserve energy

The statute at 49 U.S.C. 32902(d)(2) permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

### Background Information on Lamborghini and Vector

Vector Aeromotive Corporation (Vector) and Automobili Lamborghini S.p.A. (Lamborghini) are small automobile manufacturers that each produce a single model of high priced, uniquely designed exotic sport vehicles. Lamborghini is an Italian manufacturer of passenger cars, which concentrates exclusively on the production of high quality, high performance, prestige sports cars. Lamborghini currently produces one model, the Diablo. Vector, a domestic low volume manufacturer, also marketing exotic high performance sports cars, was originally founded as the ''Vector Car'' Company. The assets of Vector Car were purchased by the Vector Aeromotive Corporation in 1987, and Vector completed redesign and engineering of its first production car, the Vector W8. The W8 has been partially redesigned and is now sold as the Avtech/M12. Vector produced a total of 43 automobiles in the 1996 and 1997 model years while Lamborghini imported 54 cars into the U.S. in the same time period.

### Need for a Joint Petition for Lamborghini and Vector

Although they manufacture different automobile lines, Lamborghini and Vector are both controlled by V-Power Corporation. V-Power is the largest shareholder of Vector, owning 57 percent of the stock; the remaining 43 percent of Vector is publicly traded on NASDAQ. V-Power also has a

controlling interest in Lamborghini, owning 50 percent of Lamborghini's stock. For MYs 1998 and 1999, Lamborghini's and Vector's combined worldwide production will be less than 10,000 automobiles. As both companies are controlled by V-Power, any alternative CAFE standard would apply to Lamborghini and Vector together, and a single petition can be submitted for a single alternative standard, applicable to the combined fleet of these companies.

NHTSA's regulations on low volume exemptions from CAFE standards state that petitions for exemption are to be submitted ''not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown.'' (49 CFR 525.6(b).)

NHTSA received a petition from Vector Aeromotive Corporation on August 14, 1996 seeking an exemption for Lamborghini and Vector for the 1998 model year. A second petition, seeking an exemption for the 1999 model year, was submitted by Lamborghini and Vector August 27, 1997.

These petitions were timely filed under 49 CFR 526.6(b). This section requires that petitions ''be submitted not later than 24 months before the beginning of the affected model year, unless good cause for late submission is shown.'' Agency action regarding the MY 1998 petition was delayed at the request of Lamborghini and Vector. Due to this delay, NHTSA is now acting on both the 1998 and 1999 model year petitions.

**Methodology Used to Project Maximum Feasible Average Fuel Economy Level for Lamborghini/Vector**

*Baseline Fuel Economy*

To project the level of fuel economy which could be achieved by Lamborghini/Vector in MYs 1998 and 1999, the agency considered whether there were technical or other improvements that would be feasible for these vehicles, and whether or not the company currently plans to incorporate such improvements in the vehicles. The agency reviewed the technological feasibility of any changes and their economic practicability.

NHTSA interprets ''technological feasibility'' as meaning that technology which would be available to Lamborghini/Vector for use on its MY 1998 and 1999 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, and reduced rolling resistance.

The agency interprets ''economic practicability'' as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its automobiles. In evaluating that capability, the agency has always considered market demand as an implicit part of the concept of economic practicability. Consumers need not purchase what they do not want.

In accordance with the concerns of economic practicability, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Lamborghini and Vector automobiles. Since NHTSA assumes that Lamborghini and Vector will continue to build exotic high performance cars, design changes that would remove items traditionally offered on these cars, such as reducing the displacement of their engines, were not considered. Such changes to the basic design would be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

*Technology for Fuel Economy Improvement*

The nature of Lamborghini and Vector vehicles generally do not result in high fuel economy values. Also, Lamborghini and Vector lag in having the latest developments in fuel efficiency technology because suppliers generally provide components and technology to small manufacturers only after supplying large manufacturers.

Lamborghini/Vector state that the requested alternative fuel economy value represents the best possible CAFE that Lamborghini/Vector can achieve for MYs 1998 and 1999. However, the joint alternative fuel economy values sought, 12.4 mpg, represents a decrease from 12.5 mpg in MY 1997. The fuel economy decrease from MY 1997 is attributed to Lamborghini/Vector's projection that Vector sales will increase in MY 1998 from the MY 1997 level and remain steady for MY 1999 while Lamborghini sales will remain constant. Therefore, fuel economy will decrease from the 1997 level because of the projected increased sales of Vectors, which have lower fuel economy values than Lamborghinis.

Despite these qualifications, the following describes how Lamborghini and Vector maximize their respective vehicles' fuel economy by using state of the art materials and technologies for their vehicles.

Lamborghini and Vector vehicles share a common engine designed and produced by Lamborghini. This engine is a 5.7 liter V–12 that produces 550 horsepower. Fuel is delivered to the engine through a computer-controlled multipoint fuel injection system. Aluminum alloy is used for all major castings like the engine crankcase, cylinder heads, induction manifold, gearbox, and axle. The Lamborghini V–12 is a highly efficient engine which produces extremely high output for its displacement. While the fuel efficiency of the Lamborghini and Vector vehicles could be improved through the use of a smaller engine, redesign or replacement of the current engine would require Lamborghini and Vector to invest resources in an endeavor which would most likely reduce the demand for their vehicles.

In keeping with the high performance character, Lamborghini and Vector vehicles are designed to provide a structure that is both strong and lightweight. Vector uses a semi-monocoque structure and a steel roll cage with body panels fabricated from carbon-reinforced composite fiber glass. Front suspension consists of independent, unequal length A-arms with concentric coil shock absorbers and anti-dive characteristics. Rear suspension is parallel link, concentric coil springs with anti-squat characteristics. The hydraulic brake system includes vacuum assist, quad cylinder calipers and ventilated discs.

The Lamborghini Diablo chassis uses space frame construction with the unstressed panels, such as the doors and trunk, made of aluminum alloy and plastic composite. Composite and steel beams were recently adopted for the energy absorbing bumpers.

All Lamborghini/Vector vehicles have a rear engine driving rear wheels through five speed manual transmissions in which fifth gear serves as an overdrive gear. Additionally, Vector vehicles are equipped with ZF transaxle and constant velocity driveshaft joints. Both Lamborghinis and the Vectors rely on wide low aspect ratio tires to provide maximum traction and performance.

Lamborghini/Vector vehicles achieve a very high level of performance by incorporating an efficient powerplant with a lightweight structure. Much of the technology used to improve fuel economy in other vehicles is already employed by Lamborghini/Vector to enhance performance. Any further improvements in fuel economy in these vehicles through the use of a smaller powerplant, tires with less rolling resistance, or lower axle ratios would be

contrary to the essential characteristics of the vehicles and their position in the marketplace.

*Model Mix*

The Vector Avtech/M12 and Lamborghini Diablo are similarly sized vehicles sharing a common V–12 engine. Therefore, any opportunity to improve fuel economy by changing model mix would be dependent on introduction of new models or engines. In any event, changing the model mix would have a negligible effect on fuel economy due to the inherently low fuel economy of these ultra high performance coupes.

*The Effect of Other Vehicle Standards*

Federal Motor Vehicle Safety Standards and other regulations have an adverse effect on fuel economies of Lamborghini and Vector vehicles. These standards include 49 CFR part 581, *Bumper Standard,* Standard No. 214, *Side impact protection,* Standard No. 208, *Occupant crash protection* and Standard No. 201, *Occupant protection in interior impact.* These standards tend to reduce achievable CAFE levels, since they result in increased vehicle weight. Engineering resources are necessarily devoted to meeting the standards, since, in order to remain in the market, Lamborghini/Vector must meet these mandatory standards.

*The Need of the United States to Conserve Energy*

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Lamborghini/Vector to achieve an average fuel economy in MYs 1998 and 1999 above the levels set forth in this proposed decision. Granting an exemption to Lamborghini/Vector and setting an alternative standard at that level would result in only a negligible increase in fuel consumption and would not affect the need of the United States to conserve energy. In fact, there would not be any increase since Lamborghini/Vector cannot attain the generally applicable standards. Nevertheless, the agency estimates that the additional fuel consumed by operating the MYs 1998 and 1999 fleets of Lamborghini/Vector vehicles at the projected CAFE of 12.4 mpg for MYs 1998 and 1999 is insignificant compared to the fuel used each day by the entire U.S. motor vehicle fleet for passenger cars in 1996.

*Maximum Feasible Average Fuel Economy for Lamborghini/Vector*

The agency has tentatively concluded that it would not be technologically feasible and economically practicable for Lamborghini/Vector to improve the fuel economy of their MY 1998 and 1999 fleets above an average of 12.4 mpg, and that the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard.

**Proposed Level and Type of Alternative Standard**

NHTSA tentatively concludes that the maximum feasible average fuel economy for Lamborghini/Vector is 12.4 mpg in MY 1998 and 12.4 mpg in MY 1999. The agency also tentatively concludes that it would be appropriate to establish a separate standard for Lamborghini/Vector rather than to set standards for a vehicle class or a single standard for exempt manufacturers. Neither of these two options are available for the model years in question because of actions previously taken by the agency.

NHTSA has already established an alternative standard for Rolls Royce of 16.3 mpg for MYs 1998 and 1999. The agency has also granted a petition from Mednet, Inc. (successor company to Dutcher Motors) for an alternative standard of 17.0 mpg for MYs 1996–98. Therefore, the agency cannot set a standard for a class or a single standard for all exempted manufacturers for MYs 1998 and 1999.

**Regulatory Impact Analyses**

NHTSA has analyzed this proposal and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the proposal would not establish a ''rule,'' which is defined in the Executive Order as ''an agency statement of general applicability and future effect.'' The proposed exemption is not generally applicable, since it would apply only to Lamborghini Automobili and Vector Aeromotive as discussed in this notice. Under DOT regulatory policies and procedures, the proposed exemption would not be a ''significant regulation.'' If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this proposal sets an alternative standard at the level determined to be the maximum feasible levels for Lamborghini/Vector for MYs 1998 and 1999, no fuel would be saved by establishing a higher alternative standard. NHTSA finds in the Section on ''The Need of the United States to Conserve Energy'' that because of the small size of the Lamborghini/Vector fleet, the incremental usage of gasoline by Lamborghini/Vector's customers would not affect the nation's need to conserve gasoline. There would not be any impacts for the public at large.

The agency has also considered the environmental implications of this proposed exemption in accordance with the National Environmental Policy Act and determined that this proposed exemption, if adopted, would not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemptions and alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel used.

Interested persons are invited to submit comments on the proposed decision. It is requested but not required that two copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential business information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation [49 CFR Part 512].

All comments received before the close of business on the comment closing indicated above for the proposal

will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

**List of Subjects in 49 CFR Part 531**

Energy conservation, Fuel economy, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 531 is proposed to be amended as follows:

## PART 531—[AMENDED]

1. The authority citation for part 531 would continue to read as follows:

**Authority:** 49 U.S.C. 32902; Delegation of authority at 49 CFR 1.50.

2. In section 531.5, the introductory text of paragraph (b) is republished for the convenience of the reader and paragraph (b)(10) would be revised to read as follows:

**§ 531.5 Fuel economy standards.**

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(10) Automobili Lamborghini S.p.A./ Vector Aeromotive Corporation.

| Model year | Average fuel economy standard (miles per gallon) |
|---|---|
| 1995 | 12.8 |
| 1996 | 12.6 |
| 1997 | 12.5 |
| 1998 | 12.4 |
| 1999 | 12.4 |

* * * * *

Issued on: January 29, 1998.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 98–2695 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[I.D. 012798A]**

**RIN 0648-AJ87**

## Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Donation Program

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

**ACTION:** Notice of availability, request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 50 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 50 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs) for Secretarial review. These amendments would authorize the voluntary donation of Pacific halibut taken as bycatch in specified groundfish trawl fisheries off Alaska to economically disadvantaged individuals by tax-exempt organizations through a NMFS-authorized distributor. This action is intended to support industry initiatives to reduce regulatory discards in the groundfish fisheries by processing halibut bycatch for human consumption. These amendments are necessary to promote the goals and objectives of the FMPs that govern the commercial groundfish fisheries off Alaska. Comments from the public are requested.

**DATES:** Comments on Amendments 50/50 must be submitted by April 6, 1998.

**ADDRESSES:** Comments on the FMP amendments should be submitted to the Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendments 50/50 and the environmental assessment (EA) and related economic analysis prepared for the proposed action are available from NMFS, at the above address, or by calling the Alaska Region, NMFS at 907–586–7228.

**FOR FURTHER INFORMATION CONTACT:** Alan Kinsolving, NMFS, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or amendment, immediately publish a document in the **Federal Register** that the fishery management plan or amendment is available for public review and comment. This action constitutes such notice for Amendments 50/50 to the FMPs.

Amendments 50/50 were adopted by the Council at its April 1997 meeting. The amendments would expand the existing Salmon Donation Program (SDP) to create a Prohibited Species Donation (PSD) program that would include halibut as well as salmon. This action would authorize the distribution of Pacific halibut taken as bycatch in the groundfish trawl fisheries off Alaska to economically disadvantaged individuals by tax-exempt organizations through a NMFS-authorized distributor. This action is necessary to reduce regulatory discards in the groundfish fisheries by processing halibut bycatch for consumption by economically disadvantaged individuals.

A proposed rule that would implement Amendments 50/50 may be published in the **Federal Register** for public comment, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the FMP amendments to be considered in the approval/disapproval decision on Amendments 50/50. All comments received by April 6, 1998, whether specifically directed to Amendments 50/50 or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on Amendments 50/50.

Dated: January 30, 1998.

**Bruce C. Morehead,**

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

[FR Doc. 98–2748 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–22–F

# Notices

Federal Register
Vol. 63, No. 23
Wednesday, February 4, 1998

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.

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** February 10, 1998; 9:30 a.m.

**PLACE:** Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

**CLOSED MEETING:** The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)). The meeting will be followed by a separate closed meeting of the corporate board of directors of the private nonprofit organization RFE/RL, Inc.

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact Brenda Massey at (202) 401–3736.

Dated: February 2, 1998.

**David W. Burke,**

*Chairman.*

[FR Doc. 98–2896 Filed 2–2–98; 2:30 pm]

BILLING CODE 8230–01–M

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Marine Mammal Certificate of Inclusion.

*Agency Form Number:* None assigned.

*OMB Approval Number:* 0648–0083.

*Type of Request:* Reinstatement, without change, of a previously approved collection.

*Burden:* 6 hours.

*Number of Respondents:* 25.

*Avg. Hours Per Response:* 15 minutes.

*Needs and Uses:* Under the General Permit issued under Section 101(a) of the Marine Mammal Protection Act of 1972, as amended, a certificate of inclusion is issued to individual U.S. tuna purse seine vessel owners and operators fishing in the eastern tropical Pacific Ocean. The certificate of inclusion allows fishermen to lawfully take marine mammals incidental to the yellowfin tuna purse seine fishery in this region.

*Affected Public:* Businesses or other for-profit organizations, individuals.

*Frequency:* Annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

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, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: January 29, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2744 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Report on Unscheduled Unloading

**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 April 6, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental 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 Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

This collection of information is the reports to BXA required by carriers exporting controlled goods or technology when it is necessary to unload the cargo at a destination other than that shown on the Shipper's Export Declaration or when directed to unload and/or return cargo.

#### II. Method of Collection

Written report.

#### III. Data

*OMB Number:* 0694–0040.
*Form Number:* Not applicable.

*Type of Review:* Regular submission for extension of a currently approved collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 2.

*Estimated Time Per Response:* 1 hour per response.

*Estimated Total Annual Burden Hours:* 2.

*Estimated Total Annual Cost:* $0 (no capital expenditures are required).

## 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 will also become a matter of public record.

Dated: January 29, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2739 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DT–P

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Proposed Collection; Comment Request

**TITLE:** Foreign Availability Procedures and Criteria.

**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 April 6, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental 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 Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This information is collected in order to respond to requests by Congress and industry to make foreign availability determinations. Exporters are urged to submit data regarding the foreign product's technical characteristics and the availability of these products in foreign markets to determine if similar U.S. products should be decontrolled.

## II. Method of Collection

Written submission.

## III. Data

*OMB Number:* 0694–0004.

*Form Number:* Not applicable.

*Type of Review:* Regular submission for extension of a currently approved collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 10.

*Estimated Time Per Response:* 120 hours per response.

*Estimated Total Annual Burden Hours:* 1,200.

*Estimated Total Annual Cost:* $0 (no capital expenditures are required).

## 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 will also become a matter of public record.

Dated: January 29, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2740 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DT–P

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Approval of Triangular Transactions Involving Commodities Covered by a U.S. Import Certificate

**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 April 6, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental 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 Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

As a result of an agreement between the U.S. and ''free world'' countries, the import certificate/delivery verification procedures were established. This collection provides a means to authorize approved imports to the U.S. to be transhipped to another destination instead of being imported to the U.S. directly as approved on the Import Certificate. When this occurs, this is considered a ''triangular'' transaction.

## II. Method of Collection

Written report.

## III. Data

*OMB Number:* 0694–0009.

*Form Number:* Not applicable.

*Type of Review:* Regular submission for extension of a currently approved collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 1.

*Estimated Time Per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 1 hour.

*Estimated Total Annual Cost:* $0 (no capital expenditures are required).

### 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 will also become a matter of public record.

Dated: January 29, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2741 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DT–P

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## DEPARTMENT OF COMMERCE

## Bureau of Export Administration

## Customer Service Evaluation

**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 April 6, 1998.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental 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 Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The survey will be used to measure the quality, timeliness, and relevance of the counsel/information provide by BXA. It will also be used as a way to gauge the relevance of services and information provided for the business community.

### II. Method of Collection

By mail, E-mail or FAX.

### III. Data

*OMB Number:* None.

*Form Number:* Not applicable.

*Type of Review:* Proposed new collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 1,750.

*Estimated Time Per Response:* 4 minutes per response.

*Estimated Total Annual Burden Hours:* 117.

*Estimated Total Annual Cost:* $0 (no capital expenditures are required of applicants—only their time).

### 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 will also become a matter of public record.

Dated: January 28, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2742 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DT–P

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## DEPARTMENT OF COMMERCE

## International Trade Administration

## Export Trade Certificate of Review

**ACTION:** Notice of application.

**SUMMARY:** The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. *An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to:* Office of Export

Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 98–00001.'' A summary of the application follows.

**Summary of the Application**

*Applicant:* Fresh Fruit Exporters Association (''FFEA''), 30423 Canwood Street, Suite 235, Agoura Hills, California 91301.

*Contact:* Ronald A. Oleynik, Attorney.

*Telephone:* (202) 457–7183.

*Application No.:* 98–00001.

*Date Deemed Submitted:* January 26, 1998.

*Members (in addition to applicant):* Autenrieth & Gray, Agoura Hills, CA; Fresh Western International, Inc., Salinas, CA (a wholly owned subsidiary of The Albert Fisher Group, Inc., Dallas, TX); Fruit Unlimited Inc., Visalia, CA; Giscal Limited, U.S.A., Los Angeles, CA; Great Oriental Corporation, Anaheim, CA; Pandol Bros., Inc., Delano, CA; Paramount Export Company, Oakland, CA; Primary Export International, Inc., South San Francisco, CA; Renown LLC, Redlands, CA; United Fruits (Calif.) Corp. and United Overseas Trading Corp., Santa Monica, CA; Vanguard Trading Services, Inc., Issaquah, WA; and Westlake-Miller, Inc., Los Angeles, CA.

FFEA seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

*Export Trade*

1. *Products:* Fresh fruit.

2. *Services:* Inspection, quality control, marketing and promotional services.

3. *Technology Rights:* Proprietary rights to all technology associated with Products or Services, including, but not limited to: patents, trademarks, service marks, trade names, copyrights, trade secrets, and know-how.

4. *Export Trade Facilitation Services (as they Relate to the Export of Products, Services and Technology Rights):* All export trade-related facilitation services, including, but not limited to: consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; inspection and quality control; transportation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development and application; assistance and administration of government export assistance programs, such as the Export Enhancement and Market Promotion programs.

**Export Markets**

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

**Export Trade Activities and Methods of Operation**

In connection with the promotion and sale of Members' Products and Services into the Export Markets, the FFEA and/or one or more of its Members seeks to:

1. Design and execute foreign marketing strategies for its Export Markets;

2. Prepare joint bids, establish export prices, and establish terms of sale in the Export Markets;

3. Design, develop and market generic corporate labels;

4. Engage in joint promotional activities directly targeted at developing the Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures, industry newsletters and other forms of product, service and industry information; conducting international market and product research; procuring international marketing, advertising and promotional services; and sharing the cost of these joint promotional activities among the Members;

5. Conduct product and packaging research and development exclusively for the export of the Products, such as meeting foreign regulatory requirements and foreign buyer specifications and identifying and designing for foreign buyer and consumer preferences;

6. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in the Export Markets, such as packaging requirements, establishing and operating fumigation facilities and providing specialized packing operations and other quality control procedures to be followed by its Members in the export of Products into the Export Markets;

7. Advise and cooperate with agencies of the U.S. Government in establishing procedures regulating the export of Members' Products, Services and/or Technology Rights into the Export Markets;

8. Negotiate and enter into purchase agreements with buyers in the Export Markets regarding the export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;

9. Broker or take title to the Products;

10. Purchase Products from non-Members whenever necessary to fulfill specific sales obligations;

11. Solicit non-Members to become Members;

12. Communicate and process export orders;

13. Assist each Member in maintaining the quality standards necessary to be successful in the Export Markets;

14. Provide Export Trade Facilitation Services with respect to Products, Services and Technology Rights;

15. Negotiate freight rate contracts with individual carriers and carrier conferences either directly or indirectly through shippers associations and/or freight forwarders;

16. Bill and collect from foreign buyers and provide accounting, tax, legal and consulting assistance and services;

17. Enter into exclusive agreements to provide, produce, negotiate, contract, and administer Export Trade Services and Trade Facilitation Services;

18. Apply for and utilize applicable export assistance and incentive programs which are available within the governmental and private sectors, such as the USDA Export Enhancement and Market Promotion programs;

19. Refuse to deal with or provide quotations to non-Members for sales of the Members' Products into the Export Markets;

20. Utilize common marking and identification of Product sold in the Export Markets; and

21. Exchange information with and among the Members as necessary to carry out the Export Trade Facilitation Services and Export Trade Activities and Methods of Operation, including:

a. Information about sales and marketing efforts and strategies in the Export Markets, including pricing; projected demand in the Export Markets for Products; customary terms of sale,

prices and availability of Products independently committed by Members for sales in the Export Markets; prices and sales of Products in the Export Markets; and specifications by buyers and consumers in the Export Markets;

b. Information about the price, quality, quantity, source and delivery dates of Products for export;

c. Information about terms and conditions of contracts for sales in the Export Markets;

d. Information about expenses specific to exporting to and within the Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

e. Information about U.S. and foreign legislation and regulations, including Federal marketing order programs that may affect sales to the Export Markets;

f. Information about the FFEA's or its Members' export operations, including sales and distribution networks established by the FFEA or its Members in the Export Markets, and prior export sales by Members, including export price information; and

g. Information about the FFEA's or its Members' credit and collections practices and problems, claims and sales allowances.

**Definitions**

1. *Export Intermediary* means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

2. *Member* means a person who has membership in the FFEA and who has been certified as a ''Member'' within the meaning of Section 325.2(1) of the Regulations.

**Terms and Conditions of Certificate**

1. In engaging in Export Trade Activities and Methods of Operation, neither FFEA nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information regarding its or any other Member's domestic costs, production, capacity, or inventories; domestic prices; domestic sales; terms of domestic marketing or sale; or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (*e.g.*, price, time required to fill an order, etc.) of an actual or potential *bona fide* sale and the disclosure is limited to the prospective purchaser.

2. FFEA and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Dated: January 28, 1998.

**Morton Schnabel,**

*Acting Director, Office of Export Trading, Company Affairs.*

[FR Doc. 98–2647 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DR–F

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Proposed Collection; Comment Request

**TITLE:** Albacore Fishing Operation Information.

**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 April 6, 1998.

**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 Al Coan, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038–0271; (619) 546–7079.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The collected information will be used by NMFS to assess the status of Pacific albacore stocks and monitor the fisheries. Data on catches and catch locations are used to determine Albacore stock sizes and data on vessel characteristics are used to standardize fishing effort. After data are standardized, catch and effort information are used to determine year class strength, fishing mortality, maximum sustainable yields and descriptive information on where and how many fish are caught. Environmental data are used to correlate catches with certain environmental conditions in an effort to predict locations of favorable catches. The collection is also used to satisfy the license requirement under the High Seas Fishing Compliance Act (HSFCA).

### II. Method of Collection

Fishing vessel captains are supplied with a logbook which is distributed by the Western Fishboat Owners Association, NMFS personnel and contractors each year. Approximately 400 logbooks are sent annually to the fishermen or distributed at various ports in Oregon, Washington, California, Canada, and American Samoa and are filled out by hand during their fishing trip. The Pacific Marine Fisheries Commission contracts each year with the states of California, Oregon and Washington to collect the logbooks and fish size information when the vessels come in.

### III. Data

*OMB Number:* 0648–0223.

*Form Number:* NOAA 88–197.

*Type of Review:* Regular Submission.

*Affected Public:* Business or other for-profit (fishing vessel captains).

*Estimated Number of Respondents:* 200.

*Estimated Time Per Response:* 1.

*Estimated Total Annual Burden Hours:* 200.

*Estimated Total Annual Cost to Public:* $0 (no capital expenditures are required).

### 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: January 29, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2743 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 012698A]**

### Endangered Species; Permits

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

**ACTION:** Receipt of an amendment to an application for a scientific research permit (1116).

**SUMMARY:** Notice is hereby given that Public Utility District No. 1 of Douglas County (PUDDC) at East Wenatchee, WA has submitted in due form an amendment to an application for a permit that would provide authorization for takes of an endangered anadromous fish species for the purpose of scientific research.

**DATES:** Written comments or requests for a public hearing on the amended application must be received on or before March 6, 1998.

**ADDRESSES:** The amended application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Protected Resources Division in Portland, OR.

**FOR FURTHER INFORMATION CONTACT:** Tom Lichatowich (503–230–5438).

**SUPPLEMENTARY INFORMATION:** PUDDC requests a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

On January 15, 1998, a notice was published (63 FR 2364) that NMFS received an application for a 5-year permit from PUDDC that would provide authorization for takes of juvenile, endangered, naturally-produced and artificially-propagated, upper Columbia River steelhead (*Oncorhynchus mykiss*) associated with scientific research. NMFS has received an amendment to the application requesting an additional annual take of ESA-listed juvenile steelhead associated with a study designed to understand the status of juvenile salmonid migration at Wells Dam on the Columbia River in WA. ESA-listed juvenile fish are proposed to be lethally taken by fyke nets.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: January 27, 1998.

**Nancy I. Chu,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 98–2747 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### Trademark Processing

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), and by the Patent and Trademark Office (Office) in the performance of its statutory functions of examining, registering and maintaining trademarks as required by the Trademark Act, 15 U.S.C. 1051, *et seq.*

**DATES:** Written comments must be submitted on or before April 6, 1998.

**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 should be directed to the attention of Nancy L. Omelko, Administrator for Petitions, at the Office of the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Va. 22202–3513, telephone number (703) 308–8910 ext. 39 or by facsimile transmission to (703) 308–9395.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Patent and Trademark Office (Office) administers the Trademark Act, 15 U.S.C. 1051 *et seq*, which provides for the Federal registration of trademarks; as well as, service marks; collective trademarks and service marks; collective membership marks; and certification marks. Individuals and businesses who use their marks, or intend to use their marks, in commerce regulable by Congress, may file an application with the Office to register their mark. The mark will remain on the register for ten years. However, the registration will be canceled unless the owner files an affidavit with the Office attesting to the continued use (or excusable non-use) of the mark in commerce. The registration may be renewed for periods of ten years.

The Trademark Act mandates that each register entry contain the mark; the goods and/or services that the mark is used in connection with; identifying ownership information; dates of use; and certain other information. The Office also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual, or by businesses, to determine availability of a mark. By accessing the Office's information, potential trademark owners may reduce the possibility of initiating use of a mark previously adopted by another. The Federal Trademark Registration process serves to reduce the filing of papers in court and between parties.

### II. Method of Collection

By mail, facsimile, or electronic transmission. A pilot program is currently in progress to study the use of electronic technology in filing trademark/service mark applications. After evaluation of the pilot, the Office will implement a full-scale program to accept trademark/service mark registration applications filed electronically by the public. At this stage, only the intent-to-use and use-based trademark/service mark

registration applications are being accepted electronically. In time, the electronic filing may be expanded to include other forms. The time estimates shown for the electronic forms in this notice are based on the average amount of time needed to complete and electronically file a trademark/service mark application. The estimated number of annual responses are a projection of how many electronic applications are expected to be filed per year.

## III. Data

*OMB Number:* 0651–0009.

*Type of Review:* Renewal with change.

*Affected Public:* Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, state, local or tribal governments, and the Federal Government. The forms are used by potential trademark owners and trademark practitioners. However, use of the forms is not mandatory and many law firms and corporations develop their own forms. The information collected is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, since both common law trademark owners and Federal trademark registrants must actively protect their own rights.

*Estimated Number of Respondents:* 302,818.

*Estimated Time Per Response:* 10 to 45 minutes, depending on the form.

*Estimated Total Annual Respondent Burden Hours:* 112,887 hours per year.

*Estimated Total Annual Respondent Cost Burden:* $11,570,918 per year.

| Title of form | Form No(s). | Estimated time for response (minutes) | Est. annual burden hours | Est. annual responses |
|---|---|---|---|---|
| *Intent-to-Use trademark/service mark registration applications | 1478, 1478(a), 4.8&4.9 | 20 | 37,857 | 114,719 |
| *Electronic Intent-to-Use trademark/service mark registration application | TBD | 18 | 18 | 60 |
| *Use-Based trademark/service mark registration applications | 1478,1478(a),4.8&4.9 | 30 | 38,230 | 76,459 |
| *Electronic Use-Based trademark/service mark registration application | TBD | 27 | 27 | 60 |
| Allegation of Use for Intent-To-Use Application | 1553 | 20 | 8,652 | 26,218 |
| Request for Extension of Time to File a Statement of Use | 1581 | 10 | 8,141 | 47,887 |
| Affidavits of Use/Combined Declaration of Use and Incontestability | PTO–FB–TM205/TM209 | 30 | 10,391 | 20,781 |
| Application for Renewal | PTO–FB–TM201 | 30 | 3,360 | 6,720 |
| Amendments/Corrections/Surrenders | No Forms Associated. | 30 | 2,449 | 4,898 |
| Opposition to the Registration of a Mark | 4–17a | 45 | 3,762 | 5,016 |
| Totals | | | 112,887 | 302,818 |

*The same application is used for both types of registration; however, different information is required.

## 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 or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 30, 1998.

**Linda Engelmeier,**

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

[FR Doc. 98–2734 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–16–P

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## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Egypt

January 29, 1998.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting a limit.

**EFFECTIVE DATE:** February 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 448 is being increased by recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also

see 62 FR 67829, published on December 30, 1997.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 29, 1998.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on February 4, 1998, you are directed to increase the limit for Category 448 to 19,149 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 98–2737 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Amendment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

January 29, 1998.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs amending a limit.

**EFFECTIVE DATE:** February 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In a Memorandum of Understanding dated January 12, 1998, the Governments of the United States and El Salvador agreed to increase the current limit for Categories 352/652 to 3,200,000 dozen.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67623, published on December 29, 1997.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 29, 1998.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador and exported during the periods January 1, 1998 through March 26, 1998 and January 1, 1998 through December 31, 1998.

Effective on February 4, 1998, you are directed to increase the limit for Categories 352/652 to 3,200,000 dozen [1] for the period January 1, 1998 through March 26, 1998, as provided for under the Uruguay Round Agreement on Textiles and Clothing and a Memorandum of Understanding dated January 12, 1998 between the Governments of the United States and El Salvador.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 98–2736 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

January 29, 1998.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs reducing a limit.

**EFFECTIVE DATE:** February 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 342/642 is being reduced for carryforward applied to the 1997 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67624, published on December 29, 1997.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 29, 1998.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the periods January 1, 1998 through May 30, 1998 and January 1, 1998 through December 31, 1998.

Effective on February 5, 1998, you are directed to reduce the limit for Categories

342/642 to 166,813 dozen [1] for the period January 1, 1998 through May 30, 1998, as provided for under the Uruguay Round Agreement on Textiles and Clothing (ATC).

The Guaranteed Access Level for Categories 342/642 remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 98–2738 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Laos

January 29, 1998.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs establishing a limit.

**EFFECTIVE DATE:** February 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Governments of the United States and the Lao People's Democratic Republic have agreed to amend and extend the Bilateral Textile Agreement of September 15, 1994 for three consecutive one-year periods, beginning on January 1, 1998 and extending through December 31, 2000.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1998 limit for Categories 340/640.

This limit may be revised if Laos becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Laos.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997).

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 29, 1998.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of September 15, 1994, as amended and extended, between the Governments of the United States and the Lao People's Democratic Republic, you are directed to prohibit, effective on February 4, 1998, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340/640, produced or manufactured in Laos and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998, in excess of 159,536 dozen [1].

The limit set forth above is subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and the Lao People's Democratic Republic.

Products in the above categories exported during 1997 shall be charged to the applicable category limit for that year (see directive dated November 4, 1996) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

This limit may be revised if Laos becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Laos.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 98–2735 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 98–C0005]**

### TJX Companies, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1605.13(d). Published below is a provisionally-accepted Settlement Agreement with The TJX Companies, Inc., a corporation, containing a civil penalty of $150,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 19, 1998.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98–C0005, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Kacoyanis, Trail Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: January 29, 1998.

**Sadye E. Dunn,**

*Secretary.*

### Consumer Product Safety Commission

[CPSC Docket No. 98–C0005]

In the Matter of The TJX Companies, Inc., a Corporation

**Settlement Agreement and Order**

1. The TJX Companies, Inc., (hereinafter, ''Respondent''), a corporation, enters into this Settlement Agreement (hereinafter, ''Agreement'') with the staff of the Consumer Product Safety Commission, and agrees to the

entry of the Order incorporated herein. The purpose of this Agreement and Order is to settle the staff's allegations that Respondent knowingly sold and offered for sale, in commerce, certain women's 100% rayon sheer chiffon skirts and scarves that failed to comply with the Clothing Standard for the Flammability of Clothing Textiles (hereinafter, ''Clothing Standard''), 16 CFR part 1610, in violation of section 3 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1192.

**I. The Parties**

2. The ''staff'' is the staff of the Consumer Product Safety Commission (hereinafter, ''Commission''), an independent regulatory commission of the United States government established pursuant to section 4 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2053.

3. Respondent is a corporation organized and existing under the laws of the State of Delaware with principal corporate offices at 770 Cochituate Road, Framingham, MA 01701. Respondent is an off-price retailer of wearing apparel and accessories, and is comprised of various chain stores including, but not limited to T. J. Maxx, and prior to September 30, 1995 included Hit or Miss.

**II. Allegations of the Staff**

4. In 1994 and 1995, Respondent sold, or offered for sale, in commerce, 17,571 women's 100% sheer chiffon rayon skirts and 17,247 women's 100% sheer chiffon rayon scarves.

5. The skirts and scarves identified in paragraph 4 above are subject to the Clothing Standard, 16 CFR 1610, issued under section 4 of the FFA, 15 U.S.C. 1193.

6. The staff tested the skirts and scarves identified in paragraph 4 above for compliance with the requirements of the Clothing Standard. See 16 CFR 1610.3 and .4. The test results showed that the skirts and the scarves violated the requirements of the Clothing Standard and, therefore, are dangerously flammable and unsuitable for clothing because they are susceptible to rapid and intense burning when exposed to an ignition source.

7. On August 5, 1994, the staff informed Respondent that the skirts identified in paragraph 4 above failed to comply with the Clothing Standard and requested that it review its entire product line for other potential violations. The staff urged Respondent to examine particularly other 100% rayon and rayon/cotton blends featuring a sheer chiffon layer.

8. On July 19, 1995 and July 24, 1995, the staff informed Respondent that the scarves identified in paragraph 4 above failed to comply with the Clothing Standard.

9. Respondent knowingly sold, or offered for sale in commerce, the skirts and scarves identified in paragraph 4 above, as the term ''knowingly is defined in section 5(e)(4) of the FFA, 15 U.S.C. 1194(e)(4), in violation of section 3 of the FFA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

**III. Response of Respondent**

10. Respondent specifically denies that it sold or offered for sale garments identified in paragraph 4 above that violated the flammability requirements of the general wearing apparel standard or failed to meet any other applicable federal standard.

11. The garments identified in paragraph 4 above were purchased from vendors pursuant to written and binding warranties that the garments met all applicable federal standards. Respondent's vendors have represented that independent laboratory testing of the garments at issue confirmed that they met all applicable federal standards.

12. Respondent promptly and diligently assisted the Commission staff in its efforts to implement the voluntary recalls of allegedly violative skirts in 1994 and filed a written report with the Commission which set forth the steps it had undertaken and in which it committed to monitor its purchase of similar skirts. At no time after the submission of this report, did the staff provide TJX with any indication that the actions undertaken by TJX with regard to the recall or monitoring of skirts were inadequate to satisfy either TJX's legal obligations or the Commission's express wishes.

13. Respondent also promptly and diligently assisted the Commission in its efforts to implement the voluntary recall of allegedly violative scarves in 1995.

14. Respondent has received no reports of injuries from the use of any products enumerated in paragraph 4 of this Agreement and has been informed of the existence of no such injuries from such products identified in paragraph 4 above by the staff.

**IV. Agreement of the Parties**

15. For purposes of this Settlement Agreement and Order, the Commission has jurisdiction over Respondent and the subject matter of this Settlement Agreement and Order under the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*; the Flammable Fabrics Act (FFA), 15 U.S.C. 1191 *et seq.*; and the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.*

16. This Settlement Agreement and Order is entered into for settlement purposes only and does not constitute an admission by Respondent that it violated any law or is in any way at fault. Nor does this Agreement constitute an admission by Respondent that it is paying a civil penalty. Respondent enters into this Agreement solely to settle the allegations of the staff that a civil penalty is appropriate. Nothing in this Agreement precludes TJX from raising any defenses in any future litigation not arising out of the terms of this Agreement and Order.

17. This Agreement does not constitute a determination by the Commission that Respondent knowingly violated the FFA and the Clothing Standard. This Agreement becomes effective only upon its final acceptance by the Commission and service of the incorporated Order upon Respondent.

18. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1605.13(d). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed to be finally accepted on the 20th day after the date it is published in the **Federal Register.**

19. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Respondent waives any rights to a formal hearing as to any findings of fact and conclusions of law relating to the staff's allegations in this matter.

20. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, the Commission specifically waives its right to initiate either by referring to the Department of Justice or bringing in its own name any civil, administrative, or criminal action relating to any of the events giving rise to the allegations of the staff enumerated in paragraphs 4 through 9 above against: (i) Respondent, (ii) any of Respondent's former or current affiliated entities; (iii) any shareholder, officer, director, employee, or agent of any entity referenced in (i) or (ii); and (iv) any successor, heir, or assign of the persons described in (i), (ii), or (iii).

21. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order incorporated herein by reference.

22. A violation of the attached Order shall subject Respondent to appropriate legal action.

23. The Commission may disclose the terms of this Settlement Agreement and Order to the public consistent with section 6(b) of the CPSA, 15 U.S.C. 2055(b).

Respondent the TJX Companies, Inc.

Dated: December 9, 1997.

Bernard Cammarata,

*President and Chief Executive Officer, The TJX Companies, Inc. 770 Cochituate Road, Framingham, MA 01701.*

Commission Staff

Eric L. Stone,

*Director, Division of Administrative Litigation, Office of Compliance.*

Alan H. Schoem,

*Assistant Executive Director, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207–0001.*

Dated: December 10, 1997.

Dennis C. Kacoyanis,

*Trial Attorney Ronald G. Yelenik, Trial Attorney Division of Administrative Litigation, Office of Compliance.*

**Order**

Upon consideration of the Settlement Agreement entered into between Respondent The TJX Companies, Inc., (hereinafter, ''Respondent''), a corporation, and the staff of the Consumer Product Safety Commission (''Commission''); and the Commission having jurisdiction over the subject matter and Respondent; and it appearing that the Settlement Agreement and Order is in the public interest, it is

*Ordered*, that the Settlement Agreement and Order be and hereby is accepted, as indicated below; and it is

*Further ordered*, that Respondent pay to the United States Treasury a civil penalty of one hundred fifty thousand dollars ($150,000.00) within twenty (20) days after service upon Respondent of the Final Order.

Provisionally accepted and Provisional Order issued on the 29th day of January 1998.

By order of the Commission,

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 98–2753 Filed 2–3–98; 8:45 am]

BILLING CODE 6355–01–M

## DEPARTMENT OF DEFENSE

## [OMB Control Number 0704–0332]

## Information Collection Requirements; DoD Pilot Mentor-Protégé Program

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through July 31, 1998, under OMB Control Number 0704–0332. DoD proposes that OMB extend its approval for use through July 31, 2001.

**DATES:** Consideration will be given to all comments received by April 6, 1998.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to: Defense Acquisition Regulations Council, Attn: Mrs. Susan L. Schneider, PDUSD(A&T) DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax number (703) 602–0350. E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil. Please cite OMB Control Number 0704–0332 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0332 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Susan L. Schnieder, (703) 602–0131. A copy of the information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/. Paper copies of the information collection requirement may be obtained from Mrs. Susan L. Schnieder, PDUSD (A&T) DP(DAR), IMD 3D129, 3062 Defense Pentagon, Washington, D.C. 20301–3062.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Forms, and Associated OMB Control Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, Department of Defense Pilot Mentor-Protégé Program; OMB Control Number 0704–0332.

*Needs and Uses:* In order to evaluate whether the purposes of the DoD Pilot Mentor-Protégé Program (established under Section 831 of Public Law 101–510, the National Defense Authorization Act for Fiscal Year 1991, as amended) have been attained, Appendix I of the DFARS requires that companies participating in the Program, as mentors, keep records and report on progress in achieving the developmental assistance objectives under each mentor-protégé agreement. Participation in the Program is voluntary and is open to companies with at least one active subcontracting plan negotiated with DoD or another Federal agency. The report is used by the Government to assess whether the purposes of the Program have been attained.

*Affected Public:* Businesses or other for-profit organizations.

*Annual Burden Hours:* 496 (Includes 248 recordkeeping hours).

*Number of Respondents:* 124.

*Responses Per Respondent:* 2.

*Annual Responses:* 248.

*Average Burden per Response:* 1 hour response; 2 hours recordkeeping.

*Frequency:* Semiannually.

### Summary of Information Collection

The information collection includes requirements related to evaluation of the DoD Pilot Mentor-protégé Program. DFARS Appendix I–III, Reporting requirements and program reviews, prescribes how mentor firms shall report on the progress made under active mentor-protégé agreements. It requires mentor firms to report semiannually by attaching to their SF 295, Summary Subcontract Report—

a. A statement that includes the number of active mentor-protégé agreements in effect and the progress in achieving development assistance objectives under each agreement; and

b. A copy of the SF 294, Subcontracting Report for Individual Contracts, for each contract where developmental assistance was credited, with a statement identifying the amount of dollars credited to the small disadvantaged business subcontract goal as a result of developmental assistance; an explanation as to the relationship between the developmental assistance provided the protégé firm(s) under the Program and the activities sunder the contract covered by the SF 294(s); and the number and dollar value of subcontracts awarded to the protégé firms(s).

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 98–2648 Filed 2–3–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

## Department of the Army

## Environmental Assessment and Finding of No Significant Impact for the Disposal and Reuse of the Manhattan Beach Stand Alone Housing Complex, New York City, New York

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** In compliance with the National Environmental Policy Act and its implementing regulations promulgated by the President's Council on Environmental Quality, the Army has prepared a Finding of No Significant Impact (FNSI) pertaining to the Environmental Assessment (EA) for disposal and reuse of the Manhattan Beach Stand Alone Housing Complex, New York City, New York. In the FNSI, the Army states its intention to dispose of excess property resulting from the closure of the Manhattan Beach Stand Along Housing Complex.

In accordance with the Defense Authorization Amendments and Base Closure and Realignment Act of October 1988, Pub. L. 100–526, as amended, the Secretary of Defense's Commission on Base Realignment and Closure required the closure of 53 stand alone family housing installations, including the Manhattan Beach Stand Alone Housing Complex.

A 1990 EA identified, documented, and evaluated the environmental and socioeconomic effects of closure of the 53 stand alone housing installations.

This EA supplements the 1990 EA and analyzes the disposal and reuse of the Manhattan Beach Housing Complex.

The EA examines potential impacts of the proposed action, the disposal and reuse of the property, on 13 resource areas and areas of environmental concern: land use, air quality, noise, water resources, geology, infrastructure, hazardous and toxic materials, biological resources and ecosystems, cultural resources, the socioeconomic environment, environment justice, economic development, and quality of life. Additionally, the EA analyzed the potential impacts of the no action alternative—retaining the property in caretaker status.

Based on the analysis found in the EA it has been determined that no significant or cumulatively significant impacts on the quality of the natural or human environment are anticipated from the disposal of the Manhattan Beach Stand Alone Housing Complex.

Consistent with the President's Five-Point Initiative to Revitalize Base Closure Communities, which is intended to foster economic development and job creation, the Army intents to transfer the excess property to Kingsborough Community Collge via a public benefit conveyance for use as an educational center.

**DATES:** Comments must be submitted on or before March 6, 1998.

**ADDRESSES:** Copies of the EA and FNSI can be obtained by contacting the U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–ED (Mr. Doug Nester), P.O. Box 2288, Mobile, Alabama 36628–0001 or by telephone at (334) 694–3854.

Dated: January 28, 1998.

**Denzel L. Fisher,**

*Acting Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA(I,L&E).*

[FR Doc. 98–2685 Filed 2–3–98; 8:45 am]

BILLING CODE 3710–08–M

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## DEPARTMENT OF DEFENSE

### Department of the Army

### All-Terrain Lifter, Army System (ATLAS)

**AGENCY:** U.S. Army Tank-automotive and Armaments Command, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The Product Manager, Construction Equipment/Material Handling Equipment (PM CE/MHE) has prepared a Life-Cycle Environmental Assessment (LCEA) which examines the potential impacts to the natural and human environment from the life cycle activities of the All-Terrain Lifter, Army System (ATLAS). Based on the LCEA, PM CE/MHE has determined that the proposed action is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore, the preparation of an environmental impact statement is not required and the Army is issuing this Finding of No Significant Impact (FONSI).

**ADDRESSES:** Written comments should be sent to, U.S. Army Tank-automotive and Armaments Command (TACOM), ATTN: AMSTA–DSA–TA–CE (ATLAS), Warren, MI 48397–5000.

**FOR FURTHER INFORMATION CONTACT:**

For further information, or to obtain a copy of the ATLAS Life-Cycle Environmental Assessment contact Mr. John Syers, Assistant Product Manager (810) 574–8869.

**SUPPLEMENTARY INFORMATION:**

**a. Proposed Action**

This LCEA examines the potential impacts to the natural and human environment from the procurement of the ATLAS to satisfy the Army's need for an improved all-terrain forklift for Combat Service (CS) and Combat Service Support (CSS) units, based on the issue 13.9 (Lack of MHE Capability) of the Total Distribution Action Plan and identified in task B–11 of the Army Strategic Mobility Program. A major change was made to the ATLAS Operational Requirements Document (ORD) in November 1993 reducing the forklift's maximum speed of 45 mph, reducing its cross-country mobility, and eliminating the ATLAS requirement to handle Multiple Launch Rocket System (MLRS) pods. The ORD changes also deleted the requirement for replacement of the 4,000 lb Rough Terrain Fork Lift (RTFL) and 6,000 lb Variable Reach Rough Terrain Fork Lift (VRRTFL) with the ATLAS. In January 1995, an additional ORD change deleted the requirement for the ATLAS to be NBC contamination survivable IAW AR 70–71. The revised requirement resulted in the adoption of an NDI acquisition approach to satisfy the revised ATLAS requirements. A market investigation supported the June 1994 special IPR approving the ATLAS program as a Non-Developmental Item (NDI) Component Integration acquisition.

**b. Environmental Impacts**

The ATLAS life-cycle includes the transport of vehicles to test sites, testing, vehicle production, deployment and operation of production vehicles and their eventual demilitarization. Potential environmental impacts of these life-cycle stages may include Air Quality, Noise, Water, Soil and Groundwater, Hazardous Materials and Hazardous Wastes, and Flora, Fauna and Threatened or Endangered Species at each of these life-cycle phases.

**c. Additional Findings**

Impacts from the proposed action would be minimal and not significant for the following reasons:

(1) The ATLAS will be used in its intended environment. This intended environment includes vehicle production and some testing at the Contractor's facility, and the remainder of life-cycle activities at Army installations and facilities.

(2) The ATLAS is very similar to vehicles produced commercially and vehicles already in the Army inventory. It is being produced in low to moderate quantities and will not significantly increase the vehicle population at Army installations and facilities.

(3) The overall environmental risk associated with the ATLAS is low. It does not introduce any new technologies or processes. Vehicle life cycle activities do not introduce any potential environmental impacts that are not already currently mitigated by Army policy and procedures.

(4) The ATLAS Product Manager has ensured that the Contractor producing the vehicle is environmentally compliant, has no permit violations, and has commercial practices for Hazardous Material Management and Pollution Prevention in production of the ATLAS.

(5) The ATLAS Product Manager recognizes that Army installations and facilities have environmental plans and measures in place to address vehicle life cycle activities very similar to that of the ATLAS to prevent, mitigate and remediate environmental damage caused by vehicle operation. Vehicle operations at these Army installations and facilities are in conjunction with normal activities that are already addressed in their site specific environmental impact statements.

**d. Determination**

It is therefore concluded that this program:

(1) Is not a major federal action significantly affecting the quality of human environment.

(2) Will not have a significant impact on the environment.

(3) Is not likely to be environmentally controversial.

(4) Will not likely result in litigation based on environmental quality issues.

(5) Does not require an Environmental Impact Statement (EIS).

**Harry W. McClellan, Jr.,**

*LTC, EN, Product Manager, Construction Equipment/Materials Handling Equipment.*

[FR Doc. 98–2668 Filed 2–3–98; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Corps of Engineers

### Intent to Prepare an Environmental Impact Statement (EIS) for the Rio de Flag Area; Flagstaff, AZ Feasibility Study; City of Flagstaff, Coconino County, Arizona

**AGENCY:** U.S. Army Corps of Engineers, Los Angeles District, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The Los Angeles District intends to prepare an EIS to support the proposed study for flood control and environmental restoration, in the Flagstaff area. The study area is a riparian corridor traversing a mostly urban environment, extending approximately twelve (12) miles along the Rio de Flag (river), between U.S. Highway 180 on the north and west; and the Interstate 40 (I–40) bridge on the southeast. The lower segments of Sinclair Wash and Clay Avenue Wash near their convergence with the Rio de Flag area also included.

**FOR FURTHER INFORMATION CONTACT:** For further information contact the Environmental Coordinator, Mr. David Compas, U.S. Army Corps of Engineers, Los Angles District, Attn: CESPL–PD–RN, P.O. Box 532711, Los Angeles CA 90053 at 213–452–3850.

**SUPPLEMENTARY INFORMATION:** The U.S. Army Corps of Engineers will sponsor a scoping meeting to solicit public input on 27 February 1998 at the City of Flagstaff offices, at 211 West Aspen Avenue, Flagstaff. Two sessions will be held from 1 to 3 PM and from 5 to 7 PM, both sessions will cover the same topics. This scoping will be held prior to preparing the Environmental Impact Statement to solicit public input on the significant environmental issues associated with the proposed action. The public, as well as Federal, State, and local agencies are encouraged to participate in the scoping process by attending the Scoping Meeting and/or submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the environmental analysis. Useful information includes other environmental studies, published and unpublished data, alternatives that should be addressed in the analysis, and potential mitigation measures associated with the proposed action.

Individuals and agencies may offer information or data relevant to the proposed study by attending the public scoping meeting, or by mailing the information to Mr. David Compas at the address below prior to March 23, 1998. Comments, suggestions, and requests to be placed on the mailing list for announcements and for the Draft EIS, should be sent to: Mr. David Compas, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–RN, P.O. Box 532711, Los Angeles, CA 90053. Comments will also be accepted via E-mail at: dcompas@spl.usace.army.mil

#### Alternatives

A full array of alternatives will be developed for further analyses. The proposed plan, viable project alternatives, and the ''no action'' plan will be carried forward for detailed analysis in the document. Conceptual alternatives will likely consist of: utilizing the present channel with modifications; utilizing the ''historic'' channel for a portion of the flow; splitting of northern flows from the southern flows; and/or diversion of flows to Walnut Canyon. Channel alternatives will likely consist of: a combination of open channels; covered channels; and/or greenbelt channels. Recreation alternatives will likely consist of: bike/walking trails; picnic tables; nature viewing areas; and/or a fitness course. Environmental alternatives will likely consist of: wetlands restoration; flora enhancement; and/or riparian enhancement.

#### Availability of the Draft EIS

The Draft EIS is expected to be published and circulated for public review in August 1999.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 98–2709 Filed 2–3–98; 8:45 am]

BILLING CODE 3710–KF–M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Intent to Prepare a Supplemental Environmental Impact Statement for Milcon Project P–527b, Sewage Effluent Compliance, at Marine Corps Base Camp Pendleton, California

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The U.S. Marine Corps announces its intent to prepare a Supplemental Environmental Impact Statement (EIS) to evaluate the environmental effects of proposed alternative methods of sewage effluent disposal, in order to achieve compliance with a San Diego Regional Water Quality Control Board (RWQCB) Cease and Desist Order at Marine Corps Base (MCB), Camp Pendleton. This report will supplement the Sewage Effluent Compliance Project, Lower Santa Margarita Basin Environmental Impact Statement/Report (EIS/R).

**DATES:** Submit comments on or before March 23, 1998.

**ADDRESSES:** Send written comments to Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, CA 92132–5190, (Attn: Ms. Vicky Taylor, Code 533.VT

**FOR FURTHER INFORMATION CONTACT:** Ms. Vicky Taylor, (619) 532–3007.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the U.S. Marine Corps announces its intent to prepare a Supplemental Environmental Impact Statement (EIS) to evaluate the environmental effects of proposed alternative methods of sewage effluent disposal, in order to achieve compliance with a San Diego Regional Water Quality Control Board (RWQCB) Cease and Desist Order at Marine Corps Base (MCB), Camp Pendleton. The Sewage Effluent Compliance Project, Lower Santa Margarita Basin Environmental Impact Statement/Report (EIS/R), which this report will supplement, addressed a system of pumps and piping to deliver effluent from Sewage Treatment Plants 1, 2, 3, 8, and 13 to percolation ponds and an existing ocean outfall for discharge. Each of the three alternatives evaluated included an element of effluent or brine discharge through the ocean outfall. During final consideration of the proposed action, the City of Oceanside City Council disapproved use

of its ocean outfall, thus requiring evaluation of further alternatives.

MCB Camp Pendleton is proceeding with on-base construction of the effluent collection and percolation pond elements of the disposal system described in the Final EIS/R and Record of Decision. This Supplemental EIS will analyze four alternatives to provide additional and sufficient disposal capacity, without the use of an ocean outfall, to achieve compliance with the San Diego RWQCB Cease and Desist Order.

*The four alternatives include:* Alternative 1, land disposal—percolation of all effluent; Alternative 2, land and live stream disposal—percolation with seasonal discharge; Alternative 3, land and live stream disposal—percolation, advanced treatment and live stream discharge; and Alternative 4, land disposal—percolation, advanced treatment and reclamation. All alternatives will require the construction of percolation ponds at up to three locations; Lemon Grove, I–5/Railroad site, and the Boat Basin site. Under Alternative 1, the effluent would be conveyed through underground piping between the three sites. Most of this piping would be installed in existing roadways.

Under Alternative 2, berm height and depth at Lemon Grove will be increased, and an effluent storage pond will be constructed at Stuart Mesa. These structures will accommodate effluent storage when effluent input to the percolation ponds exceeds the percolation rate, and live stream disposal is not feasible. The effluent will be discharged from the Lemon Grove and Stuart Mesa storage ponds to the Santa Margarita River when the volume of river flow provides sufficient dilution of the effluent. The proposed discharge point will be north of the Lemon Grove ponds.

Alternative 3 will process effluent, that is in excess of the percolation rate, to remove nitrogen, phosphorous and other constituents, and will be discharged to the Santa Margarita River at the same point identified in Alternative 2. Construction of an advanced water treatment (AWT) facilities adjacent to Sewage Treatment Plant (STP) 13 and some effluent storage capacity will be required. Although the AWT would improve the quality of the effluent, it is not anticipated that the current Basin Plan objectives for total dissolved solids (TDS) would be achieved, and modification to the Basin Plan would be required.

Alternative 4 will be similar to Alternative 3, except the AWT effluent will be conveyed to a point near the existing irrigation system and used for irrigation of on-base, leased agricultural lands northwest of the Lemon Grove ponds, on the east and west sides of I–5.

In addition, an alternative for a more limited expansion of the Lemon Grove Ponds will be considered in the Supplemental EIS. This alternative would limit the size of the Lemon Grove pond expansion to avoid the removal of approximately 300 eucalyptus trees. This alternative may be combined with any of Alternatives 1–4.

A supplement to the previously issued EIR is not required since the revised proposed action does not require local approvals or California Environmental Quality Act certification.

The scope of the analyses and issues of concern for this Supplemental EIS are anticipated to be very similar to those addressed in the Final EIS/R. The major issues are expected to be hydrology and water quality, biological resources, and cultural resources. Other issues to be addressed include geology and soils, air quality, land use, transportation and circulation, noise, visual resources, safety and environmental health, utilities, socioeconomics, and environmental justice.

This notice has been mailed to all parties who commented on the Sewage Effluent Compliance Project, Lower Santa Margarita Basin Environmental Impact Statement/Report (EIS/R), and other interested parties. This Notice has also been published in local newspapers. The Marine Corps invites agencies, organizations, and the general public to provide written comments relative to the proposed project and the issues to be addressed in the Supplemental EIS. Scoping comments should clearly describe specific issues or topics which the commentor believes the Supplemental EIS should address. Written statements or questions regarding the scoping process should be received no later than March 23, 1998, and should be sent to: Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, CA 92132–5190, (Attn: Ms. Vicky Taylor, Code 533.VT), phone (619) 532–3007.

Dated: January 30, 1998.

**L.L. Larson,**

*Colonel, USMC, Acting Head, Land Use and Military Construction Branch, Facilities and Services Division, Installations and Logistics Department, By direction of the Commandant of the Marine Corps.*

[FR Doc. 98–2752 Filed 2–3–98; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF ENERGY

### Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Notice of the acceptance of claims and the availability of funds for reimbursement in fiscal year 1998.

**SUMMARY:** This Notice announces the Department of Energy acceptance of claims for reimbursement. Approximately $40 million in funds for fiscal year 1998 are available for reimbursement of certain costs of remedial action at eligible active uranium and thorium processing sites pursuant to Title X of the Energy Policy Act of 1992.

In fiscal year 1998, the Department will be implementing a new schedule for payment of claims. Fiscal year 1998 funds will be applied to outstanding approved claims from fiscal year 1997 and prior years. Since the outstanding approved claims from fiscal year 1997 and prior fiscal years exceed $40 million, they will be subject to prorated payment in fiscal year 1998. Beginning in fiscal year 1998, current year claims will be reviewed for acceptability and eligible for payment in the following fiscal year, e.g., claims will be submitted by May 1 and technical and financial reviews will be completed and final determinations made within one year with reimbursements made by April 30 of the following year, pending congressional appropriations for such purpose.

After the payment of fiscal year 1998 funds against outstanding approved claims through fiscal year 1997, there will be remaining unpaid outstanding approved claims. Thus, any approved claim amounts for fiscal year 1998 will be added to the outstanding balances and eligible for prorated payment in fiscal year 1999 based on the availability of funds from congressional appropriations.

**DATES:** The Department will process payments of approximately $40 million against outstanding approved claims through fiscal year 1997 by April 30, 1998. The closing date for the submission of claims in fiscal year 1998 is May 1, 1998.

**ADDRESSES:** Claims should be forwarded by certified or registered mail, return receipt requested, to the U.S. Department of Energy, Albuquerque Operations Office, Environmental Restoration Division, P.O. Box 5400, Albuquerque, NM, 87185–5400, or by express mail to the U.S. Department of

Energy, Albuquerque Operations Office, Environmental Restoration Division, H and Pennsylvania Streets, Albuquerque, NM, 87116. All claims should be addressed to the attention of Mr. James B. Coffey. Two copies of the claim should be included with each submission.

**FOR FURTHER INFORMATION CONTACT:** Messrs. James Coffey (505–845–4026) or Gil Maldonado (505–845–4035), U.S. Department of Energy, Albuquerque Operations Office, Environmental Restoration Division.

**SUPPLEMENTARY INFORMATION:** The Department of Energy published a final rule under 10 CFR part 765 in the **Federal Register** on May 23, 1994 (59 FR 26714) to carry out the requirements of Title X of the Energy Policy Act of 1992 (sections 1001–1004 of Pub. L. 102–486, 42 U.S.C. 2296a *et seq.*) and to establish the procedures for eligible licensees to submit claims for reimbursement. Title X requires the Department of Energy to reimburse eligible uranium and thorium licensees for certain costs of decontamination, decommissioning, reclamation, and other remedial action incurred by licensees at active uranium and thorium processing sites to remediate byproduct material generated as an incident of sales to the United States Government. To be reimbursable, costs of remedial action must be for work which is necessary to comply with applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or, where appropriate, with requirements established by a state pursuant to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021). Claims for reimbursement must be supported by reasonable documentation as determined by the Department of Energy in accordance with 10 CFR part 765. Funds for reimbursement will be provided from the Uranium Enrichment Decontamination and Decommissioning Fund established at the United States Department of Treasury pursuant to section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Payment or obligation of funds shall be subject to the requirements of the Anti-Deficiency Act (31 U.S.C. 1341).

**Authority:** Section 1001–1004 of Pub. L. 102–46, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*).

Issued in Washington D.C. on this 28th of January, 1998.

**David E. Mathes,**

*Leader, UMTRA/Surface Ground Water Team, Office of Southwestern Area Programs, Environmental Restoration.*

[FR Doc. 98–2688 Filed 2–3–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Under Review by the Office of Management and Budget

**AGENCY:** Energy Information Administration, Department of Energy.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

**DATES:** Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

**ADDRESSES:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. EIA–886, ''Alternative Transportation Fuels and Alternative Fueled Vehicles Annual Survey''

2. Office of Coal, Nuclear, Electric and Alternate Fuels, Energy Information Administration; OMB No. 1905–0191; Revision; Mandatory

3. The EIA–886 is an annual survey of the number of alternative fuel vehicles (AFVs) made available on a calendar year basis and the amount and distribution of each type of Alternative Transportation Fuel (ATF) consumed. The data will be used to track the AFV supply situation available for the Federal Government, State Governments, and fuel providers to acquire AFVs. Respondents are manufacturers, importers, and conversion companies of AFV vehicles, and ATF providers and users.

A proposed change to the form is that respondents will be afforded the option of whether or not to hold certain data confidential. Respondents are asked in Items B1, B3, C1, C3, E1, and E3 of the form whether or not they wish to waive confidential treatment of data. The remainder of the form receives the standard confidentiality provisions.

In response to a reply to the **Federal Register** notice (62 FR 43148) dated August 12, 1997, soliciting comments on the form, the following changes are proposed. Section B, Item B2; Section C, Item C2; Section E, Item E2; Section H, Item 4; and Section I, Item 4 have been changed from mandatory reporting to voluntary reporting.

4. State or local governments, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations

5. 11,448 hours (4.58 hrs. × 1 response per year × 2,500 respondents)

**Statutory Authority:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., January 28, 1998.

**Jay H. Casselberry,**

*Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.*

[FR Doc. 98–2686 Filed 2–3–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Research

### Basic Energy Sciences Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Basic Energy Sciences Advisory Committee.

**DATE:** Tuesday, February 24, 1998–8:30 a.m.–5:00 p.m.; Wednesday, February 25, 1998–8:30 a.m.–1:00 p.m.

**ADDRESS:** Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

**FOR FURTHER INFORMATION CONTACT:** Dr. Patricia M. Dehmer; Basic Energy Sciences Advisory Committee; U.S. Department of Energy; ER–10, GTN; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: (301) 903–3081.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* The Committee will provide advice and guidance with respect to the basic energy sciences research program.

*Tentative Agenda*

*February 24, 1998*

- Introduction of Committee Members and Guests.
- Comments from the Director of the Office of Energy Research* (Tentative-may be changed to February 25, 1998).
- Assessing and Improving the Environment for Excellent Research—A Research Project Supported by BES.
- Perspectives from the Office of Science and Technology Policy.
- News from the Office of Basic Energy Sciences (BES): FY1999 President's Budget, FY1999 Initiatives & Issues.
- Update on Activities Related to Synchrotron Radiation Light Sources and Neutron Sources.
- Public Comments (10 minute rule).

*February 25, 1998*

- Comments from the Director of the Office of Energy Research* (Hold for possible change from Feburary 24, 1998).
- General BES Program Discussions.

*Public Participation:* The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact Patricia Dehmer at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on January 29, 1998.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 98–2687 Filed 2–3–98; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP98–187–000]**

### ANR Pipeline Company; Notice of Request Under Blanket Authorization

January 29, 1998.

Take notice that on January 15, 1998, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–187–000 a request pursuant to Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate an interconnection between ANR and DePere Energy LLC (DePere) for delivery of natural gas to DePere's proposed power plant in DePere, Wisconsin, under ANR's blanket certificate pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR's proposed interconnection facilities will consist of one 8-inch ultrasonic meter and approximately 0.88 miles of 10-inch pipeline extending from ANR's 16-inch Green Bay Lateral to DePere's proposed power plant. The total cost of the facilities will be approximately $1,125,000, which will be fully reimbursed by DePere. ANR will initially provide deliveries to DePere at the Interconnection pursuant to the provisions of its tariff. The proposed interconnection will accommodate up to 60 MMcf/d.

ANR states that the construction of the proposed interconnection facilities will have no effect on its peak day and annual deliveries, that its existing tariff does not prohibit additional interconnections, that deliveries will be accomplished without detriment or disadvantage to its other customers and that the total volumes delivered will not exceed total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2651 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. RP98–91–001 and RP97–406–009]**

### CNG Transmission Corporation; Notice of Compliance Tariff Filing

January 29, 1998.

Take notice that on January 26, 1998, CNG Transmission Corporation (CNG), tendered for filing supplemental data and information supporting its gathering cost recovery proposal and the following tariff sheet for inclusion in its FERC Gas Tariff, Sub. Second Revised Volume No. 1:

Sub. Second Revised Sheet No. 361A

In accordance with Section 154.206 of the Commission's regulations and with the Commission's January 14, 1998 order, CNG requests an effective date for its substitute tariff sheet of January 15,

1998. The change to Sheet No. 361A reflects a revised Section 18.5 surcharge effective date of June 15, 1998.

CNG states that copies of its filing have been mailed to all parties to the captioned proceeding.

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 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2666 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP97–32–005]**

## Eastern Shore Natural Gas Company; Notice of Refund Report

January 29, 1998.

Take notice that on January 12, 1997, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing with the Federal Energy Regulatory Commission a Refund Report showing that on December 17, 1997, it issued refunds to its customers as required by the Stipulation and Agreement in Docket No. RP97–32–000.

Eastern Shore states that the refunds totaled $145,964.80 including interest of $4,004.93. The refunds were calculated for the period April 14, 1997 to October 31, 1997.

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 of Practice and Procedure. All such protests should be filed on or before February 5, 1998. 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2662 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. GT98–10–001]**

## Equitrans, L.P.; Notice of Proposed Change in FERC Gas Tariff

January 29, 1998.

Take notice that on January 27, 1998, Equitrans, L.P. (Equitrans), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective January 1, 1998:

Substitute Ninth Revised Sheet No. 401

Equitrans states that the purpose of this filing is to comply with the Commission's Letter Order issued on January 21, 1998 in Docket No. GT98–10–000. In its Order, the Commission required Equitrans to correct a typographical error in the pagination on Tariff Sheet No. 401. Equitrans has corrected the pagination to properly state the superseding designation of ''Eighth Revised Sheet No. 401''.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2659 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP98–191–000]**

## Florida Gas Transmission Company; Notice of Request Under Blanket Authority

January 29, 1998.

Take notice that on January 20, 1998, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP98–191–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate a new Hialeah-Preston Meter Station and a 50-foot lateral in Dade County, Florida for Metropolitan Dade County (County), under FGT's blanket certificates issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT states that the meter station which would include a tap, meter, electronic flow measurement equipment, and other related appurtenant facilities and the 50-foot lateral would be used for the delivery of natural gas, up to 298,205 MMBtu per year, on a firm basis to County.

FGT states further that the estimated cost of constructing the facilities is approximately $151,000 and would be reimbursed by County.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Linwood A. Watson, Jr.**

*Acting Secretary.*

[FR Doc. 98–2653 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP98–193–000]**

### Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

January 29, 1998.

Take notice that on January 20, 1998, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP98–191–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate a new Miami Dade South Meter Station and a 5,000-foot lateral in Dade County, Florida for Metropolitan Dade County (County), under FGT's blanket certificates issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT states that the meter station which would include a tap, meter, electronic flow measurement equipment, and other related appurtenant facilities and the 5,000-foot lateral would be used for the delivery of natural gas, up to 200,750 MMBtu per year, on a firm basis to County.

FGT states further that the estimated cost of constructing the facilities is approximately $586,000 and would be reimbursed by County.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2654 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP97–364–004]**

### Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 29, 1998.

Take notice that on January 27, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective February 26, 1998.

Sixth Revised Sheet No. 2700

On May 2, 1997, Koch submitted a filing in Docket No. RP97–364 to make tariff revisions consistent with the standardized business practices to be effective June 1, 1997. Koch states that the purpose of this filing is to correct a minor clerical error.

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 must be filed as provided by Section 154.210 of the Commission's rules and 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2665 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–1293–000]**

### Minnesota Power & Light Company; Notice of Filing

January 29, 1998.

Take notice that on January 5, 1998, Minnesota Power & Light Company (MP), tendered for filing signed Service Agreements with Griffin Energy Marketing, L.L.C., and Tenaska Power Services Company under MP's cost-based Wholesale Coordination Sales Tariff WCS–1 to satisfy its filing requirements under this tariff.

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 February 11, 1998. 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2658 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP97–361–003]**

### Mobile Bay Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 29, 1998.

Take notice that on January 27, 1998, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to become effective February 26, 1998:

Third Revised Sheet No. 211

On May 2, 1997, Mobile Bay submitted a filing in Docket No. RP97–361 to make tariff revisions consistent with the standardized business practices to be effective June 1, 1997. Mobile Bay states that the purpose of this filing is to correct a minor clerical error.

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 must be filed as provided by 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.

**Linwood A Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2664 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER98–1243–000]**

## Montaup Electric Company; Notice of Filing

January 29, 1998.

Take notice that on December 24, 1997, Montaup Electric Company (Montaup) tendered for filing newly executed Standard Service Agreements between Montaup and its two retail affiliates doing business in Rhode Island. Montaup has asked that these service agreements be accepted and made effective as of January 1, 1998. Montaup states that by its filing it is seeking to implement the first stages of the settlement approved by the Commission on December 19, 1997 in this proceeding.

Copies of this filing were served upon all parties shown on the Commission's official service list in the captioned proceedings and upon affected state agencies.

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, 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 18 CFR 385.214). All such motions or protests should be filed on or before February 10, 1998. 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2656 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER98–1290–000]**

## New York State Electric & Gas Corporation; Notice of Filing

January 29, 1998.

Take notice that on January 2, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's rules of Practice and Procedure, 18 CFR Part 35, a service agreement under which NYSEG may provide capacity and/or energy to Empire Natural Gas Corporation (Empire) (the Purchaser) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 1.

NYSEG has requested waiver of the notice requirements so that the service agreement with Empire becomes effective as of January 3, 1998.

The Service Agreement is subject to the Commission Order Authorizing Disposition of Jurisdiction Facilities and Corporate Reorganization issued on December 16, 1997 in Docket No. EC97–52–000.

NYSEG has served copies of the filing upon the New York State Public Service Commission and Empire.

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 February 11, 1998. 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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2657 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP98–196–000]**

## North Shore Gas Company; Notice of Application

January 29, 1998.

Take notice that on January 23, 1998, North Shore Gas Company (North Shore), 130 East Randolph Drive, Chicago, Illinois 60601, filed in Docket No. CP98–196–000 an application pursuant to Section 7(f) of the Natural Gas Act (NGA) for a service area determination, a finding that North Shore qualifies as a local distribution company for purposes of Section 311 of the Natural Gas Policy Act (NGPA) and for a waiver of the Commission's regulatory requirements, including reporting and accounting requirements ordinarily applicable to natural gas companies under the NGA and NGPA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

North Shore states that it is a local distribution company operating a service area for the sale and distribution of natural gas to 140,000 customers for residential, commercial and industrial use in Lake and Cook Counties, Illinois. North Shore further states that its natural gas distribution system consists of 2,100 miles of gas distribution mains.

North Shore states that it requests a service area determination consisting of an area that is, in essence, a right-of-way from ANR Pipeline Company's (ANR) facilities in Kenosha County, Wisconsin, that would extend 10.4 miles to the Illinois border and approximately another two miles in North Shore's service territory in Lake County, Illinois.

North Shore maintains that it will not provide service to customers in the requested service area in Wisconsin, nor will it serve any customers in Illinois outside of its current service territory. It is stated that the requested service area determination would allow facilities to be put in place to reinforce and increase the reliability of North Shore's gas distribution markets in the northern portion of its service territory and to establish a direct interconnection with ANR.

North Shore states that in connection with this proposal, North Shore and ANR have an agreement whereupon North Shore will be able to sell to ANR the gas transmission main and appurtenant interconnection facilities after five years of operation. North Shore maintains that during the period

prior to any sale of the facilities, ANR will have no direct operational control of the facilities, nor will ANR be permitted to use the facilities; the facilities will be used only by North Shore for delivery of natural gas to serve its retail sales and transportation customers in its service territory in Illinois. North Shore further maintains that under the agreement with ANR, if North Shore elects to sell the gas main and facilities, ANR has advised that, at that time, it will seek to certificate the facilities as part of its interstate system pursuant to Section 7 of the NGA.

North Shore also requests a determination by the Commission that it qualifies as a local distribution company for purposes of Section 311 of the NGPA, which would ensure that North Shore has access to the transportation of gas by interstate pipelines under Section 311 of the NGPA.

In addition, North Shore requests a waiver of all reporting and accounting requirements and rules and regulations which are normally applicable to natural gas companies under the NGA and NGPA. North Shore states that it is comprehensively regulated by the Illinois Commerce Commission; therefore, there is no need to impose federal regulation that is duplicative of the requirements already imposed on North Shore by the Illinois Commerce Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1998, 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 protest 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 a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under that procedure herein provided for, unless otherwise advised, it will be unnecessary for North Shore to appear or be represented at the hearing.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2655 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP98–189–000]**

## Northern Border Pipeline Company; Notice of Application

January 29, 1998.

Take notice that on January 16, 1998, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed an application with the Commission in Docket No. CP98–189–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to purchase line pack gas used to operate Northern Border's pipeline system, all as more fully set forth in the application which is open to the public for inspection.

Northern Border states that its proposal to purchase line pack gas would eliminate the requirement for each shipper under its FERC Gas Tariff Rate Schedule T–1 to provide its allocable share of line pack gas required for the operation of Northern Border's pipeline system. Northern Border also states that upon approval of this proposal, Northern Border would purchase the line pack gas required for its operations and would be responsible for obtaining and managing its system line pack gas. Northern Border further states that with the acquisition of line pack gas by Northern Border, Rate Schedule T–1 shippers would be able to monetize and redeploy the capital required to finance their investment in line pack gas for Northern Borders' pipeline. Upon acquisition of the line pack gas by Northern Border, all firm and interruptible shippers would share the cost of service associated with Northern Border's providing of line pack gas on its system. In addition, Northern Border states that the administrative burden of tracking present and future changes to line pack gas ownership by Rate Schedule T–1 shippers would be eliminated.

Northern Border estimates that it would spend approximately $12,500,000 to purchase its line pack gas (currently approximately 4.1 million MMBtu equivalent of natural gas and expected to increase to approximately 5.1 million MMBtu when its expansion/extension facilities approved at Docket No. CP95–194–000, *et al.* are placed in service).

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1998, 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 NGA (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 NGA 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 convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern Border to appear or be represented at the hearing.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2652 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR97–7–000]**

### Overland Trail Transmission Company; Notice of Shortening Comment Period

January 29, 1998.

On January 26, 1998, Overland Trail Transmission Company (OTTC) filed an offer of settlement in the above-docketed proceeding which includes a request to shorten the period for filing comments, due to the uncontested nature of this matter. By this notice, the date for filing initial comments is shortened to and includes February 9, 1998. Reply comments shall be filed on or before February 17, 1998.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2661 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project Nos. 2150—Washington Baker River Project; 3721—Nooksack Falls Project; 2494—White River Project]**

### Puget Sound Energy, Inc.; Notice of Meeting

January 29, 1998.

In a letter dated January 28, 1998, Puget Sound Energy, Inc. (PSE) licensee for the above listed projects requested a meeting with the Commission's staff to discuss the following issues.

**Baker River Project**

- The license for the Baker River Project expires in May 2006. PSE has developed a preliminary plan for relicense. PSE wants to learn from the Commission's staff what relicensing plans and procedures for projects in the region and across the country have worked well, before finalizing a relicensing plan.

**Nooksack Falls Project**

- In December 1997, PSE filed a schedule to complete an analysis of issues bearing on a decision to amend the current license application, or retire the project and withdraw the license application. PSE wishes to update the staff on the status of its decision.

**White River Project**

- PSE is aware that the National Marine Fisheries Service is considering a potential listing of White River chinook salmon, and may assert that the project affects chinook salmon. In anticipation of the listing, PSE intends to enter into discussions with the appropriate agencies to determine what, if any, actions are needed to maintain the operation of the project in compliance with applicable law. If Habitat Conservation Plan negotiations are needed, PSE wishes to discuss what role, if any, staff's involvement would be in the negotiations.

The Commission's staff will meet with representatives of Puget to discuss only those issues described above. The meeting will convene on February 12, 1998, beginning at 1:00 p.m. EST at the Commission's headquarters, 888 First Street N.E., Washington, DC 20426, in Room 62–26. If you have any questions about the meeting, please call Tom Dean at (202) 219–2778.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2660 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP97–375–000]**

### Wyoming Interstate Company Ltd.; Notice of Informal Settlement Conference

January 29, 1998.

Take notice that an informal settlement conference in this proceeding will be convened on February 5, 1998, at 10:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold Meltz at (202) 208–2161 or John Roddy at (202) 208–0053.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 98–2663 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EG98–13–000, et al.]**

### Ogden Energy China (Beta) Ltd., et al.; Electric Rate and Corporate Regulation Filings

January 28, 1998.

Take notice that the following filings have been made with the Commission:

**1. Ogden Energy China (Beta) Ltd.**

[Docket No. EG98–13–000]

Take notice that, on January 20, 1998, Ogden Energy China (Beta) Ltd. (OECB), filed with the Federal Energy Regulatory Commission (Commission), an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**2. Ogden Energy China (Alpha) Ltd.**

[Docket No. EG98–16–000]

Take notice that, on January 20, 1998, Ogden Energy China (Alpha) Ltd. (OECA), filed with the Federal Energy Regulatory Commission (Commission), an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**3. Ogden Energy China (Gamma) Ltd.**

[Docket No. EG98–18–000]

Take notice that, on January 20, 1998, Ogden Energy China (Gamma) Ltd. (OECG), filed with the Federal Energy Regulatory Commission (Commission), an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**4. Ogden Energy China (Delta) Ltd.**

[Docket No. EG98–19–000]

Take notice that, on January 20, 1998, Ogden Energy China (Delta) Ltd. (OECD), filed with the Federal Energy Regulatory Commission (Commission), an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**5. Credieegsa y Cia., S.C.A.**

[Docket No. EG98–29–000]

On January 16, 1998, Credieegsa y Cia., S.C.A. (Applicant), 250 West Pratt Street, 23rd Floor, Baltimore, MD 21201, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a private Guatemalan company organized as a Sociedad En Comandita Por Acciones by Empresa Electrica de Guatemala S.A. (EEGSA), as part of EEGSA's privatization of its electric generation assets. EEGSA and its affiliate, Credieegsa S.A., sold ninety percent (90%) of the stock of Applicant to the Guatemalan Generating Group (3GC), a Cayman Island company. Simultaneously with its purchase, 3GC transferred a portion of Applicant's shares to an affiliate, Guatemalan Generating Group I (3GC–I), also a Cayman Island company. Currently, 3GC and 3GC–I are wholly owned by Constellation Power International Investments, Ltd., which is wholly owned by Constellation Power, Inc., which is wholly owned by Constellation Holdings, Inc., which in turn is wholly owned by Baltimore Gas and Electric, an exempt holding company pursuant to Section 3(a)(2) of the Public Utility Holding Company Act of 1935. Applicant intends to own certain facilities which will consist of various generating units located on the shores of Lake Amaititlan, 32 kms outside Guatemala City and a gas turbine unit located in the Province of Escuintla, approximately 62 kms outside Guatemala City. Applicant intends to expand the Generating Facilities between 60 and 185 MW through the upgrading of existing equipment and/or the installation of additional generating equipment. The Generating Facilities will be operated by COS de Guatemala, Sociedad Anonima.

*Comment date:* February 18, 1998, in accordance with Standard Paragraph E at the end of this notice.

**6. Sterling Power Partners, L.P.**

[Docket No. EG98–30–000]

On January 20, 1998, Sterling Power Partners, L.P., 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Sterling), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Sterling owns a cogeneration facility with a capacity of approximately 57 MW, located in Sherrill, New York.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**7. Power City Partners, L.P.**

[Docket No. EG98–31–000]

On January 20, 1998, Power City Partners, L.P., 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Power City), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Power City owns a cogeneration facility with a capacity of approximately 79 MW, located in Massena, New York.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**8. P&N Partners, L.P.**

[Docket No. EG98–32–000]

On January 20, 1998, P&N Partners, L.P., 450 Lexington Avenue, 37th Floor, New York, NY 10017 (P&N), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

P&N owns a cogeneration facility with a capacity of approximately 9 MW, located in West Carthage, New York.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**9. AG-Energy, L.P.**

[Docket No. EG98–33–000]

On January 20, 1998, AG-Energy, L.P., 450 Lexington Avenue, 37th Floor, New York, NY 10017 (AG-Energy), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

AG-Energy owns a cogeneration facility with a capacity of approximately 79 MW located in Ogdensburg, New York.

*Comment date:* February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

**10. Atlantic City Electric Company**

[Docket No. ER97–3189–012]

Take notice that on December 31, 1997, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PP&L, Inc., Potomac Electric Power Company, and Public Service Electric and Gas Company submitted changes to the Transmission Owners Agreement in compliance with the Commission's November 25, 1997, Order in Pennsylvania-New Jersey-Maryland Interconnection, 81 FERC ¶ 61,257 (1997)

Copies of the filing have been served on the regulatory commissions of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania and Virginia.

*Comment date:* February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

**11. Louisville Gas and Electric Company**

[Docket No. ER98–1276–000]

Take notice that on December 31, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing copies of an unexecuted Service Agreement between LG&E and City of Hamilton, Ohio under Rate GSS.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**12. Louisville Gas and Electric Company**

[Docket No. ER98–1277–000]

Take notice that on December 31, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing copies of an unexecuted Service Agreement between LG&E and The Southern Companies under Rate GSS.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**13. WKE Station Two Inc.**

[Docket No. ER98–1278–000]

Take notice that on December 31, 1997, WKE Station Two Inc. (Station Two Subsidiary), tendered for filing pursuant to § 205 and § 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, a Petition requesting (1) Commission authorization for Station Two Subsidiary to engage in the sale of electric energy and capacity at market-based rates pursuant to its Rate Schedule FERC No. 1 and (2) waiver or blanket approval of certain of the Commission's Regulations promulgated under the Federal Power Act.

A copy of the filing was served upon the Kentucky Public Service Commission.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**14. Western Kentucky Energy Corp.**

[Docket No. ER98–1279–000]

Take notice that on December 31, 1997, Western Kentucky Energy Corp.

(WKEC), tendered for filing pursuant to § 205 and § 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, a Petition requesting (1) Commission authorization for WKEC to engage in the sale of electric energy and capacity at market-based rates pursuant to its Rate Schedule FERC No. 1 and (2) waiver or blanket approval of certain of the Commission's Regulations promulgated under the Federal Power Act.

A copy of the filing was served upon the Kentucky Public Service Commission.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**15. Boston Edison Company**

[Docket No. ER98–1280–000]

Take notice that on December 31, 1997, Boston Edison Company (Boston Edison), tendered for filing a Standstill Agreement between itself and The Boylston Municipal Light Department, City of Holyoke Gas & Electric Department, Hudson Light and Power Department, Littleton Electric Light & Water Departments, Marblehead Municipal Light Department, Middleborough Gas and Electric Department, North Attleborough Electric Department, Peabody Municipal Light Plant, Shrewsbury's Electric Light Plant, Templeton Municipal Light Plant, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, and Westfield Gas & Electric Light Department (Municipals). The Standstill Agreement extends through January 31, 1998, the time in which the Municipals may institute a legal challenge to the 1995 true-up bill under their respective contracts to purchase power from Boston Edison's Pilgrim Nuclear Station.

Boston Edison requests waiver of the Commission's notice requirement to allow the Standstill Agreement to become effective January 1, 1998.

The Standstill Agreement relates to the following Boston Edison FERC Rate Schedules:

(1) Supplement to Rate Schedule No. 77
Standstill Agreement with Boylston Municipal Light Department
(2) Supplement to Rate Schedule No. 79
Standstill Agreement with Holyoke Gas and Electric Department
(3) Supplement to Rate Schedule No. 81
Standstill Agreement with Westfield Gas and Electric Light Department
(4) Supplement to Rate Schedule No. 83
Standstill Agreement with Hudson Light and Power Department
(5) Supplement to Rate Schedule No. 85
Standstill Agreement with Littleton Electric Light and Water Department
(6) Supplement to Rate Schedule No. 87
Standstill Agreement with Marblehead Municipal Light Department
(7) Supplement to Rate Schedule No. 89
Standstill Agreement with North Attleborough Electric Department
(8) Supplement to Rate Schedule No. 91
Standstill Agreement with Peabody Municipal Light Plant
(9) Supplement to Rate Schedule No. 93
Standstill Agreement with Shrewsbury's Electric Light Plant
(10) Supplement to Rate Schedule No. 95
Standstill Agreement with Templeton Municipal Light Plant
(11) Supplement to Rate Schedule No. 97
Standstill Agreement with Wakefield Municipal Light Department
(12) Supplement to Rate Schedule No. 99
Standstill Agreement with West Boylston Municipal Lighting Plant
(13) Supplement to Rate Schedule No. 102
Standstill Agreement with Middleborough Gas and Electric Department

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**16. Boston Edison Company**

[Docket No. ER98–1281–000]

Take notice that on December 31, 1997, Boston Edison Company (Boston Edison), tendered for filing a Standstill Agreement between itself and Commonwealth Electric Company (Commonwealth). The Standstill Agreement extends through January 31, 1998, the time in which Commonwealth may institute a legal challenge to the 1995 true-up bill under Boston Edison's FERC Rate Schedule No. 68, governing sales to Commonwealth from the Pilgrim Nuclear Station.

Boston Edison requests waiver of the Commission's notice requirement to allow the Standstill Agreement to become effective January 1, 1998.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**17. Central Illinois Light Company**

[Docket No. ER98–1282–000]

Take notice that on December 31, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an additional interconnection point for CILCO's Interconnection Agreement with the City of Springfield, Illinois (CILCO Rate Schedule FERC No. 25).

CILCO proposes an effective date of March 1, 1998.

Copies of the filing were served on the City of Springfield, Illinois and the Illinois Commerce Commission.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**18. Idaho Power Company**

[Docket No. ER98–1283–000]

Take notice that on December 31, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission an Agreement for Supply of Power and Energy between the City of Weiser, Idaho and Idaho Power Company.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**19. Wisconsin Public Service Corporation**

[Docket No. ER98–1284–000]

Take notice that on December 31, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreement between WPSC and Tenaska Power Services Co. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**20. Idaho Power Company**

[Docket No. ER98–1286–000]

Take notice that on December 31, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Letter Agreement for Supply of Power and Energy between Idaho Power Company and Utah Associated Municipal Power Systems.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**21. Kentucky Utilities Company**

[Docket No. ER98–1287–000]

Take notice that on January 2, 1998, Kentucky Utilities Company (KU), submitted for filing six copies of an umbrella agreement between KU and American Municipal Power-Ohio (AMP–Ohio) for short-term service under KU's Power Services Tariff (Rate PS). KU requests an effective date of December 3, 1997, for the service agreements. Accordingly, KU requests waiver of the Commission's notice requirements.

A copy of this filing was served on AMP–Ohio.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**22. Wisconsin Public Service Corporation**

[Docket No. ER98–1288–000]

Take notice that on January 2, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Tenaska Power Services Co., provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11, and Revised Attachments E and I, indices of customers with agreements under WPSC's Open Access Transmission Tariff, FERC Volume No. 11.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**23. Vastar Power Marketing, Inc.**

[Docket No. ER98–1289–000]

Take notice that on January 2, 1998, Vastar Power Marketing, Inc. (Vastar), submitted for filing a notice of cancellation of its Revised FERC Electric Rate Schedule No. 1, with a proposed effective date of January 7, 1998.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**24. Idaho Power Company**

[Docket No. ER98–1291–000]

Take notice that on December 31, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission the following: (1) December 31, 1997, Network Operating Agreement between Idaho Power Company Power Business Unit and Idaho Power Company Delivery Business Unit, pursuant to Idaho Power Company FERC Electric Tariff, Volume No. 5, Open Access Transmission Tariff; and (2) December 31, 1997, Service Agreement for Network Integration Transmission Service Under Idaho Power Company Open Access Transmission Tariff.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**25. Minnesota Power & Light Company**

[Docket No. ER98–1294–000]

Take notice that on January 5, 1998, Minnesota Power & Light Company, tendered for filing a signed Service Agreement with Griffin Energy Marketing, L.L.C., Tenaska Power Services Company and Northwestern Wisconsin Electric Company under its market-based Wholesale Coordination Sales Tariff (WCS–2), to satisfy its filing requirements under this tariff.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**26. New Century Services, Inc.**

[Docket No. ER98–1295–000]

Take notice that on January 5, 1998, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and American Atlas Limited, LLP.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**27. Southwestern Public Service Company**

[Docket No. ER98–1296–000]

Take notice that on January 5, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with Minnesota Power & Light Company (MP&L). This umbrella service agreement provides for Southwestern's sale and MP&L's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

*Comment date:* February 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**28. Omaha Public Power District**

[Docket No. NJ97–2–001]

Take notice that on November 18, 1997, Omaha Public Power District tendered for filing its compliance filing in the above-referenced docket.

*Comment date:* February 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**29. Hoosier Energy Rural Electric Coop.**

[Docket No. NJ97–5–001]

Take notice that on December 2, 1997, Hoosier Energy Rural Electric Coop., tendered for filing its compliance filing in the above-referenced docket.

*Comment date:* February 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**30. Kansas City Power & Light Company**

[Docket No. OA96–4–001]

Take notice that on August 18, 1997, Kansas City Power & Light Company tendered for filing its compliance filing in the above-referenced docket.

*Comment date:* February 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**31. Commonwealth Edison Company**

[Docket No. OA96–166–001]

Take notice that on August 13, 1997, Commonwealth Edison Company tendered for filing its compliance filing in the above-referenced docket.

*Comment date:* February 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–2713 Filed 2–3–98; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5961–7]**

## Common Sense Initiative Council (CSIC)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of public advisory for the CSI Council meeting, an open meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the CSI Council will meet on the dates and times described below. The meeting is open to the public. Seating at the meeting will be on a first-come basis

and limited time will be provided for public comment. For further information, please contact the individual listed below.

### Common Sense Initiative Council Meeting—February 23–24, 1998

The Common Sense Initiative Council will hold an open meeting on Monday, February 23, 1998 from 1 p.m. EST to 6p.m. EST, and on Tuesday, February 24, 1998 from 8:30 a.m. to 12:30 p.m. EST. The meeting will be held at the Omni-Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008, (202) 234–0700 or 1–800–THE–OMNI.

The Council Agenda will focus on a variety of topics including: Discussion of EPA's 1998 Sector-based Approach Action Plan; presentation and recommendation from the Petroleum Sector Subcommittee; report from the Council's Stakeholder Involvement Work Group; update on the Reinventing Environmental Information (REI) Action Plan and Council Work Group activities; and presentation of three projects by the Computer and Electronics Sector Subcommittee.

For further information concerning this Common Sense Initiative Council meeting, contact Kathleen Bailey, Designated Federal Officer, on (202) 260–7417, or email: bailey.kathleen@epamail.epa.gov.

### Inspection of Subcommittee Documents

Documents relating to the above Sector Subcommittee announcement will be publicly available at the meeting. Thereafter, these documents, together with the official minutes for the meeting, will be available for public inspection in room 2821M of EPA Headquarters, Common Sense Initiative Staff, 401 M Street, SW, Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically on our web site at http://www.epa.gov/commonsense.

Dated: January 29, 1998.

**Kathleen Bailey,**

*Designated Federal Officer.*

[FR Doc. 98–2717 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–50835; FRL–5738–1]**

## Issuance of Experimental Use Permits

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part l72, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

*241–EUP–140*. Issuance. American Cyanamid, P.O. Box 400, Princeton, NJ 08543–0400. This experimental use permit allows the use of 125 pounds of the insecticide/miticide on 250 acres of citrus to evaluate the control of citrus leafminer, citrus root weevil, mites, and thrips. The program is authorized only in the State of Florida. The experimental use permit is effective from July 11, 1997 to July 11, 1998. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Marion Johnson, PM 10, CM #2, Rm. 250, 703–308–6341, e-mail: johnson.marion@epamail.epa.gov)

*38719–EUP–2*. Issuance. BOC Gases, 575 Mountain Ave., Murray Hill, NJ 07974. This experimental use permit allows the use of 1,100 pounds of the fumigants phosphine gas and carbon dioxide (1,078 pounds of carbon dioxide and 22 pounds of phosphine gas) in buildings and other structures suitable for fumigation to evaluate the control of various types of insects. A total of 1,642,000 cubic feet is involved. The program is authorized only in the States of Hawaii, Illinois, Indiana, and North Carolina. The experimental use permit is effective from August 4, 1997 to August 3, 1998. (William Jacobs, PM 14, CM #2, Rm. 213, 703–305–6406, e-mail: jacobs.william@epamail.epa.gov)

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**Authority**: 7 U.S.C. 136.

### List of Subjects

Environmental protection, Experimental use permits.

Dated: January 23, 1998.

**James Jones,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 98–2624 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–50839; FRL–5766–3]**

## Issuance of Experimental Use Permits

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits to the following applicant. The permits are in accordance with, and subject to, the provisions of 40 CFR part l72, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail: Marion Johnson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 210, CM #2, Arlington, VA, 703–305–6788, e-mail: johnson.marion@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permits:

*241–EUP–142*. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543-0400. This experimental use permit allows the use of 42.92 pounds of the insecticide chlorfenapyr on 2,160 head of cattle to evaluate the control of horn flies and lice. The program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Oklahoma, Texas, Wisconsin, and Wyoming. The experimental use permit is effective from December 23, 1997 to July 31, 1998. Time-limited tolerances have been established for residues of the active ingredient in or on cattle (fat, mbyp, and meat) (40 CFR 180.513).

*241–EUP–143*. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543-0400. This experimental use permit allows the use of 21.33 pounds of the insecticide

chlorfenapyr on 2,160 head of cattle to evaluate the control of horn flies and lice. The program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Oklahoma, Texas, Wisconsin, and Wyoming. The experimental use permit is effective from December 23, 1997 to July 31, 1998. Time-limited tolerances have been established for residues of the active ingredient in or on cattle (fat, mbyp, and meat) (40 CFR 180.513). This program and the one described above will use the same active ingredient but different formulations.

Persons wishing to review these experimental use permits should contact Marion Johnson at the telephone number listed above. Inquires concerning these permits should also be directed to Marion Johnson. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**Authority**: 7 U.S.C. 136.

### List of Subjects

Environmental protection, Experimental use permits.

Dated: January 23, 1998.

**James Jones,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 98–2625 Filed 2–3–98; 8:45 am]

BILLING CODE 6560–50–F

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority 5 CFR 1320, Comments Requested

January 28, 1998.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Persons wishing to comment on this information collection should submit written comments on or before April 6, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Jerry Cowden, Federal Communications Commission, Room 240–B, 2000 M St., N.W., Washington, DC 20554 or via internet to jcowden@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection contact Jerry Cowden at 202–418–0447 or via internet at jcowden@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number:* 3060–0562.

*Title:* Section 76.916, Petition for recertification.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* State, local and tribal governments; business and other for-profit entities.

*Number of Respondents:* 10.

*Estimated Time Per Response:* 10 hours.

*Total Annual Burden to Respondents:* 100 hours, calculated as follows: We estimate that franchising authorities will annually initiate no more than 5 petitions for recertification. We estimate that the average burden to complete all aspects of each petition process is 10 hours for each petitioning party and responding party. (5 petitions × 2 parties each × 10 hours = 100 hours.

*Total Annual Cost to Respondents:* $100, calculated as follows: Postage and stationery costs associated with the petitions is estimated to be $10 per respondent. 5 petitions × 2 parties × $10 = $100.

*Needs and Uses:* Section 76.916 provides that a franchising authority wishing to assume jurisdiction to regulate basic service and associated equipment rates after its request for certification has been denied or revoked may file a petition for recertification with the Commission. The petition must be served on the cable operator and on any interested party that participated in the proceeding denying or revoking the original certification. This information is used by the Commission to determine whether a franchising authority wishing to assume jurisdiction to regulate basic service and associated equipment rates after its request for certification has been denied or revoked meets the eligibility criteria set forth in Section 623(a)(6) of the Communications Act of 1934, as amended.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–2702 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[DA 97–2634]**

### FCC Announces Auction Schedule for the General Wireless Communications Service

Released December 17, 1997.

This Public Notice apprises potential applicants of important dates for the auction of licenses for the General Wireless Communications Service (''GWCS''). The dates listed below may be subject to change. This auction will consist of 875 GWCS licenses in the 4660 to 4685 MHz bands. Five licenses of five megahertz each will be offered in each of 172 EAs and three EA-like areas in the United States. The five licenses in each EA and EA-like area will be designated as blocks A through E. Each frequency block encompasses the following spectrum:

*Block A:* 4660–4665 MHz.
*Block B:* 4665–4670 MHz.
*Block C:* 4670–4675 MHz.
*Block D:* 4675–4680 MHz.
*Block E:* 4680–4685 MHz.

*Key Dates*

*Short form (FCC Form 175) Application Deadline:* April 28, 1998
*Upfront Payment Deadline:* May 11, 1998.
*Auction Commencement Date:* May 27, 1998.

Further details on this spectrum may be found in the, *Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use,* ET Docket No. 94–32, *GWCS Second Report and Order, Second Report and Order,* FCC 95–319, 60 FR 40712 (released August 9, 1995) (reconsideration pending). Public

notices and a bidder information package will provide upfront payment information and specific terms and conditions concerning the auction.

*Bidder Alerts*

• The FCC does not approve any individual investment proposal, nor does it provide a warranty with respect to any license being auctioned. Potential applicants and investors are reminded that winning a license in an FCC spectrum auction in not a guarantee of success in the marketplace.

• The FCC makes no representations or warranties about the use of spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies, or products, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding, as they would with any new business venture.

• The Federal Trade Commission (FTC) has found that some unscrupulous individuals have designed investment schemes around licenses auctioned or to be auctioned by the FCC. If you have an inquiry or complaint about a specific investment offering, call the National Fraud Information Center, 1–800–876–7060, or visit that organization's Internet web site at www.fraud.org. You also may contact your state attorney general or state corporations office. The FTC and the Securities and Exchange Commission (SEC) receive complaints on investment fraud and offer consumer education materials. Contact the FTC at 202–326–3128 or visit its Internet web site at www.ftc.gov. Contact the SEC at 202–942–7040 or visit its Internet web site at www.sec.gov.

• Potential applicants should also be aware of pending rulemaking proceeding in which the FCC is considering changes to many of the auction rules, including attribution of gross revenues of investors in and affiliates of small businesses and whether to continue to permit small businesses to pay for licenses won in installment payments. See Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding. WT Docket No. 97–82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making,* 12 FCC Rcd 5686 (1997). Changes also recently have been adopted with respect to foreign ownership of U.S. telecommunications facilities. See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97–142, Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95–22, *Report and Order and Order on Reconsideration,* FCC 97–398, 62 FR 64741, (released December 9, 1997) Potential applicants should also be aware of pending petitions for reconsideration of the *GWCS Second Report and Order,* decisions on which can be expected in the next few months. In addition, potential applicants should be aware of government operations in adjacent frequency bands and in certain geographic areas that need to be taken into account by commercial operations in the 4600–4685 Mhz band. The FCC is working with the Department of Commerce National Telecommunications and Information Administration to release information regarding these government operations, which will be provided in a later public notice. Finally, potential applicants should be aware that when FCC licenses are subject to auction (i.e., because they are mutually exclusive) the recently enacted Balanced Budget Act of 1997 calls upon the FCC to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established, unless the FCC determines that a reserve price or minimum bid is not in the public interest. See Section 3002(a), Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997); 47 U.S.C. Section 309(j)(4)(F). The FCC's authority to establish a reserve price or minimum opening bid is set forth in 47 CFR 1.2104(c) and (d).

For further information, contact Kathy Garland, Lisa Hartigan, or LaVonia Connelly, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–2700 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL COMMUNICATIONS COMMISSION

**[Report No. 2252]**

### Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

January 28, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed February 19, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

*Subject:* Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Anamosa and Asbury, Iowa) (MM Docket No. 96–215, RM–8898 and 8924).

*Number of Petitions Filed:* 1.

*Subject:* Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Lockport and Amherst, New York) (MM Docket No. 96–240, RM–8846, RM–9010).

*Number of Petitions Filed:* 1.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–2701 Filed 2–3–98; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Notice of Field Testing of Improved System for Public Assistance Grants

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) gives notice that it will field test a new delivery system for public assistance infrastructure grants between March 1 and August 31. Public assistance grants are awarded under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* These grants are awarded to supplement community assets in the recovery of State, local and eligible private non-profit infrastructure when the President determines that an emergency or major disaster exists. The proposed changes in the processing system do not constitute a change in benefits under the law or regulation.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Thomas, National Pilot Team, Federal Emergency Management Agency, Washington D.C. 20472, 301–209–4862.

**EFFECTIVE DATE:** March 1, 1998.

**SUPPLEMENTARY INFORMATION:** The Robert T. Stafford Disaster Relief and

Emergency Assistance Act provides for the award of grants to assist in the repair and reconstruction of community infrastructure. With the help of State and community officials, FEMA has investigated how the system for awarding grants should be amended to deliver the grants more efficiently and effectively to eligible applicants. However, before formally changing the award system, the proposed changes will be field tested in selected disasters occurring on or after March 1, 1998, to determine whether the proposed amendments to the system achieve their intended results and to determine whether additional refinements are necessary. The field tests will be conducted with the agreement of the affected State(s). In the field tests, the proposed processing changed will be substituted for existing public assistance grant processing procedures.

The primary amendments to the currently established system of grant delivery include:

1. The award of up to 50% of the estimated costs of the emergency work (currently known as Categories A and B) as soon as the amount can be estimated. Full payment of eligible costs will follow normal settlement procedures;
2. Permanent work (currently known as Categories C, D, E, F, and G) on projects of large size may be estimated using a formal, professionally developed cost estimating methodology that will provide all parties with a close estimate of total allowable costs for the eligible work. Final settlement will follow normal settlement procedures;
3. Consolidation of information related to each applicant;
4. Ready access for applicants and States to information relevant to grant application;
5. Assignment of an experienced senior official to each applicant to guide and promote the expeditious processing of the grant request;
6. Current, rather than sequential, processing of special reviews (e.g., reviews for purposes of future disaster mitigation, insurance, and compliance with applicable statutes, including the National Environmental Policy Act, Clean Water Act, and the National Historic Preservation Act);
7. Provision for the informal resolution of disagreements;
8. A streamlining change in the review process that will include random validation of all small projects; and
9. The development of estimates by project through local/State/Federal partnerships, rather than multiple Damage Survey Reports by site.

Testing of application and data collection instruments, and training and certification of the staff implementing the amended system, will be concurrent with the field test(s). The proposed changes in the processing system do not constitute a change in benefits under the law or regulation.

Dated: January 30, 1998.

**James L. Witt,**

*Director.*

[FR Doc. 98–2712 Filed 2–3–98; 8:45 am]

BILLING CODE 6718–02–M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 19, 1998.

**A. Federal Reserve Bank of Dallas** (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. JCE/CBI, Ltd.*, Baytown, Texas; to acquire voting shares of Citizens Bankers, Inc., Baytown, Texas, and thereby indirectly acquire Citizens Bankers of Delaware, Wilmington, Delaware; Baytown State Bank, Baytown, Texas; Citizens Bank & Trust Company of Baytown, Baytown, Texas; and Pasadena State Bank, Pasadena, Texas.

Board of Governors of the Federal Reserve System, January 30, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–2723 Filed 2–3–98; 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 March 2, 1998.

**A. Federal Reserve Bank of Philadelphia** (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

*1. BCB Financial Services Corporation*, Reading, Pennsylvania; to merge with Heritage Bancorp, Inc., Pottsville, Pennsylvania, and thereby indirectly acquire Heritage National Bank, Pottsville, Pennsylvania, and Berks County Bank, Reading, Pennsylvania.

**B. Federal Reserve Bank of Atlanta** (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

*1. PSB BancGroup, Inc.*, Lake City, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank (in organization), Lake City, Florida.

*2. Regions Financial Corporation*, Birmingham, Alabama; to merge with First State Corporation, Albany, Georgia, and thereby indirectly acquire First State Bank & Trust Company, Albany, Georgia, and First State Bank & Trust Company, Cordele,Georgia.

**C. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

*1. National City Bancshares, Inc.*, Evansville, Indiana; to merge with Illinois One Bancorp, Inc.,

Shawneetown, Illinois, and thereby indirectly acquire Illinois One Bank, N.A., Shawneetown, Illinois.

Board of Governors of the Federal Reserve System, January 30, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–2725 Filed 2–3–98; 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 February 19, 1998.

**A. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

*1. DeWitt First Bankshares Corporation*, DeWitt, Arkansas; to engage *de novo* in extending credit and servicing loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1998.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 98–2724 Filed 2–3–98; 8:45 am]

BILLING CODE 6210–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[INFO–98–11]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Projects**

*1. A Longitudinal Study of Lead Poisoning from the Maternal Infant Relationship Through Early Childhood—New—*

The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from exposure to hazardous substances in the environment. Lead exposure has been associated with negative pregnancy outcomes in humans, including low birth weight, spontaneous abortion, congenital malformation, and various neurological effects in newborns and young children. The level of lead considered to be toxic has been lowered over the years by major research groups, organizations, and agencies. While lead has been shown to affect all organs, the brain or nervous system seems to be the most sensitive to lead toxicity, especially in young children. Blood lead levels as low as 10 μg/dL have been shown to result in delayed cognitive development, reduced IQ scores, and impaired hearing.

This study, originally approved by OMB in 1995, examines the long-term effects of low and marginal toxic blood lead levels in neonates and preschool African-American children in the Atlanta area. This study is divided into two components, (i) Prevalence of lead exposure in children of preschool age and (ii) longitudinal health effects of low and marginal lead exposure. These studies are conducted concurrently.

The primary focus of the prevalence study is the evaluation of the relationship between socio-economic status, elemental blood lead levels within the home environment, and blood lead levels of preschool aged children. The objective of the longitudinal study is the evaluation of the relationship between lead levels found in maternal and cord blood and adverse health effects in the infant, including deficits in behavioral, cognitive and physical development. To correlate cognitive and behavioral development with varying blood lead levels, each newborn is to undergo a series of psychometric testing at birth, then again at 6 months, 1, and 2 years of age. Evaluations of physician development will be conducted by reviewing the medical records of each newborn within the first year after birth.

This request is for a 3-year extension of the current OMB approval; however we are requesting a new OMB authority (and number) as the old number (0923–0015) will now apply only to the Substance Specific Applied Research Program (AMHPS) [King/Drew Lead Study in-Person Interview, Lead and Hypertension Screening Questionnaire/ Risk Factor Questionnaire]. The requests for OMB approval for the two studies has been separated, with the King/Drew investigation retaining the old OMB number (0923–0015).

| Study | Respondents | No. of respondents | No. of responses/respondent | Avg. burden/response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| Prevalence | Households | 100 | 1 | 0.75 | 75 |
| | Daycare Centers | 10 | 1 | 0.25 | 2.5 |
| Longitudinal | Pregnant Women | 300 | 3.5 | 0.167 | 175.35 |
| | Infants | 300 | 7 | 0.524 | 1,100.40 |
| Total | | | | | 1,353.25 |

*2. Weekly and Annual Morbidity and Mortality Reports*—In 1878 Congress authorized the U.S. Marine Hospital Service (later re-named the U.S. Public Health Service) to collect morbidity reports on cholera, smallpox, plague, and yellow fever from U.S. consuls overseas; this information was to be used for instituting quarantine measures to prevent the introduction and spread of these diseases in the United States. In 1879, a specific Congressional appropriation was made for the collection and publication of reports of these notifiable diseases. The authority for weekly reporting and publication was expanded by Congress in 1893 to include data from state and municipal authorities throughout the U.S. To increase the uniformity of the data, Congress enacted a law in 1902 directing the Surgeon General of the Public Health Service to provide forms for the collection and compilation of data and for the publication of reports at the national level.

In 1961, responsibility for the collection of data on nationally notifiable diseases and deaths in 121 U.S. cities was transferred from the National Office of Vital Statistics to CDC. For 37 years the MMWR has consistently served as CDC's main communication mode for disease outbreaks and trends in health and health behavior. In collaboration with the Council of State and Territorial Epidemiologists (CSTE), CDC has demonstrated the efficiency and effectiveness of computer transmission of data. The data collected electronically for publication in the MMWR provides information which CDC and State epidemiologists use to detail and more effectively interrupt outbreaks. Reporting also provides the timely information needed to measure and demonstrate the impact of changed immunization laws or a new therapeutic measure. Users of data include, but are not limited to, congressional offices, state and local health agencies, health care providers, and other health related groups.

The dissemination of public health information is accomplished through the MMWR series of publications. The publications consist of the MMWR, the CDC Surveillance Summaries, the Recommendations and Reports, and the Annual Summary of Notifiable Diseases. The total cost to respondents is estimated to be $48,100.

| Respondents | No.of respondents | No. of responses/respondent | Avg. burden/response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| State and local health departments | 178 | 52 | .45 | 4,165 |
| Total | | | | 4,165 |

Dated: January 29, 1998.

**Wilma G. Johnson,**

*Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 98–2677 Filed 2–3–98; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Child Support Enforcement Program Financial Report, ACF–396.

*OMB No.:* 0970–0014.

*Description:* Used by the States to report expenditures and estimates made under title IV–D for the purposes of enforcing the support obligations owed by absent parents to their children and the spouse (or former spouse) with whom such children are living; locating absent parents; establishing paternity; and assuring that assistance in obtaining support will be available to all children for whom such assistance is required.

*Respondents:* Federal Government; and State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| OCSE–396, Parts 1 & 2 | 54 | 4 | 4.25 | 918 |
| OCSE–396, Part 3 | 54 | 2 | 2.0 | 216 |

*Estimated Total Annual Burden Hours:* 1,134.

*Additional Information:* Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management

Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 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. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: January 29, 1998.

**Bob Sargis,**

*Acting Reports Clearance Officer.*

[FR Doc. 98–2633 Filed 2–3–98; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Refugee Resettlement Program Estimates: CMA, ORR–1.

*OMB No.:* 0970–0030.

*Description:* ORR reimburses, to the extent of available appropriations, certain non-Federal costs for the provision of cash and medical assistance to refugees, along with allowable expenses in the administration of the Refugee Resettlement Program. ORR needs sound State estimates of likely expenditures for refugee cash, medical, and administrative (CMA) expenditures so that it can anticipate Federal costs in upcoming quarters. If Federal costs are anticipated to exceed budget allocations, ORR must take steps to reduce Federal expenses, such as limiting the number of months of eligibility for Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA).

To meet the need for reliable State estimates of anticipated expenses, ORR has developed a single-page form in which States estimate the average number of recipients for each category of assistance, the average unit cost over the next 12 months, and the expense for the overall administration of the program. This form, the ORR–1 (formerly Form FSA–601) must be submitted prior to the beginning of each Federal fiscal year. Without this information, ORR would be sent out of compliance with the intent of its legislation and otherwise unable to estimate program costs adequately.

In addition, the ORR–1 serves as the State's application for reimbursement of its CMA expenses. Submission of this form is thus required by section 412(a)(4) of the Immigration and Nationality Act which provides that ''no grant or contract may be awarded under this section unless an appropriate proposal and application . . . are submitted to, and approved by, the appropriate administering official.''

*Respondents:* State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ORR–1 | 24 | 1 | .5 | .24 |

*Estimated Total Annual Burden Hours:* 24.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 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. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: January 29, 1998.

**Bob Sargis,**

*Acting Reports Clearance Officer.*

[FR Doc. 98–2710 Filed 2–3–98; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98F–0053]**

### BP Chemicals, Inc.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that BP Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of nitrile rubber modified acrylonitrile-methyl acrylate copolymers as beverage containers.

**DATES:** Written comments on the petitioner's environmental assessment by March 6, 1998.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Richard H. White, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4564) has been filed by BP Chemicals, Inc., c/o The Weinberg Group, Inc., 1220 19th Street NW., suite 300, Washington, DC 20036–2400. The petition proposes to amend the food additive regulations in § 177.1480 *Nitrile rubber modified acrylonitrile-*

*methyl acrylate copolymers* (21 CFR 177.1480) to provide for the safe use of nitrile rubber modified acrylonitrile-methyl acrylate copolymers as beverage containers.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 6, 1998, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 22, 1998.

**Laura M. Tarantino,**

*Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 98–2682 Filed 2–3–98; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98F–0055]**

### Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of 2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol as a light stabilizer/ultraviolet (UV) absorber for polyethylene phthalate polymers intended for use in contact with food.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4573) has been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of 2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol as a light stabilizer/UV absorber for polyethylene phthalate polymers complying with 21 CFR 177.1630 intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 22, 1998.

**Laura M. Tarantino,**

*Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 98–2683 Filed 2–3–98; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–2011–N]**

### New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: July, August, September, October, and November 1997

**AGENCY:** Health Care Financing Administration (HCFA).

**ACTION:** Notice.

**SUMMARY:** Two new proposals for Medicaid demonstration projects were submitted to the Department of Health and Human Services during the months of July, August, September, October, and November 1997 under the authority of section 1115 of the Social Security Act. Two pending proposals were approved during this time period. No proposals were disapproved or withdrawn during the time period. (This notice can be accessed on the Internet at http://www.hcfa.gov/cmso/sect115.htm.).

*COMMENTS:* We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

**ADDRESSES:** Mail correspondence to: Gloria Smiddy, Center for Medicaid and State Operations, Health Care Financing Administration, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

**FOR FURTHER INFORMATION CONTACT:** Gloria Smiddy, (410) 786–7723.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principals that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the **Federal Register** with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to grant solicitation or other competitive process

are reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

## II. Listing of New, Pending, Approved, Disapproved, and Withdrawn Proposals for the Month of July, August, September, October, and November 1997

### *A. Comprehensive Health Reform Programs*

1. New Proposal

The following proposal comprehensive health reform proposal was received during the month of July 1997.

*Demonstration Title/State:* HealthlyKids/Florida;

*Description:* The State submitted a proposal that would expand Medicaid coverage to the HealthyKids program for children ages 5–19, enrolled in school, not on Medicaid, and without comparable health care coverage.

*Date Received:* July 1, 1997.

*State Contract:* Bob Sharpe, Agency for Health Care Administration, The Atrium, Suite 301, 325 John Knox Road, Tallahassee, FL 32303–4131, (904) 488–9347.

*Federal Project Officer:* Alisa Adamo, Health Care Financing Administration, Center for Medicaid and State Operations, Family and Children's Health Programs, Group Division of Integrated Health Systems, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–6618.

No new proposals were received during the months of August, September, October, and November 1997.

2. Approved Proposals

The Following proposals were approved during the months of July and August:

*Demonstration Title/State:* The New York Partnership Plan—New York.

*Description:* The New York Partnership Plan is a statewide section 1115 demonstration proposal. The Partnership Plan would enroll its Medicaid population (excluding individuals who are elderly, disabled, and institutionalized) and its Home Relief population (those individuals who are financially needy but not Medicaid eligible) into managed care programs. The plan also would establish new health plans to meet the needs of special populations (i.e., individuals with HIV disease and seriously mentally ill adults and children).

*Date Received*: March 20, 1995.

*Date Approved:* July 15, 1997.

*State Contact:* Ellen Anderson, New York Department of Health, Office of Managed Care, Empire State Plaza, Corning Tower, Room 2001, Albany, NY 12237, (518) 474–5737.

*Federal Project Officer:* Debbie VanHoven/Theresa Sachs, Health Care Financing Administration, Center for Medicaid and State Operations, Family and Children's Health Programs, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

*Demonstration Title/State:* ARKids First Program—Arkansas.

*Description:* The ARKids First Program would expand Medicaid eligibility and access to health care services to children age 18 and under with gross family income at or below 200 percent of the Federal poverty level. The intent of the program is to cover all children eligible for Medicaid not otherwise at this income level statewide and to expand access to preventive health care.

*Date Received:* May 16, 1997.

*Date Approved:* August 19, 1997.

*State Contact:* Binnie Alberius, Arkansas Department of Human Services, Division of Medical Services, Donaghey Plaza South, P.O. Box 1437, Little Rock, AR 72203–1437, 501–682–8361.

*Federal Project Officer:* Joan Peterson, Ph.D., Health Care Financing Administration, Center for Medicaid and State Operations, Family and Children's Health Programs, Division of Integrated Health Systems, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410)–786–0621.

No proposals were approved during the months of September, October, and November 1997.

3. Pending Proposals

Pending proposals for the month of June 1997, referenced in the **Federal Register** of August 14, 1997 (62 FR 43541) remain unchanged except for the deletion of The New York Partnership Plan and ARKid First Program of Arkansas (which were approved in July and August 1997, respectively), and the addition of HealthyKids/Florida (which was received in July).

4. Approved Conceptual Proposals (Award for Waivers Pending)

No conceptual proposals were approved during the months of July, August, September, October, and November 1997.

5. Disapproved and Withdrawn Proposals

No proposals were disapproved or withdrawn during the months of July, August, September, October, and November 1997.

### *B. Other Section 1115 Demonstration Proposals*

1. New Proposals

The following family planning proposal was received during the month of September 1997.

*Demonstration Title/State:* Extending Medicaid Family Planning Benefits for Postpartum Women—Florida.

*Description:* The State proposes to extend Medicaid eligibility for family planning services only for 2 years to women who lose Medicaid eligibility and who have received a pregnancy-related service during their eligibility period.

*Date Received:* September 22, 1997.

*State Contact:* Bob Sharpe, Agency for Health Care Administration, The Atrium, Suite 301, 325 John Knox Road, Tallahassee, FL 32303–4131, 904–488–9347.

*Federal Project Officer:* Alisa Adamo, Health Care Financing Administration, Center for Medicaid and State Operations, Family and Children's Health Programs Group, Division of Integrated Health Systems, 7500 Security Boulevard, Baltimore, MD 21244–1850.

No new proposals were received during the months of July, August, October, and November 1997.

2. Pending Proposals

Pending proposals for the month of June 1997 referenced in the **Federal Register** of August 14, 1997 (62 FR 43541) remain unchanged except for the addition of the following proposals.

*Description Title/State:* Maine-Net—Integrated Managed Health Care Plans—Maine.

*Description:* The Maine-Net project is a two-site demonstration designed to test the efficiency and effectiveness of financing and delivery systems which integrate primary, acute, and long-term care services under a combination of Medicaid capitation payments, Medicare fee-for-service, and/or primary care case management. Participants will be both Medicaid only and dually eligible Medicare/Medicaid beneficiaries who are 65 or older or physically disabled. Enrollment will be mandatory.

*Date Received:* June 2, 1997.

*State Contact:* Christine Gianopoulos, Bureau of Elder and Adult Services, Maine Department of Human Services, 35 Anthony Avenue, State House Station 11, Augusta, ME 04333–0011, (207) 624–5335.

*Federal Project Officer;* Kay Lewandowski, Health Care Financing Administration, Office of Strategic Planning, Mail Stop C3–23–04, 7500

Security Boulevard, Baltimore, MD 21244–1850.

*Demonstration Title/State:* Mass Health Senior Care Options—Massachusetts.

*Description:* The Massachusetts Division of Medical Assistance submitted a demonstration waiver application for both Medicare (Section 222) and Medicaid (Section 1115) programs. The application would establish integrated care to persons 65 years of age and older who are eligible for both Medicare and Medicaid through voluntary enrollment in Senior Care Organizations (SCO). SCOs are expected to be available statewide. In addition to Federal demonstration waivers, enabling legislation in Massachusetts is also necessary.

*Date Received:* June 12, 1997.

*State Contact:* Kate Willrich, Managed Care Program Development, Division of Medical Assistance, 600 Washington Street, Boston, MA 02111, (617) 210–5466.

*Federal Project Officer:* William D. Clark, Health Care Financing Administration, Office of Strategic Planning, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

*Demonstration Title/State:* Extending Medicaid Family Planning Benefits for Postpartum Women—Florida (described under B.1. ''New Proposals'' for the month of September 1997).

3. Approved, Disapproved, and Withdrawn Proposals

No proposals were approved, disapproved, and withdrawn during the months of July, August, September, October, and November 1997.

## III. Requests for Copies for a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments)

Dated: December 30, 1997.

**Sally K. Richardson,**

*Director, Center for Medicaid and State Operations.*

[FR Doc. 98–2636 Filed 2–3–98; 8:45 am]

BILLING CODE 4120–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Practitioner Data Bank; Change in User Fee and Elimination of Diskette Queries

The Health Resources and Services Administration (HRSA), Department of Health and Human Services (DHHS), is announcing a one dollar increase in the fee charged to entities authorized to request information from the National Practitioner Data Bank (Data Bank) for all queries. Concurrently, HRSA is announcing that the Data Bank will no longer accept queries submitted via diskette.

The current fee structure was announced in the **Federal Register** on January 21, 1997 (62 FR 3048). The user fee is $3.00 per name per query fee for queries submitted via telecommunications network and paid via an electronic funds transfer or credit card, with query response sent via the telecommunications network. A three dollar surcharge is applied when queries are submitted electronically on a diskette to pay for the extra handling and mailing costs for these queries. An additional $4.00 is charged for all queries which are paid for by check or money order rather than by electronic funds transfer or credit card to cover the cost of debt management.

The Data Bank is authorized by the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99–660, as amended (42 U.S.C. 11101 *et seq.*). Section 427(b)(4) of the Act authorizes the establishment of fees for the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the Data Bank. Section 60.3 of these regulations defines the terms used in this announcement.

In determining any changes in the amount of the user fee, the Department uses the criteria set forth in § 60.12 (b) of the regulations, as well as allowable costs pursuant to the DHHS Appropriations Act of 1998, P.L. 105–78, enacted November 13, 1997. This Act requires that the Department recover the full costs of operating the Data Bank through user fees. Paragraph (b) of the regulations states:

The amount of each fee will be determined based on the following criteria:

(1) Use of electronic data processing equipment to obtain information—the actual cost for the service, including computer search time, runs, printouts, and time of computer programmers and operators, or other employees,

(2) Photocopying or other forms of reproduction, such as magnetic tapes—actual cost of the operator's time, plus the cost of the machine time and the materials used,

(3) Postage—actual cost, and

(4) Sending information by special methods requested by the applicant, such as express mail or electronic transfer—the actual cost of the special service.

Based on analysis of the comparative costs of the various methods for filing and paying for queries, the Department is raising all query fees by $1.00 per name. This price increase is necessitated by increased labor costs and escalating costs for the Data Bank's telecommunications network and data transmission services.

Despite the one dollar increase, electronic querying (telecommunications network) and electronic payment continue to be the most cost-effective methods for requesting information from the Data Bank. The new fee for electronic queries (telecommunications network) with electronic payment will be $4.00. The fee for querying the Data Bank by telecommunications network and non-electronic payment will be $8.00. This change is effective April 1, 1998.

When a query is for information on one or more physicians, dentists, or other health care practitioners, the appropriate total fee will be $4.00 (plus a $4.00 surcharge for submission and payment as described above) multiplied by the number of individuals about whom information is being requested. For examples, see the table below.

Additionally, due to the continuing decrease in the number of queries submitted via diskette and the wider availability of the telecommunications network, the Department is discontinuing its support for the diskette option. Fewer than 2% of queries are currently submitted via diskette. Therefore, the Department has determined that it is no longer cost-efficient for the Data Bank to accept for processing queries submitted via diskette. The Department recognizes that a few entities may have technical difficulties, the remedies for which may be beyond their control, that preclude successful transmission via the telecommunications network. The Data Bank will attempt to work out appropriate accommodations with these entities. Entities experiencing difficulties submitting queries via the telecommunications network should contact the Data Bank Helpline at 1–800–767–6732 for assistance.

The Department will continue to review the user fee periodically, and will revise it as necessary. Any changes in the fee and their effective date will be announced in the **Federal Register**.

| Query method | Fee per name in query, by method of payment | Examples |
|---|---|---|
| Electronic query (Telecommunications network) with electronic payment. | $4.00 (if paid electronically via credit card or other electronic means and response received electronically). | 10 names in query. 10×$4=$40.00. |
| Electronic query (Telecommunications network) with non-electronic payment. | $8.00 (if not paid via credit card or other electronic means) ($4.00 fee plus $4.00 surcharge). | 10 names in query. 10×$8=$80.00. |

Dated: January 28, 1998.

**Claude Earl Fox,**

*Acting Administrator.*

[FR Doc. 98–2637 Filed 2–3–98; 8:45 am]

BILLING CODE 4160–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental Research; 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 Institute of Dental Research Special Emphasis Panel (SEP) meetings:

*Name of SEP:* National Institute of Dental Research Special Emphasis Panel-Review of R03 (98–27).

*Dates:* February 5, 1998.

*Time:* 10:00 a.m.

*Place:* Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

*Contact Person:* Dr. Philip Washko, Scientifist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

*Purpose/Agenda:* To evaluate and review grant applications and/or contract proposals.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

*Name of SEP:* National Institute of Dental Research Special Emphasis Panel-Review of R29 (98–22).

*Dates:* February 19, 1998.

*Time:* 1:00 p.m.

*Place:* Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

*Contact Person:* Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

*Purpose/Agenda:* To evaluate and review grant applications and/or contract proposals.

*Name of SEP:* National Institute of Dental Research Special Emphasis Panel-Review of R01 (98–24).

*Dates:* February 24, 1998.

*Time:* 10:00 a.m.

*Place:* Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

*Contact Person:* Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

*Purpose/Agenda:* To evaluate and review grant applications and/or contract proposals.

*Name of SEP:* National Institute of Dental Research Special Emphasis Panel-Review of R13 (98–28).

*Dates:* March 11, 1998.

*Time:* 3:30 p.m.

*Place:* Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

*Contact Person:* Dr. George Hausch, Chief, Extramural Review Division, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

*Purpose/Agenda:* To evaluate and review grant applications and/or contract proposals.

These 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 No. 93.121, Oral Diseases and Disorders Research)

Dated: January 27, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–2638 Filed 2–3–98; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Grant Award to the National Center on Addiction and Substance Abuse (CASA) at Columbia University

**AGENCY:** Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

**ACTION:** Availability of grant funds for the National Center on Addiction and Substance Abuse (CASA) at Columbia University.

**SUMMARY:** This notice is to inform the public that CSAT is making available approximately $300,000 for an award in FY 1998 to CASA to support a program intended to identify an effective model for maximizing help to Temporary Assistance to Needy Families (TANF) eligible women suffering from alcohol and other drug problems, to eliminate or reduce their substance use, obtain and maintain employment and, consequently, reduce their dependence on welfare. Eligibility for this program is limited to CASA because CASA is the only organization that has established and will soon implement at several sites an experimental design research program for moving substance abusing TANF recipients into sustained employment. The application will be considered for funding on the basis of its overall technical merit as determined through the peer and CSAT National Advisory Council review processes.

An award to CASA will supplement a program that CASA has already initiated with support from the Robert Wood Johnson Foundation to test a comprehensive treatment/employment preparedness model in six sites. Funding from CSAT will allow for the establishment and evaluation of this model in a seventh less populated site. Without CSAT funding, such a site would not have participated in this program and the applicability of the model in a less populated location would not be known. A lead agency will be identified at each program site by CASA. This agency can be a community based substance abuse treatment, employment, or social services agency. The site will integrate gender-specific, culturally/ethnically appropriate, comprehensive treatment (including substance abuse treatment, employability training, medical services, life skills training, support services, and family services) in a nurturing setting, under the guidance of intensive case management. Each site will coordinate with other community resources, as necessary, to ensure that program participants are provided with the comprehensive array of services. A multi-site evaluation, using matched control groups, will be undertaken by an

external evaluator, and an internal process and qualitative evaluation will be conducted by CASA.

**Authority:** The award will be made under the authority of Section 501(d)(5) of the Public Health Service Act, as amended (42 U.S.C. 290aa). The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.230.

**CONTACT:** Dr. Jane Taylor, Director, Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6534.

Dated: January 29, 1998.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 98–2703 Filed 2–3–98; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Notice to Extend the Public Comment Period for the Draft Recovery Plan for Upland Species of the San Joaquin Valley, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of extension of public comment period.

**SUMMARY:** The U. S. Fish and Wildlife Service gives notice that the comment period announced in the September 30, 1997, notice of availability of the Draft Recovery Plan for Upland Species of the San Joaquin Valley, California, will be extended an additional 60 days until March 29, 1998. The Service experienced difficulty in distributing copies of the draft plan. This recovery plan includes 34 species, of which 11 species are federally listed as endangered or threatened. The draft plan includes recovery criteria and measures for the plants—California jewelflower (*Caulanthus californicus*), palmate-bracted bird's-beak (*Cordylanthus palmatus*), Kern mallow (*Eremalche kernensis*), Hoover's woolly-star (*Eriastrum hooveri*), San Joaquin woolly-threads (*Lembertia congdonii*), Bakersfield cactus (*Opuntia basilaris* var. *treleasei*); and the animals—giant kangaroo rat (*Dipodomys ingens*), Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), blunt-nosed leopard lizard (*Gambelia sila*), and San Joaquin kit fox (*Vulpes macrotis mutica*). Long-term conservation of three candidate species, the Buena Vista Lake shrew (*Sorex ornatus relictus*), the riparian brush rabbit (*Sylvilagus bachmani riparius*), and riparian woodrat (*Neotoma fuscipes riparia*); and an additional 20 species of plants and animals of concern to the Service are addressed in the draft recovery plan. The Service extends the current 120-day comment period and solicits review and comment from the public on this draft plan.

**DATES:** Comments on the draft recovery plan received by March 29, 1998 will be considered by the Service.

**ADDRESSES:** Persons wishing to review the draft recovery plan may obtain a copy by contacting the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Telephone requests may be made by calling 916/979–2725.

**FOR FURTHER INFORMATION CONTACT:** Karen Miller at the above address and telephone number.

**SUPPLEMENTARY INFORMATION:**

### Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U. S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels necessary to reclassify them from endangered to threatened or remove them from the list, and estimate the time and cost for implementing needed recovery measures.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires development of recovery plans for listed species unless such a plan would not promote conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The 34 species of plants and animals covered in the draft recovery plan are restricted primarily to the San Joaquin Valley of California. The majority of the species occur in arid grasslands and scrublands of the San Joaquin Valley and adjacent foothills and valleys. The riparian woodrat and riparian brush rabbit inhabit forested river corridors of the eastern San Joaquin Valley. Conversion of habitat to agricultural, industrial, and urban uses has eliminated the listed candidate, and species of concern from the majority of their historic ranges. The remaining natural communities are highly fragmented, and many are marginal habitats in which these species may not persist during catastrophic events, such as fire or drought.

The objectives of this recovery plan are two-fold: (1) To delist the plants—California jewelflower, palmate-bracted bird's-beak, Kern mallow, Hoover's woolly-star, San Joaquin woolly-threads, Bakersfield cactus; and the animals—giant kangaroo rat, Fresno kangaroo rat, Tipton kangaroo rat, blunt-nosed leopard lizard, and San Joaquin kit fox by protecting, enhancing, restoring, and appropriately managing their habitat; and (2) to ensure the long-term conservation of the three candidates and additional 20 species of concern by protecting, enhancing, restoring, and appropriately managing their habitat.

### Public Comments Solicited

The Service solicits written comments on the recovery plan described herein. All comments received by the date specified above will be considered prior to approval of the plan.

**Authority**: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 26, 1998.

**David L. McMullen,**

*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 98–2678 Filed 2–3–98; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Marine Mammal Annual Report Availability, Calendar Year 1995

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of calendar year 1995 marine mammal annual report.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) and the Biological Resources Division of the U.S. Geological Survey have issued their 1995 annual report on marine mammals under the jurisdiction of the U.S. Department of the Interior, as required

by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period January 1 to December 31, 1995, and was submitted to Congress on October 29, 1997. By this notice, the public is informed that the 1995 report is available and that copies may be obtained on request to the Service.

**ADDRESSES:** *Written requests for copies should be addressed to:* Publications Unit, U.S. Fish and Wildlife Service, National Conservation Training Center, Route 1, Box 166, Shepherd Grade Road, Shepherdstown, WV 25443.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance, Telephone (703) 358–1718.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of the Interior is responsible for eight species of marine mammals, as assigned by the Marine Mammal Protection Act of 1972. These species are polar bear, sea and marine otters, walrus, manatees (three species) and dugong. Administrative actions discussed include appropriations, marine mammals in Alaska, endangered and threatened marine mammal species, law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

Dated: January 22, 1998.

**Jamie Rappaport Clark,**

*Director.*

[FR Doc. 98–2667 Filed 2–3–98; 8:45 am]

BILLING CODE 4310–55–M

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Notice of Meeting

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

**DATES:** The Klamath River Basin Fisheries Task Force (TF) will meet from 1:00 p.m. to 5:00 p.m. on Wednesday, February 18, 1998, from 8:30 a.m. to 5:00 p.m. on Thursday, February 19, 1998, and from 8:30 a.m. to 5:00 p.m. on Friday, February 20, 1998.

**PLACE:** The meeting will be held at the Brookings Inn, Highway 101, Brookings, Oregon 97415.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (530) 842–5763.

**SUPPLEMENTARY INFORMATION:** The principal agenda items at this meeting will be: (1) a decision on whether or how to proceed with the Upper Basin Amendment and assignments; (2) a status report on the 1998 annual operations plan and EIS for the Bureau of Reclamation Klamath Project; (3) an update on subbasin planning; (4) a decision on a process to amend the Task Force Long Range Plan for the Klamath River Basin Conservation Area Fishery Restoration Program; (5) the development of a strategy to pursue additional funding; (6) a decision on FY99 budget recommendations and the annual Request for Proposals; and (7) a report on scoping of the Klamath River Basin Instream Flow Incremental Methodology (IFIM) flow study.

For background information on the TF, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: January 28, 1998.

**Thomas J. Dwyer,**

*Acting Regional Director.*

[FR Doc. 98–2679 Filed 2–3–98; 8:45 am]

BILLING CODE 4310–55–P

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## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[CA–018–1430–00; CACA 37328]**

## Notice of Proposed Amendment, Sierra Planning Area Management Framework Plan and Notice of Exchange Proposal, Amador County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management, Folsom Field Office, proposes to amend the 1988 Sierra Planning Area Management Framework Plan Amendment (MFPA) to allow for a boundary adjustment of the Ione Tertiary Oxisol Soils Area of Critical Environmental Concern (ACEC), located in Amador County, CA. The boundary adjustment is necessary to allow for exchange of public land currently within the ACEC in order to acquire adjacent private land of higher resource value to be added to the ACEC. The lands are described as follows.

**Public Land to be Disposed of**

T. 5 N., R.10 E.,
Sec. 17, N½NE¼NW¼NW¼SE¼, N½S½NE¼NW¼NW¼SE¼, and W½NW¼NW¼SE¼.

The area described contains 6.875 acres in Amador County.

**Private Land to be Acquired**

T. 5 N., R. 10 E.
Sec. 17, S½SW¼SE¼NE¼ and SW¼SE¼SE¼NE¼. In addition, as easement will also be acquired in order to secure access to the remaining public lands.

The area described contains 7.5 acres in Amador County.

**SUPPLEMENTARY INFORMATION:** This ACEC was established to protect unique soil profiles. Intensely weathered soils were formed during the Eocene epoch when the area had a tropical climate. This soil has been exposed due to natural erosion of overlying strata revealing a soil with properties of oxisols, a soil order of the tropics. Adjustment of the ACEC boundary would allow for the inclusion of 7.5 acres of land to be acquired that is currently adjacent to the existing boundary. This land to be acquired contains exceptional examples of Oxisol soils. In exchange, BLM would also adjust the ACEC boundary to exclude the above described public land which would allow for disposal of this parcel because it poseses inferior soil examples than the land to be acquired. The exchange will be with TNH/Glenmoor ltd., an adjacent landowner to the ACEC. Disposal of the public land will also allow access by TNH/Glenmoor to their land in the same area. This exchange meets the objectives of the MFPA and the Ione Tertiary Oxisol Soils Area Management Plan (1992), protecting the area and preserving its intrinsic scientific and educational importance.

The public land parcel would be transferred subject to a reservation to the United States for a right-of-way for ditches and canals. All necessary clearances will be completed prior to any conveyance of title by the United States.

**ADDRESSES:** Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Folsom Field Office, 63 Natoma Street, Folsom, CA 95630.

**DATES:** On or before March 23, 1998, interested persons may submit comments to the Field Manager, Folsom Field Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** John Beck, Realty Specialist, at the above address or by phone at (916) 985–4474.

Dated: January 27, 1998.

**D.K. Swickard,**

*Field Manager.*

[FR Doc. 98–2728 Filed 2–3–98; 8:45 am]

BILLING CODE 4310–40–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Announcement of Minerals Management Service Public Meeting on Oil Royalty-In-Kind Pilot Program in Wyoming

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Minerals Management Service (MMS) will hold a one-day public meeting to discuss issues involved in developing and implementing a royalty-in-kind (RIK) pilot program for crude oil produced from Federal leases in Wyoming. The meeting will be open to the public without advance registration.

**DATES:** The meeting will be held on February 24, 1998, from 9:00 a.m. until 4:00 p.m., Mountain time.

**ADDRESSES:** The meeting will be held at the Hilton Inn Casper, 800 North Poplar Road, Casper, Wyoming 82601, telephone (307) 266–6000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bonn J. Macy, Minerals Management Service, 1849 C Street, NW, MS 4230, Washington, D.C. 20240–000; telephone number (202) 208–3827; fax (202) 208–3918; e-mail Bonn.Macy@mms.gov.

**COMMENTS:** Written comments on the meetings or the issues discussed below should be addressed to Mr. Bonn J. Macy at the address given in the **FURTHER INFORMATION** section above.

**SUPPLEMENTARY INFORMATION:** MMS is developing three RIK pilot programs based on the recommendations in our 1997 RIK Feasibility Study, including an onshore crude oil RIK pilot in the State of Wyoming, an offshore natural gas RIK pilot in the 8(g) waters off the State of Texas, and an offshore Gulf of Mexico natural gas RIK pilot. The subject of this notice is MMS's planning process for the oil RIK pilot in Wyoming. The objective of the Wyoming crude oil pilot program, as with all three pilots, is to test the effectiveness of the RIK concept for collecting Federal oil and gas royalties. MMS seeks to produce an RIK structure that reduces the administrative burden of royalty collection for both industry and government without creating a negative impact on Federal royalty revenue.

MMS, in collaboration with the State of Wyoming, intends to develop and implement a pilot program to take Federal crude oil royalties from Federal leases within the boundaries of the State of Wyoming as a share of production (i.e., ''in-kind''). MMS intends to sell in the oil markets the production it receives in the pilot. MMS is currently planning to begin the pilot on October 1, 1998. The duration of the pilot program will be at least 2 years. Federal lessees in Wyoming will be directed to deliver royalty volumes in-kind for leases and associated communitization/unit agreements MMS selects to be involved in the pilot program. For all other leases or agreements, payors will continue paying royalties based on current requirements.

The MMS implementation team is currently studying production and marketing issues relevant to Wyoming crude oil. Based on this study and our previous work on the RIK concept, we will shortly develop a few specific RIK models for possible implementation. MMS believes that timely public comment and input on the issues in Wyoming are critical to the development of a successful pilot that realizes the full potential of the RIK concept. We therefore strongly encourage the public to participate in the February 24 public meeting in Casper, Wyoming and comment both on material discussed at the public meeting and the content of this Notice.

The MMS implementation team seeks to assess, through the design of the pilot, the impacts of a number of different lease variables such as gravity, sulfur content, transportation method, royalty rate level, and lease productivity. The team also intends to test the effectiveness of different strategies for RIK production. MMS seeks to quantitatively isolate the effects of these variables on Federal revenues realized and administrative burden.

Written public comment on MMS's implementation of a crude oil RIK pilot in Wyoming should be sent to the contact name and address given in the **FURTHER INFORMATION** section. Written statements submitted to MMS will become part of the meeting record and can be read, by request, at the Casper, Wyoming, public meeting.

In addition to general comments on the implementation of a crude oil RIK pilot in Wyoming, MMS specifically requests comments on the following issues and questions:

1. Through the pilot, we plan to isolate and assess the effects of the lease variables such as gravity, sulfur, transportation method, royalty rate level, and lease productivity. Are there additional variables we should study?

2. Are there any circumstances that would mitigate against a starting date of October 1, 1998?

3. How much advance notice would lessees require before MMS takes royalties in-kind?

4. Should we set a minimum volume threshold for leases below which the RIK approach is not advisable?

5. Should we set a royalty rate threshold below which the RIK approach is not advisable?

6. Are there are special considerations when including large communitization and unit agreements in an RIK program?

7. Are there any special considerations for leases with trucked crude?

8. To compare RIK pilot performance, should we continue to audit the producers' shares or use receipts from leases that pay royalties on value that are located in the same geographic areas as pilot RIK leases?

9. How should MMS address imbalances with operators? Is it a potential problem?

10. What are the relevant valuation benchmarks (i.e., spot prices, indices, other?) that could provide MMS with a reasonable measure of Wyoming oil RIK pilot revenue performance?

11. What should be the duration of a sales contract for marketing Federal RIK oil?

12. What would be the minimum advisable volume for an RIK oil sales contract?

At the public meeting, MMS may present its plans for the Wyoming oil RIK pilot program as a draft ''work-in-progress.'' One or more potential models for RIK may be offered for public discussion and comment as to their feasibility and effectiveness. MMS urges the public to participate in these important discussions.

Dated: January 29, 1998.

**Walter D. Cruickshank,**

*Associate Director, for Policy and Management Improvement.*

[FR Doc. 98–2706 Filed 2–3–98; 8:45 am]

BILLING CODE 4310–MR–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 753–TA–35]**

### Steel Wire Rope From Thailand

### Determination

Pursuant to section 753(b)(4) of the Tariff Act of 1930 (19 U.S.C. § 1675(b)(4)) (the Act), the United States International Trade Commission (Commission) hereby determines that an industry in the United States is not likely to be materially injured by reason of imports from Thailand of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, if the countervailing duty order on such merchandise is revoked.

### Background

Section 753(a) of the Act provides that, in the case of a countervailing duty order issued under section 303 of the Act with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time the order was issued, interested parties may request the Commission to initiate an investigation to determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked. Further, section 753(a)(3) requires that such requests be filed with the Commission within 6 months of the date on which the country from which the subject merchandise originates became a signatory to the Agreement on Subsidies and Countervailing Measures (the Subsidies Agreement), as referred to in section 101(d)(12) of the Uruguay Round Agreements Act (URAA).

On May 26, 1995, the Department of Commerce (Commerce) published in the **Federal Register** notice of opportunity to request injury investigation(s) under section 753 of the Act (60 F.R. 27963, May 26, 1995). In that notice, Commerce stated that, for those countries that became signatories to the Subsidies Agreement on January 1, 1995, requests for injury investigations must be filed with the Commission no later than June 30, 1995.

Section 753(b)(4) of the Act provides that, if a request for an injury investigation is not made within 6 months of the time the country of origin of the subject merchandise became a signatory to the Subsidies Agreement, the Commission shall notify the administering authority that it has made a negative determination of whether an industry in the United States is likely to be materially injured by reason of imports of subject merchandise if the order is revoked. On June 30, 1995, the Committee of Domestic Steel Wire Rope and Speciality Cable Manufacturers (''Domestic Steel Wire Rope Committee'') timely requested that the Commission conduct an investigation under section 753(a) with regard to the outstanding countervailing duty order on steel wire rope from Thailand. On January 5, 1998, the Commission initiated such an investigation (63 F.R. 2414, January 15, 1998) and, subsequently, received advice from the Department of Commerce regarding the nature of the subsidy, and the net countervailable subsidy likely to prevail if the subject order is revoked. However, on January 15, 1998, the Domestic Steel Wire Rope Committee filed a letter with the Commission withdrawing its request for such an investigation, and requesting that the Commission rescind initiation of its investigation. The Commission has accepted the party's withdrawal of its request for an investigation and rescinded initiation of its investigation, pursuant to sections 753(b)(1)(A) and 704(a)(1)(A) of the Act. Thus, there is no longer a request for investigation of this matter on the record. Accordingly, pursuant to section 753(b)(4) of the Act, the Commission hereby notifies Commerce of its negative determination with regard to the outstanding countervailing duty order on steel wire rope from Thailand.

*For Further Information Contact:* Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

**Authority:** This determination is being made under authority of the Tariff Act of 1930, as amended. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: January 30, 1998.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 98–2746 Filed 2–3–98; 8:45 am]

BILLING CODE 7020–02–P

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of The Judicial Conference Advisory Committee on Rules of Civil Procedure

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

**DATES:** March 16–17, 1998.

**ADDRESSES:** Duke University School of Law, Burdman Faculty Lounge, Room 3000, Science Drive and Towerview Road, Durham, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committees Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: January 30, 1998.

**John K. Rabiej,**

*Chief, Rules Committees Support Office.*

[FR Doc. 98–2745 Filed 2–3–98; 8:45 am]

BILLING CODE 2210–01–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of The Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

**AGENCY:** Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

**DATES:** March 26–27, 1998.

**ADDRESSES:** Winrock International Conference Center, Petit Jean Mountain, 38 Winrock Drive, Morrilton, Arkansas.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committees Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: January 30, 1998.

**John K. Rabiej,**

*Chief, Rules Committees Support Office.*

[FR Doc. 98–2828 Filed 2–3–98; 8:45 am]

BILLING CODE 2210–01–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Evidence.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

**DATES:** April 6–7, 1998.

**ADDRESSES:** Fordham University School of Law, 140 West 62 Street, Room 430, New York, New York.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committees Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: January 30, 1998.

**John K. Rabiej,**

*Chief, Rules Committees Support Office.*

[FR Doc. 98–2829 Filed 2–3–98; 8:45 am]

BILLING CODE 2210–01–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 to 5:00 p.m.

**DATES:** April 16–17, 1998.

**ADDRESSES:** Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, N.E., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committees Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: January 30, 1998.

**John K. Rabiej,**

*Chief, Rules Committees Support Office.*

[FR Doc. 98–2830 Filed 2–3–98; 8:45 am]

BILLING CODE 2210–01–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

**AGENCY:** Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

**DATES:** April 27–28, 1998.

**ADDRESSES:** Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committees Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: January 30, 1998.

**John K. Rabiej,**

*Chief, Rules Committees Support Office.*

[FR Doc. 98–2831 Filed 2–3–98; 8:45 am]

BILLING CODE 2210–01–M

## DEPARTMENT OF JUSTICE

### President's Advisory Board on Race; Meeting

**ACTION:** President's Advisory Board on Race and related meetings; Revised Notice.

**SUMMARY:** This revises the notice of January 28, 1998 regarding the President's Advisory Board on Race meetings on February 10 and 11, 1998.

On February 10, Advisory Board members will visit sites in the San Francisco Bay, California area where organizations are having success at addressing issues relating to poverty and race. From 6:00 p.m. until 7:30 p.m., there will be a community forum in San Jose, California in the Luiz Valdez Center for the Performing Arts Auditorium at Independence High School, 1776 Educational Park Drive. The purpose of the forum is to provide an opportunity for residents from the community to raise issues of general concern in the areas of race and racial reconciliation.

On February 11, the Advisory Board will meet again in the Performing Arts Auditorium at Independence High School in San Jose to discuss issues relating to race and poverty. The meeting will include panel discussions with national experts, as well as individuals with local and regional expertise. The meeting will include time for questions from the public.

The public is welcome to attend the community forum and the Advisory Board meeting on a first-come, first-seated basis. Members of the public may also submit to the contact person, any time before or after the meeting, written statements to the Board. Written comments may be submitted by mail, telegram, facsimile, or electronic mail, and should contain the writer's name, address and commercial, government, or organizational affiliation, if any. The address of the President's Initiative on Race is 750 17th Street, N.W., Washington, D.C. 20503. The electronic mail address is http://www.whitehouse.gov/Initiatives/OneAmerica.

**FOR FURTHER INFORMATION:** Contact our main office number, (202) 395–1010, for the exact time and location of the meetings. Other comments or questions regarding this meeting may be directed to Randy D. Ayers, (202) 395–1010, or via facsimile, (202) 395–1020.

Dated: January 30, 1998.

**Robert Wexler,**

*General Counsel.*

[FR Doc. 98–2814 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–AR–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Importer of Controlled Substance; Notice of Registration

By Notice dated October 7, 1997, and published in the **Federal Register** on October 22, 1997, (62 FR 54856), Arenol Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Methamphetamine (1105) ..... | II |
| Phenylacetone (8501) ..... | II |

The firm plans to import the listed controlled substances to manufacture pharmaceutical products.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Arenol Corporation to

import listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: January 8, 1998.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 98–2672 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 12, 1997, Isotec, Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Cathinone (1235) | I |
| Methcathinone (1237) | I |
| N-Ethylamphetamine (1475) | I |
| N,N-Dimethylamphetamine (1480) | I |
| Aminorex (1585) | I |
| Methaqualone (2565) | I |
| Lysergic acid diethylamide (7315) | I |
| Tetrahydrocannabinols (7370) | I |
| Mescaline (7381) | I |
| 2,5-Dimethoxyamphetamine (7396). | I |
| 3,4-Methylenedioxyamphetamine (7400). | I |
| 3,4-Methylenedioxy-N-ethylamphetamine (7404). | I |
| 3,4-Methylenedioxymethamphetamine (7405). | I |
| 4-Methoxyamphetamine (7411) | I |
| Psilocybin (7437) | I |
| Psilocyn (7438) | I |
| N-Ethyl-1-phenylcyclohexylamine (7455). | I |
| Dihydromorphine (9145) | I |
| Normorphine (9313) | I |
| Acetylmethadol (9601) | I |
| Alphacetylmethadol Except Levo-Alphacetylmethadol (9603). | I |
| Normethadone (9635) | I |
| 3-Methylfentanyl (9813) | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Methylphenidate (1724) | II |
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| 1-Phenylcyclohexylamine (7460) | II |
| Phencyclidine (7471) | II |
| Phenylacetone (8501) | II |
| 1-Piperidinocyclohexanecarbonitrile (8603). | II |
| Codeine (9050) | II |
| Dihydrocodeine (9120) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Benzoylecgonine (9180 | II |
| Ethylmorphine (9190) | II |
| Hydrocodone (9193) | II |
| Isomethadone (9226) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Methadone intermediate (9254) | II |
| Dextropropoxyphene, bulk (non-dosage forms) (9273). | II |
| Morphine (9300) | II |
| Levo-Alphacetylmethadol (9648) | II |
| Oxymorphone (9652) | II |
| Fentanyl (9801) | II |

The firm plans to use small quantities of the listed controlled substances to produce standards for analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 6, 1998.

Dated: January 8, 1998.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 98–2671 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 20, 1997, Pharmacia & Upjohn Company, 7000 Portage Road, 2000–41–109, Kalamazoo, Michigan 49001, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 2,5-Dimethoxyamphetamine (7396),a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture the controlled substance for distribution as bulk product to a customer.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 6, 1998.

Dated: January 8, 1998.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 98–2670 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 23, 1997, and published in the **Federal Register** on July 10, 1997, (62 FR 37077), U.S. Drug Testing, Inc., 10410 Trademark Street, Rancho Cucamonga, California 91730, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Tetrahydrocannabinols (7370) | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Phencyclidine (7471) | II |
| Benzoylecgonine (9180) | II |
| Morphine (9300) | II |

The firm plans to manufacture small quantities of the listed controlled substances to make drug test kits.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of U.S. Drug Testing, Inc. to manufacture the listed controlled substances is consistent with the public

interest at this time. Therefore, pursuant to 21 U.S.C. § 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 28, 1997.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 98–2673 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Importer of Controlled Substances; Notice of Registration

By Notice June 5, 1997, and published in the **Federal Register** on June 17, 1997, (62 FR 32824), Wildlife Laboratories, Inc., 1401 Duff Drive, Suite 600, Ft. Collins, Colorado 80524, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Etorphine Hydrochloride (9059) ... | II |
| Carfentanil (9743) ..... | II |

The firm plans to import the listed controlled substances to produce finished products for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Wildlife Laboratories, Inc. to import listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: January 8, 1998.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 98–2669 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

**[INS No. 1900–98]**

### Immigration and Naturalization Service User Fee Advisory Committee Meeting

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of meeting.

*Committee meeting:* Immigration and Naturalization Service User Fee Advisory Committee.

*Date and time:* Wednesday, May 6, 1998, at 12:00 noon.

*Place:* Immigration and Naturalization Service Headquarters, 425 I Street, N.W., Washington, D.C. 20536, Shaughnessy Conference Room—6th Floor.

*Status:* Open. 17th meeting of this Advisory Committee.

*Purpose:* Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act 5 U.S.C. app. 2. The responsibilities of this standing Advisory Committee are to advise the Commissioner of the Immigration and Naturalization Service on issues related to the performance of airport and seaport immigration inspectional services. This advice should include, but need not be limited to, the time period during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(d). The Committee focuses attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

### Agenda

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

*Public participation:* The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting will be considered for discussion at the meeting.

*Contact person*: Charles D. Montgomery, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 4064, 425 I Street, N.W., Washington, D.C. 20536, telephone (202) 616–7498 or fax (202) 514–8345.

Dated: January 29, 1998.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 98–2731 Filed 2–3–98; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF LABOR

### Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the labor Advisory Committee for Trade Negotiations and Trade Policy.

*Date, time, and place:* February 10, 1998, 10:00 am, U.S. Department of Labor, N–3437B, 200 Constitution Ave., NW, Washington, D.C. 20210.

*Purpose:* The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

*For the further information contact:* Jorge Perez-Lopez, Director, Office of International Economic Affairs *Phone:* (202) 219–7597.

Signed at Washington, D.C. this 28th day of January 1998.

**Andrew J. Samet,**

*Acting Deputy Under Secretary, International Affairs.*

[FR Doc. 98–2707 Filed 2–3–98; 8:45 am]

BILLING CODE 4510–28–N

## DEPARTMENT OF LABOR

### Office of the Secretary

### Bureau of International Labor Affairs, U.S. National Administrative Office; North American Agreement on Labor Cooperation; Notice on Submission No. 9702 and Submission No. 9703

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Notice of hearing site and Notice of acceptance.

**SUMMARY:** *Submission 9702:* On January 14, 1998, the Department provided notice in the **Federal Register** of a hearing, open to the public, on Submission No. 9702. The notice stated that the hearing would be held in San Diego, California, on February 18, 1998, commencing at 9:00 a.m., at a location to be announced. This notice provides the address for the hearing on Submission No. 9702.

*Submission 9703:* The U.S. National Administrative Office (NAO) gives notice that on January 30, 1998, Submission 9703 was accepted for review. The submission was filed with the NAO on December 15, 1997. The submission raises issues of freedom of association violations at an export processing plant in Ciudad de los Reyes, in the State of Mexico. The submission also raises issues of occupational safety and health.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO. The objectives of the review of the submission will be to gather information to assist the NAO to better understand and publicly report on the Government of Mexico's compliance with the obligations set forth in Articles 3 and 5 of the NAALC.

**EFFECTIVE DATE:** January 30, 1998.

**SUPPLEMENTARY INFORMATION:**

#### Submission No. 9702

The hearing will be held at Room S250, San Diego Concourse, 202 C St., MS57, San Diego, California, 92101. Tel: 619–615–4100.

Please refer to the notice published in the **Federal Register** on January 14, 1998 (63 FR 2266–2267) for supplementary information.

#### Submission No. 9703

The submission was filed with the NAO on December 15, 1997 by the Echlin Workers Alliance, a group from the United States and Canada, which includes the International Brotherhood of Teamsters; the Canadian Auto Workers; the Union of Needletrades and Industrial Textile Employees; the United Electrical, Radio and Machine Workers of America; the United Paperworkers International Union; and the United Steelworkers of America. Twenty-four other organizations, including non-governmental organizations, human rights groups and labor unions from the three NAFTA countries are cited as concerned organizations in the submission. The submitters allege that when workers at the ITAPSA export processing plant in Ciudad de los Reyes, in the State of Mexico, attempted to organize an independent union, they faced intimidation and harassment from the company and the existing union. The submitters also allege that a union representation election conducted by the appropriate labor tribunal was held in an atmosphere of intimidation and violence and in such a way as to guarantee representation to the union favored by management and the government.

The submitters assert that Mexico has failed to enforce its laws relating to freedom of association and the right to bargain collectively through appropriate government action as well as its labor laws relating to the prevention of occupational injuries and illnesses in violation of the NAALC article 3(1). The submitters also assert that the composition of the labor tribunal in this case is such as to be in non-compliance with Article 5(4) of the NAALC which commits the Parties to ensuring that tribunals that conduct review proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter.

Article 16 (3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO.

The procedural guidelines for the NAO, published in the **Federal Register** on April 7, 1994, 59 Fed. Reg. 16660, specify that, in general, the Secretary of the NAO shall accept a submission for review if it raises issues relevant to labor law matters in Canada or Mexico and if a review would further the objectives of the NAALC.

Submission No. 9703 relates to labor law matters in Mexico. A review would appear to further the objectives of the NAALC, as set out in Article 1 of the NAALC, among them promoting certain labor principles, including freedom of association and prevention of occupational injuries and illnesses; promoting compliance with and effective enforcement by each Party of, its labor law; and fostering transparency in the administration of labor law. Accordingly, this submission has been accepted for review of the allegations raised therein. The NAO's decision is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objectives of the review will be to gather information to assist the NAO to better understand and publicly report on the right to organize and freedom of association raised in the submission, including the Government of Mexico's compliance with the obligations agreed to under Articles 3 and 5 of the NAALC. The review will be completed, and a public report issued, within 120 days, or 180 days if circumstances require an extension of time, as set out in the procedural guidelines of the NAO.

**FOR FURTHER INFORMATION CONTACT:** Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

Signed at Washington, D.C. on January 30, 1998.

**Lewis Karesh,**

*Deputy Secretary, U.S. National Administrative Office.*

[FR Doc. 98–2708 Filed 2–3–98; 8:45 am]

BILLING CODE 4510–28–M

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA intends to submit the following revisions to currently approved collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). These information collections are published to obtain comments from the public.

**DATES:** Comments will be accepted until April 6, 1998.

**ADDRESSES:** Interested parties are invited to submit written comments to Mr. James L. Baylen at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–518–6433.

**FOR FURTHER INFORMATION CONTACT:** Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

**SUPPLEMENTARY INFORMATION:** Proposal to revise the following currently approved collection of information:

*OMB Number:* 3133–0134.

*Form Number:* None.

*Type of Review:* Revision to a currently approved collection.

*Title:* 12 C.F.R. Part 707 Truth in Savings.

*Description:* The Truth in Savings Act (TISA) requires NCUA to regulate all credit unions in the provision of certain disclosures and information to their members and consumer depositors. The purpose of TISA is to enable consumers to make informed decisions about accounts at credit unions.

*Respondents:* All credit unions.

*Estimated No. of Respondents/ Recordkeepers:* 11,572.

*Estimated Burden Hours Per Response:* .01711.

*Frequency of Response:* Other. Information disclosures required are made on an on-going basis.

*Estimated Total Annual Burden Hours:* 12,745,211.

*Estimated Total Annual Cost:* 60,728,427.

By the National Credit Union Administration Board on January 28, 1998.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 98–2646 Filed 2–3–98; 8:45 am]

BILLING CODE 7535–01–U

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting Agenda

**TIME AND DATE: 9:30 A.M., TUESDAY, FEBRUARY 10, 1998.**

**PLACE:** NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** The first item is open to the public. The second item is closed under Exemption 10 of the Government in the Sunshine Act.

**MATTERS TO BE CONSIDERED:**

6971 Safety Study: Improving the Safety of U.S. Commercial Fishing Vessels.

6930 Opnion and Order: Administrator v. Chandler, Docket SE–14230; disposition of respondent's appeal.

**NEWS MEDIA CONTACT:** Telephone: (202) 314–6100.

**FOR FURTHER INFORMATION CONTACT:** Ray Smith, (202) 314–6065.

Dated: February 2, 1998.

**Ray Smith,**

*Alternate Federal Register Liaison Officer.*

[FR Doc. 98–2859 Filed 2–2–98; 12:03 pm]

BILLING CODE 7533–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–285]**

### Omaha Public Power District (Fort Calhoun Station, Unit No. 1); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. DPR–40 issued to Omaha Public Power District, for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebraska.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed action would exempt Omaha Public Power District from the requirements of 10 CFR 70.24, which requires in each area in which special nuclear material is handled, used, or stored, a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements of 10 CFR 70.24(a)(3) to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated August 29, 1997, as supplemented by letter dated October 23, 1997.

*The Need for the Proposed Action*

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored onsite in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

*Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Fort Calhoun Station, Unit No. 1 Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. Technical Specifications requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires the criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at Fort Calhoun Station Unit No. 1, as identified in the Technical Specifications and the Updated Safety Analysis Report (USAR). The basis for the exemption is that inadvertent or

accidental criticality will be precluded through compliance with the Fort Calhoun Station, Unit No. 1 Technical Specifications Sections 2.8, 2.10.1, 2.10.2, 4.4, and 4.4.1; the geometric spacing of fuel assemblies in the new fuel storage racks and spent fuel storage pool; and administrative controls, USAR Sections 9.5, 11.2.3, and Appendix G, which are imposed on fuel handling procedures.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the Technical Specifications, design controls including geometric spacing of fuel assembly storage spaces, and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

*Alternatives to the Proposed Action*

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement (FES) for the Fort Calhoun Station, Unit No. 1, dated August 1972.

*Agencies and Persons Consulted*

In accordance with its stated policy, on January 29, 1998, the staff consulted with the Nebraska State official, Ms. Cheryl Rodgers of the Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 29, 1997, and supplemental letter dated October 23, 1997, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman 5 Building, 2120 L Street, NW., Washington, D. C., and at the local public document room located at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Dated at Rockville, Maryland, this 29th day of January 1998.

For the Nuclear Regulatory Commission.

**L. Raynard Wharton,**

*Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–2684 Filed 2–3–98; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF MANAGEMENT AND BUDGET

### Interpretation Number 4 Related to Statement of Federal Financial Accounting Standards Number 5

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of Interpretation.

**SUMMARY:** This Notice includes an interpretation of Statement of Federal Financial Accounting Standards (SFFAS), adopted by the Office of Management and Budget (OMB). This interpretation was recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by OMB.

**FOR FURTHER INFORMATION CONTACT:** James Short (telephone: 202–395–3124), Office of Federal Financial Management, Office of Management and Budget.

**SUPPLEMENTARY INFORMATION:** This Notice includes an interpretation of Statement of Federal Financial Accounting Standards (SFFAS) Number 5, adopted by the Office of Management and Budget (OMB). This interpretation was recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by OMB.

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB (the Principals) decide upon standards and concepts after considering the recommendations of FASAB. After agreement to specific standards and concepts, they are published by OMB in the **Federal Register** and distributed throughout the Federal Government.

An Interpretation is a document, originally developed by FASAB, of narrow scope which provides clarification of the meaning of a standard, concept or other related guidance. Once approved by the designated representatives of the Principals, they are published by OMB in the **Federal Register**.

This Notice, including the fourth interpretation of SFFAS, is available on the OMB home page on the Internet which is currently located at http://www.whitehouse.gov/WH/EOP/omb, under the caption ''Federal Register Submissions.''

**G. Edward DeSeve,**

*Controller.*

### Interpretation Number 4 of Statement of Federal Financial Accounting Standards Number 5

*Accounting for Pension Payments in Excess of Pension Expense: An Interpretation of SFFAS No. 5*

Introduction

1. The Federal Accounting Standards Advisory Board (FASAB) was asked for guidance regarding accounting at the agency level for employer agencies' payments to the pension trust fund when they exceed pension expense (based on an allocation of the total service [or ''normal''] cost [1] by the Office of Personnel Management). This is a situation that was not contemplated in Statement of Federal Financial Accounting Standards (SFFAS) No. 5, ''Accounting for Liabilities of the Federal Government.''

2. The objective of SFFAS No. 5 (paras. 71–78) is to have employer entities recognize the annual cost of their employees' pensions (pension expense) as measured by the annual normal cost for their employees, less any amounts contributed by the employees (para. 74).

[1] ''Service cost'' and/or ''normal costs,'' the terms are used synonymously in SFFAS No. 5, are defined in SFFAS No. 5 as that portion of the actuarial present value of pension plan benefits and expenses that is allocated to a valuation year by the actuarial cost method.

3. The employer entity payment rates for the two major civilian pension systems, the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS), are provided in law and are not the same. For FERS, the payment rate is the employer entity's normal cost less the amount contributed by its employees; for FERS, the payment rate and the pension expense rate under SFFAS No. 5 theoretically would be the same, since both would be based on the same principle: that pension expense and employer payments to the pension trust fund equal normal cost less the employees' contribution. For most CSRS, employer payments to the pension trust fund are by law set at seven percent of salaries which is substantially less than normal costs and therefore also less than pension expense based on normal cost.

4. SFFAS No. 5 explicitly provides the accounting for a situation in which pension expense is *more than* employer payments to the pension trust fund. The difference between the pension expense and the payment to the plan is to be accounted for by the employer entity as imputed financing.

5. However, due to (1) planning and operational requirements of budgetary administration and (2) recent legislation, the employer entity's FERS pension expense may be *less than* the FERS-related employer payments to the pension trust fund.

6. The pension expense rate used by civilian employer entities to calculate pension expense is supplied by the administrative entity. In the case of FERS and CSRS, the administrative entity is the Office of Personnel Management (OPM). OPM analyzes the demographic and economic assumptions periodically and recalculates normal costs (for both FERS and CSRS).[2] The recalculation was done during FY 1997 and resulted in a lower normal cost for both FERS and CSRS, and OPM has issued a revised FY 1997 pension expense rate based thereon. However, regarding the rate for employer payments to the pension trust fund, OPM allows time for employer entities to adopt the new rate for budgeting purposes during which the prior, higher payment rate will continue to be used by employer entities.

7. In addition, the Balanced Budget Act of 1997 (BBA) increases FERS employees' withholding rate from 1999 through 2001 without correspondingly decreasing the employer entity's payment rate. For example, if FERS normal costs were $10,000 and the employees' contribution were raised from $5,000 (as calculated absent BBA) to $5,500 by the BBA, then the employer's expense according to SFFAS No. 5 should be $4,500 ($10,000—$5,500). However, the BBA does not allow the employer entity to reduce its payment, and therefore the employer pays what it would have paid without the BBA, $5,000. The $500 difference between the $4,500 SFFAS No. 5 pension expense and the $5,000 payment to the pension trust fund represents a payment in excess of pension expense.

8. For FY 1997, OPM has indicated that employer entities are unlikely to report total payments to the trust fund in excess of total pension expense (based on normal cost) at the *entity-wide level,* although it is possible, because the amount of the CSRS contribution deficiency is more than the excess FERS payment. However, OPM believes that it is probable that total payments will exceed total pension expense (based on normal cost less employee contributions) in future years.

Interpretation

9. *Change in Estimate*—Changes in normal costs due to re-estimates of demographic and economic assumptions should be accounted for by the administrative entity as a change in accounting estimate. The effect of the change should be recognized in current and future years.

10. *Payments in Excess of Pension Expense*—When the employer entity's total payment for FERS and CSRS exceeds the related total pension expense as defined in SFFAS No. 5, the entity should account for the excess payment as a transfer-out. The entity should include the transfer-out when determining results of operations on its statement of changes in net position.

11. Any FERS-related payment that exceeds the FERS-related pension expense should be offset against any imputed financing resulting from a CSRS-related payment being less than CSRS-related pension expense in calculating the amount of the transfer out. Only when the total pension payment exceeds total pension expense would a transfer-out be recognized.

12. Example #1:

i. if an employer entity calculates total pension expense as $635,000 reflecting a FERS-related pension expense of $535,000 and a CSRS-related pension expense of $100,000,[3] and

ii. it makes a total pension payment to the trust fund, excluding its employees' contribution, of $630,000 reflecting $570,000 for its FERS employees and $60,000 for its CSRS employees,

iii. then it would off-set the $35,000 FERS-related excess payment ($570,000–$535,000) against the $40,000 CSRS-related under payment ($100,000–$60,000) and recognize the net $5,000 underpayment as an imputed financing as follows:

| | | |
|---|---|---|
| DR. Pension Expense | 635,000 | |
| (FERS $535,000 + CSRS $100,000) | | |
| CR. Funds with Treasury | | 630,000 |
| (FERS $570,000 + CSRS $60,000) | | |
| CR. Imputed Financing | | 5,000 |
| ($40,000–$35,000) | | |

13. Example #2: Assuming the same facts as in the paragraph immediately above except that the employer entity makes a payment of $640,000 ($580,000 FERS–related and $60,000 CSRS-related) instead of $630,000, then the entity would recognize a net transfer-out of the amount that the FERS-related excess payment ($580,000–$535,000 = $45,000) exceeded the CSRS-related under payment ($100,000–$60,000 = $40,000) as follows:

| | | |
|---|---|---|
| DR. Pension Expense | 635,000 | |
| (FERS $535,000 + CSRS $100,000) | | |
| DR. Transfer-out | 5,000 | |
| ($45,000–$40,000) | | |
| CR. Funds with Treasury | | 640,000 |
| (FERS $580,000 + CSRS $60,000) | | |

[2] This is separate from OPM's annual recalculation of the actuarial liability which can result in actuarial gains and losses the accounting for which is provided in SFFAS No. 5.

[3] The amounts used for CSRS are from the example in SFFAS No. 5, paragraph No. 78.

14. *Administrative Entity Intra-governmental Entries*—The administrative entity should account for funds received from employer entities in excess of the normal cost of pension expense as a transfer-in. The administrative entity should include the transfer-in when determining results of operations on its statement of changes in net position.

15. *Adjusting Entries*—Employer entities that recorded total FERS payments as pension expense during FY 1997 will need to adjust their accounts. The following examples use the amounts from paragraphs 12 and 13 above.

a. Example #3—if the entity had originally recorded the following pension expense based on an earlier provided normal cost rate:

| | | |
|---|---|---|
| DR. Pension Expense | 670,000 | |
| (FERS $570,000 + CSRS $100,000) | | |
| CR. Funds with Treasury | | 630,000 |
| (FERS $570,000 + CSRS $60,000) | | |
| CR. Imputed Financing (CSRS) | | 40,000 |

then, when the revised estimate is provided, the entry would recalculate pension expense as $635,000 (FERS-related $535,000 + CSRS-related $100,000) and adjust the accounts accordingly by means of the following two simultaneous entries:

(1) to reduce pension expense from $670,000 to $635,000 (FERS $535,000 + CSRS $100,000):

| | | |
|---|---|---|
| DR. Transfer-out | 35,000 | |
| CR. Pension Expense | | 35,000 |

(2) to off-set the transfer-out against imputed financing:

| | | |
|---|---|---|
| DR. Imputed Financing | 35,000 | |
| CR. Transfer-out | | 35,000 |

These entries adjust the accounts to the amounts that would have been entered had the original entry reflected the revised normal cost as shown in paragraph 12 above.

b. Example #4—Also, if the entity's accounting resulted in a net transfer-out, an adjustment may be necessary. For example, using the illustration in paragraph 13 above, the entity may have originally recorded pension expense based on an earlier provided normal cost rate as follows:

| | | |
|---|---|---|
| DR. Pension Expense | 680,000 | |
| (FERS $580,000 + CSRS $100,000) | | |
| CR. Imputed Financing (CSRS) | | 40,000 |
| CR. Funds with Treasury | | 640,000 |
| (FERS $580,000 + CSRS $60,000) | | |

then the adjustments would be the following two simultaneous entries:

(1) to reduce pension expense from $680,000 to $635,000 (FERS $535,000 + CSRS $100,000):

| | | |
|---|---|---|
| DR. Transfer-out | 45,000 | |
| (FERS $580,000–$535,000 = $45,000) | | |
| CR. Pension Expense | | 45,000 |

(2) to off-set the transfer-out against imputed financing:

| | | |
|---|---|---|
| DR. Imputed Financing (CSRS) | 40,000 | |
| CR. Transfer-out | | 40,000 |

These entries adjust the accounts to the amounts that would have been entered had the original entry reflected the revised normal cost as shown in paragraph 13 above.

Scope of Interpretation

16. This interpretation applies to employer entity pension (and, if applicable, to retirement health care) expense, and to administrative entity's receipt of funds from employer entities, accounted for in accordance with SFFAS No. 5.

Effective Date

17. This interpretation should be applied for reporting periods that end on or after September 30, 1997. The FASAB has reviewed and agreed with this interpretation. After this interpretation is signed by the FASAB members who represent the Department of the Treasury, the Office of Management and Budget, and the General Accounting Office, it will be published by OMB and will be effective.

Basis for Conclusions

18. Regarding changes in normal cost estimates, the prospective treatment called for in this interpretation reflects current practice, including APB Opinion No. 20, ''Accounting for Changes in Accounting Estimate,'' which provides that a change in accounting estimate should be accounted for in the period of change, if the change affects that period only, or in the period of change and future periods if the change affects both.

19. Regarding employer payments to the pension trust fund in excess of pension expense, such payments are not an employer entity expense or an administrative entity revenue. Such payments do not meet the definition of employer pension expense in SFFAS No. 5,[4] as discussed above, nor do they meet the general definition of expense.[5]

[4] SFFAS No. 5, para. 74.

[5] See Statements of Federal Financial Accounting Concepts and Standards, Vol. I, Original Statements, Appendix E, Consolidate Glossary, p. 690, wherein expenses are defined as:

Outflows or other using up of assets or incurrences of liabilities (or a combination of both)

The entity receiving the transfer, in this case an employer payment in excess of pension expense, does not sacrifice anything of value to obtain the payment, and the transferring entity does not acquire anything of value beyond what it would have gotten had it contributed an amount equalling normal cost less the employees' contribution. Thus, such payments meet the description of ''transfer-out'' provided in SFFAS No. 7.[6]

[FR Doc. 98–2698 Filed 2–3–98; 8:45 am]

BILLING CODE 3110–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39584; International Series Release No. 1112; File No. SR–CBOE–97–64]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated, Relating to Listing and Trading of Warrants on the Asia Tiger 100 Index

January 27, 1998.

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 December 5, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. 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 CBOE proposes to list and trade warrants on the CBOE Asia Tiger 100 Index (''Asia 100'' or ''Index''), a broad-based index comprised of the 100 highest capitalized stocks from eight major Asian markets.[3] The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.[4]

### 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 CBOE included statements concerning the purpose of and basis for the proposed rule change and represented that it did not receive any comments on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to permit the CBOE to list and trade warrants on the Index. The Exchange is permitted to list and trade index warrants under CBOE Rule 31.5(E). The listing and trading of index warrants on the Asia 100 Index will comply in all aspects with CBOE Rule 31.5(E), except that the percentage of foreign country securities that are not subject to an effective comprehensive surveillance sharing agreement (''CSSA''), as defined below, will be greater than the 20% prescribed by Rule 31.5(E)(7).

Rule 31.5(E) requires, among other things, that: (1) the issuer has a tangible net worth in excess of $250,000,000 and otherwise substantially exceeds earnings requirements in Rule 31.5(A) or meet the alternate guideline in paragraph (4) of Rule 31.5(E); (2) the term of the warrants shall be for a period ranging from one to five years from date of issuance; (3) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000; and (4) foreign country securities or American Depositary Receipts (''ADRs'') that are not subject to an effective CSSA and have less than 50% of their global trading volume in dollar value in the United States, shall not, in the aggregate, represent more than 20% of the weight of an index, unless such index is otherwise approved for warrant or option trading.

*Index design.* The Index was designed, and will be maintained, by the Exchange. The CBOE represents that the Index is a broad based index currently composed of the 100 highest capitalized stocks from Hong Kong, Indonesia, Malaysia, the Philippines, Singapore, South Korea, Taiwan and Thailand. These stocks were selected for their market capitalization and liquidity. The CBOE believes that they are representative of the composition of the broader equity markets in each of the eight countries. The component securities represent several industry groups including: airlines; financial institutions; high technology; real estate; telecommunications; and utilities.

The total capitalization of the component securities in the Index on November 17, 1997 was $517 billion.[5] The average capitalization on that date was $5.17 billion. The individual market capitalization of these component securities ranged from $598 million to $41.76 billion on November 17, 1997. The components in the Index had average U.S. dollar volume of $20.56 million per day and ranged from $600,000 to $227.6 million per day during 1997 through October 31. As of November 17, 1997, the highest weighted component security (HSBC Holdings, PLC of Hong Kong) comprised approximately 4.98% of the index weight while the lowest weighted component security (Hang Lung Development, Co. of Hong Kong) comprised approximately 0.22% of the Index weight. The five highest weighted securities comprised approximately 19.82% of the index weight.

The Asia 100 is a modified capitalization-weighted index. Each of the stocks from a particular country will be adjusted annually to reflect its relative market value compared to the other stocks from that country. In addition, each country is weighted based on the relative size of its stock market in relation to that of other Asia 100 countries. The CBOE believes this design gives the Index significant coverage of the countries' largest and most liquid stocks and a proxy for the stock portfolios held by foreign investors in these countries. The CBOE also believes that warrants on the Index will provide investors with a low-cost means of participating in the performance of the Asian economy and hedging against the risk of investing in those economies.

during a period from providing goods, rendering services, or carrying out other activities related to an entity's programs and missions, the benefits from which do not extend beyond the present operating period.

[6] For a description of transfers-in/out, see paragraphs 74 and 344 of SFFAS No. 7, ''Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.''

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The eight Asian markets included in the Index are: Hong Kong; Indonesia; Malaysia; the Philippines; Singapore; South Korea; Taiwan; and Thailand.

[4] The text of the proposed rule change contains a list of the component securities including the countries they represent, the individual component security weights, the country Index weights, average daily trading value for each security and country and market capitalization for each security and country.

[5] All values are expressed in U.S. dollars at the prevailing rates on November 17, 1997.

Country weights will be based upon the relative size of each country's stock market at the time the Index is established. Country weights will be rounded to the nearest 2% based on the Internation Federation of Stock Exchange month-end market values used in the country rebalancing. For example, a country with an Asia 100 market share of 28.67% will have a country weight of 28%. Once a country's weight is determined, the individual stocks within a country will be selected based on the Stock Selection Criteria, as defined below.

When required to make the country weights sum up to 100% due to rounding, the country weight whose weight would normally be rounded up (down) will be rounded down (up) if the weight is the closest to the midpoint between two weights. Country weights are capped at 40% for the largest country and at 20% for a country with which there is an effective comprehensive surveillance sharing agreement, as defined below. Currently, the Exchange has effective CSSAs, as defined below, with Hong Kong and Taiwan and is in discussion with Malaysia to finalize an agreement.

*Initial listing and maintenance criteria and rebalancing.* To be included in the Index a stock must meet the following minimum stock selection criteria: (1) The minimum market value of the company during the past year must have been greater than $50 million; (2) the minimum dollar trading value of turnover of the stock must have been $100 million in the past year; (3) the minimum monthly trading volume of the stock in any month during the past year must have been greater than $5 million; (4) the stock must have traded on at least 95% of the country's trading days; and (5) at least 20% of a company's stock must be available to foreign investors.

The Index will be rebalanced annually (most likely in March) in the event that a country's stock market expands or contracts in relation to the markets of the other countries represented in the Index. There will be a 4% limit on the change that will be made to a country's weight at the rebalancing so that a single year aberration for a particular market does not improperly affect the Index. The weights of other countries will be adjusted accordingly. A country's whose weight falls below 1% may be retained in the Index based on the Exchange's determination of foreign investment in the country and other factors. CBOE staff may determine to retain a country's weight in the Asia 100 Index at the 2% level after its weight has fallen below 1% of the market value of the countries represented in the Index. Weights of the other countries will be adjusted accordingly.

Stock weights within a country will be rebalanced twice annually (most likely in March and September) of each year based on the capitalization of stocks and the country weights determined at the annual country weighting rebalancing as of the last business day of the previous year. Each stock's price on the day of the rebalancing will be multiplied by the number of shares (rounded to the fourth decimal place) so that the stock weight in the Index represents its share of the market value of the stocks selected within the country. Stock weights will be capped such that the weight of the largest stock in a country may not be greater than 50% of that country's weight at rebalancing. Weights of the other stocks of the country will be adjusted accordingly. For example, if a stock represents 30% of the market value within a country, its weight within the country will be 30%. Further, if the stock represents 30% of the market value in a country with an Asia 100 country weight of 28%, the stock's weight in the entire Asia 100 Index will be 8.4%, *i.e.* 30% share within the country x 28% country weight=8.4%. The weight of each selected stock will remain constant until the next stock rebalancing, except for adjustments due to circumstances described below.

Stocks in the Asia 100 Index may need to be replaced between rebalancings due to corporate, governmental or regulatory actions or when the stock no longer meets the eligibility criteria. In these cases, Exchange staff will replace the stock with a stock from a replacement list of stocks maintained by Exchange staff. Eligible stocks will be ranked by market capitalization on the date of the rebalancing. Also, the Exchange staff will, where the circumstances permit, endeavor to provide at least three business days notice prior to making such changes. To maintain continuity of the Index, the divisor of the Index will be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, spin-offs, certain rights issuances, and mergers and acquisitions.

*Calculation and dissemination of Index value.* The CBOE asserts that the methodology used to calculate the value of the Index is similar to the methodology used to calculate the value of other well-known broad-based indices. The Index base value was established at 200 on November 17, 1997. The level of the Index reflects the total market value of all 100 component stocks relative to a particular base period. The daily calculation of the Asia 100 Index is computed by dividing the total market value of the 100 companies in the Index by the Index divisor. The divisor keeps the Index comparable over time and is adjusted periodically to maintain the Index. Similar to other stock index values based on Asian markets, the value of the Index will be calculated by CBOE and disseminated once per day prior to the opening in the U.S. via the Options Price Reporting Authority or the Consolidated Tape Association.[6]

In the event that a security does not trade on a given day, the previous day's last sale price is used for purposes of calculating the Index. Prices used to value the stocks will be based upon the closing prices for the stocks at the primary exchanges for the respective stocks. Primary and backup pricing sources, including Bloomberg, will be used to get the closing price for the stocks. Stocks in the Asia 100 Index will be valued in U.S. dollars using each country's cross-rate to the U.S. dollar. Bloomberg's Composite New York rates, or comparable rates, quoted at 7:00 a.m. Chicago time will be used to convert the stock prices from the respective countries to U.S. dollars. If there are several quotes at 7:00 a.m. for the currency, the first quoted rate in that minute will be used to calculate the Asia 100 Index. In the event that there is no Bloomberg exchange rate for a country's currency at 7:00 a.m., stocks will be valued at the first U.S. dollar cross-rated quoted prior to 7:00 a.m.

*Index warrant trading (exercise and settlement.* The proposed warrants will be direct obligations of their issuer subject to cash-settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a ''put'' would receive payment in U.S. dollars to the extent that the index value has declined below a pre-state cash settlement value. Conversely, holders of a warrant structured as a ''call'' would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the index value has increased above the pre-stated cash settlement value. If ''out-of-the-money'' at the time of

[6] None of the Asian markets represented in the Index are open for trading during U.S. market trading hours.

expiration, the warrants would expire worthless.

The procedures for determining the cash settlement value for the warrants have not yet been determined by the CBOE. Once those procedures have been determined by the CBOE, they will be fully set forth in the prospectus and in the Information Circular distributed by the Exchange to its membership prior to the commencement of trading the warrant.[7]

*Warrant listing standards and customer safeguards.* Sales practice rules applicable to the trading of index warrants are provided for in Exchange Rule 30.50 and to the extent provided by Rule 30.52 they are also contained in Chapter IX of the Exchange's Rules. Rule 30.50 governs, among other things, communications with the public. Rule 30.52 subjects the transaction of customer business in stock index warrants to many of the requirements of Chapter IX of the Exchange's rules dealing with public customer business, including suitability. For example, no member organization may accept an order from a customer to purchase a stock index warrant unless that customer's account has been approved for options transactions. The listing and trading of index warrants on the Asia 100 Index will be subject to these guidelines and rules.

*Other exchange rules.* The margin requirement for a short Index warrant will be 100% of the premium plus 15% of the underlying value, less out-of-the-money dollar amount, if any, to a minimum of 10% of the Index Value. A long Index warrant position must be paid for in full. Straddles will be permitted for call and put Index warrants covering the same underlying value. The margin requirements are provided for under Exchange Rules 30.53 and 12.3.

The applicable position and exercise limit will be determined pursuant to Exchange Rule 30.35(a). Pursuant to Exchange Rules 4.13(a) and 30.35(e) each member will be required to file a report with the Department of Market Regulation of the Exchange identifying those customer accounts with an aggregate position in excess of 100,000 Index warrants overlying the same stock index.

*Surveillance.* In evaluating new derivative instruments, the Commission, consistent with the protection of investors, considers the degree to which the derivative instrument is susceptible to manipulation. The ability to obtain information necessary to detect and deter market manipulation and other trading abuses is a critical factor in the Commission's evaluation. It is for this reason that the Commission requires that there be a CSSA in place between an exchange listing or trading a derivative product and the exchanges trading the stocks underlying the derivative contract that specifically enables officials to survey trading in the derivative product and its underlying stocks.[8] Such agreements provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. For foreign stock index derivative products, these agreements are especially important to facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.

In order to address the above noted concerns, the CBOE entered into an effective CSSA agreement with the Stock Exchange of Hong Kong (''HKSE'') on October 1, 1992, pursuant to which the CBOE will be able to obtain market surveillance information from the HKSE. The CBOE also entered into an effective CSSA with the Taiwan Stock Exchange in October 1997. In addition, the CBOE entered into a sharing agreement with the Kuala Lumpur (Malaysia) Stock Exchange on January 6, 1995 which is currently being reviewed by the Commission to determine its effectiveness. In addition, the CBOE notes that no single uncovered country in the Index may represent more than 20% of the Index weight.

As of November 17, 1997, stocks from Hong Kong (28% Index weight), Malaysia (20% Index weight) and Taiwan (18% Index weight) represent 66% of the Index weight. As a result, no single uncovered country represents more than 10% (Singapore) of the Index weight and no two uncovered countries represent more than 18% (Singapore and South Korea) of the Index weight. Although the Asia 100 does not comply with CBOE Rule 31.5(E)(7), because foreign country securities or ADRs that are not subject to a CSSA and have less that 50% of their global trading volume in dollar value in the United States, do not, in the aggregate, represent more than 20% of the weight of an index, the CBOE believes that its existing effective CSSAs along with the fact that the Index contains 100 component securities from eight countries effectively eliminates the possibility of manipulation.

2. Basis

The CBOE believes that the proposed rule change is consistent with Section 6 of the Act in general and furthers the objectives of Section 6(b)(5) of that Act in particular, in that it will permit investors to trade warrants on the Asia 100 Index pursuant to Exchange rules designed to prevent fraudulent and manipulative acts and practices, thereby promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and protecting investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will 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 comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of the notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

[7] Phone conversation between Timothy Thompson, CBOE and Marianne H. Duffy, Special Counsel, Division of Market Regulation, Commission on January 22, 1998.

[8] The Commission believes that the ability to obtain relevant surveillance information, including, among other things, the identity of the ultimate purchasers and sellers of securities, is an essential and necessary component of a CSSA. A CSSA should provide the parties thereto with the ability to obtain information necessary to detect and deter market manipulation and other trading abuses. Consequently, the Commission generally requires that a CSSA require that the parties to the agreement provide each other, upon request, information about market trading activity, clearing activity and customer identity. *See* Securities Exchange Act Release No. 31529 (November 27, 1992).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 CBOE. All submissions should refer to File No. SR–CBOE–97–64 and should be submitted by February 25, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39590; File No. SR–DCC–97–12]**

## Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify Procedures Relating to Collateral Substitution and Termination

January 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] notice is hereby given that on December 31, 1997, Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been primarily prepared by DCC. 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 purpose of the proposed rule change is to clarify certain procedures for repurchase agreement transactions with respect to collateral substitution and termination.

### 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 Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

On June 28, 1996, the Financial Accounting Standards Board issued Statement No. 125, Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities (''FASB 125''). FASB institutes new accounting rules for generally accepted accounting principles applicable to all transactions involving transfers of financial assets, including repurchase agreements and buy-back/sell-back transactions. FASB 125 became effective on January 1, 1998.

Under FASB 125, the accounting treatment of repurchase transactions may differ based on the specific terms of each transaction. For example, where the repurchase agreement provides the purchaser with the right to sell or to repledge the underlying collateral and the seller does not have the right to substitute the securities used as collateral or to terminate the agreement on short notice (*i.e.*, no control over the collateral), FASB 125 will require the seller to classify the securities used as collateral as a ''receivable for securities pledged'' and not as ''securities in inventory'' as they are currently classified.

In response the FASB 125, many participants in the repurchase market, with the assistance of the Bond Market Association, have adopted amendments to their master repurchase agreements that contain a provision that grants to the seller a right of substitution or termination. Pursuant to such provisions, if a buyer rejects a seller's attempt to substitute collateral, the seller has a right to terminate the repurchase agreement. If the seller exercises its right of termination, it must pay the buyer its costs (*e.g.*, to enter into a replacement transaction and to terminate hedging transactions or related transactions with third parties) and any losses incurred. These provisions will provide the seller with effective control over the securities used as collateral and therefore will mitigate the impact of FASB 125.

While incorporation of this amendment is optional, DCC believes that many of its participants will use agreements that contain this new substitution and termination provision beginning January 1, 1998. Therefore, DCC is proposing to amend its rules and procedures to recognize the use of agreements that contain this substitution and termination provision and to clarify DCC's existing notice requirements involved in the exercise of the right of substitution and termination pursuant to such provisions.

Pursuant to DCC's procedures, if the buyer elects not to accept the substitute collateral, it must notify DCC by the close of the business day unless the notice of substitution was given by the seller after 10:15 a.m., in which case the buyer must notify DCC prior to the close of business on the next business day. With the notice of rejection, the buyer must provide to DCC its calculation of the expenses that it will incur as a result of the termination of the transaction. If the seller exercises its right of termination, the seller must pay DCC the buyer's computation of expenses by the close of the business day on the day of termination.

DCC believes the proposed rule change is consistent with the requirements of Section 17A of the Exchange Act[3] and the rules and regulations promulgated thereunder because the proposed rule change will clarify procedures with respect to substitution and termination.

*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*

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

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[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified such summaries.

[3] 15 U.S.C. 78q–1.

19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(e)(4) thereunder[5] in that the proposal effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or person using the service. At any time within sixty 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, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 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–97–12 and should be submitted by February 25, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

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[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–39583; File No. SR–NYSE–97–38]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. to Amend its Rule 13 to Create a New Percentage Order Type to be Called ''Immediate Execution or Cancel Election''

January 27, 1998.

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 January 2, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to amend Rule 13 to provide that if a percentage order is marked ''Immediate Execution or Cancel Election,'' the elected portion of a percentage order with this designation is to be executed immediately in whole or in part at the price of the electing transaction. If the elected portion cannot be so executed, the election shall be deemed cancelled, and shall revert back to the percentage order and be subject to subsequent election or conversion. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, 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 NYSE 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 NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Currently, NYSE Rule 13 provides for three types of percentage orders: straight limit, last sale (which pursuant to a recently approved amendment, can be further designated ''last sale cumulative volume''), and ''buy minus/sell plus.'' The election provisions of each type of percentage order operate as follows:

*Straight Limit:* When a trade takes place, an amount of shares equal to the size of that trade is ''elected'' as a limit order, and becomes a ''held'' order executable at a price within the overall limit on the order. Typically, the limit price is above the market when the order is entered (in the case of an order to buy), or below the market (in the case of an order to sell).

*Last Sale:* When a trade takes place, an amount of shares equal to the size of that trade is ''elected'' as a limit order, and becomes a ''held'' order executable at the price of that trade, or at a better price, within the overall limit of the order. If the order is further designated ''last sale cumulative volume,'' an elected portion of such order can move with the market and become a held limit order executable at the price of subsequent transactions that are higher (in the case of a buy order) or lower (in the case of a sell order), within the overall limit price on the order. Typically, the limit price is above the market when the order is entered (in the case of a buy order) or below the market (in the case of a sell order).

*''Buy Minus/Sell Plus'':* When a trade takes place, an amount of shares equal to the size of the trade is elected, and becomes a ''held'' order executable only on stabilizing ticks. An order of this type must be further qualified by placing an overall limit price on the order.

The Exchange believes that the application of the election provisions do not meet the interests of some investors placing percentage orders, particularly straight limit and last sale percentage orders:

*Straight Limit:* Investors entering percentage orders seek to trade along with the trend of the market, without initiating price changes or otherwise influencing the equilibrium of buying and selling interest. When a straight limit percentage order is elected, it will typically receive an execution in one of two ways:

(1) There is sufficient additional liquidity at the price of the electing transaction for the elected portion to receive an immediate execution at the price of the electing transaction; or

(2) If the order cannot receive an immediate execution at the price of the electing transaction, it is, as a held order whose limit is above the market (in the case of a buy order) or below the market (in the case of a sell order), required to be immediately executed (or stopped) against the contra side of the market.

An execution pursuant to (2) above may initiate a price change, contrary to the ''go along'' expectations of the customer. In most instances percentage orders represent a desire to trade along with, rather than ahead of, the market.

*Last Sale:* Investors entering last sale percentage orders also seek to trade along with the trend of the market. When a last sale percentage order is elected, it will typically receive an execution in one of three ways:

(1) There is sufficient additional liquidity at the price of the electing transaction for the elected portion to receive an immediate execution at the price of the electing transaction; or

(2) If the order cannot receive an immediate execution at the price of the electing transaction, it is sequenced with other limit orders at that price, and will receive an execution when there is sufficient contra side interest for trades to be effected at that price; or

(3) In the case of a last sale cumulative volume percentage order, the order's executable price can move to the level of prices of subsequent trades, but the order will receive an execution only when there is sufficient contra side interest for trades to be effected at those subsequently established prices.

Executions pursuant to (2) and (3) above may not always be able to be effected, as the market trend may continue to move away from the price at which the order may be executed. Elected portions of the last sale percentage order may lag behind movement of the market, which defeats the investor's purpose in entering the order.

In response, the Exchange is proposing a new percentage order type called ''immediate execution or cancel election.'' The Exchange believes that consistent with the underlying philosophy of the percentage order rules, any proposed approach to accommodating investors should limit the specialist's discretion in representing such orders, while still allowing a degree of flexibility to meet the needs of those entering the orders. The Exchange notes that ''Immediate or Cancel'' is a recognized order type under Exchange Rule 13. By placing this designation on the percentage order, the investor would require the specialist to treat an election as cancelled unless the elected portion can be executed immediately (in whole or in part) at the price of the electing transaction. If the order cannot be so executed, the election would be cancelled, and the unexecuted elected portion would revert to the percentage order, subject to subsequent election (and execution/cancellation as above) or conversion. The NYSE believes that this approach sets forth objective criteria to guide the specialist's representation of the order, while ensuring that the elected portion does not lead the market by initiating any significant price change, thereby defeating the investor's objectives. The investor's instructions, not the specialist's discretion, would dictate how the order is handled. The Exchange notes that an investor seeking to have a percentage order executed under current rules would be free to continue to do so by simply designating the order as one of the three currently existing order types.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [3] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market to accommodate investors by requiring the specialist to treat an election as cancelled unless the elected portion can be executed immediately at the price of the electing transaction.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement of 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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 this 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 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 the NYSE. All submissions should refer to File Number SR–NYSE–97–38 and should be submitted by February 25, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98–2691 Filed 2–3–98; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b)(5).

[4] 17 CFR 200.30–3(a)(12).

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment

period soliciting comments on the following collection of information was published on October 29, 1996 [61 FR 55835–55836] and a Notice of Final Determination was published on July 22, 1997 [62 FR 39299].

**DATES:** Comments must be submitted on or before March 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claretta Duren, Office of Engineering, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 418–8567 or (202) 366–4636. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday thru Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Federal Highway Administration, DOT

*Title:* Bid Price Data.

*OMB Number:* 2125–0010.

*Type of Request:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Affected Public:* State highway agencies.

*Form(s):* FHWA–45.

*Abstract:* The form FHWA–45, ''Bid Price Data,'' is needed to monitor changes in purchasing power of the Federal-Aid construction dollar. FHWA has found it necessary to follow these trends so that changes in highway construction prices can be measured and funding level recommendations to Congress can be justified. Form FHWA–45 is prepared for Federal-Aid highway construction contracts greater than $0.5 million in the 50 States plus Washington, DC, and Puerto Rico. Data reported in the form FHWA–45 are six major items of highway construction, together with the total materials and labor costs of the project, taken from the bid tabulation of construction items submitted by the lowest or winning bidder to the State highway agency. The highway agencies furnish copies of the bid tabulation to the FHWA Division offices.

*Estimated Annual Burden Hours:* 484.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FHWA Desk Officer.

OMB is required to make a decision concerning this collection of information between 30 and 60 days after publication of this document in the **Federal Register**. However, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 28, 1998.

**Phillip A. Leach,**

*Clearance Officer, United States Department of Transportation.*

[FR Doc. 98–2693 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–62–P

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary (OST)

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on these collections of information was published on November 19, 1997 (61 FR 61859).

**DATES:** Comments must be submitted on or before March 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

**SUPPLEMENTARY INFORMATION:** Research and Special Programs Administration, DOT.

*1. Title: Hazardous Materials Shipping Papers and Emergency Response Information (Former Title: Hazardous Materials Shipping Papers).*

*OMB Control Number:* 2137–0034.

*Type Request:* Extension of a currently approved collection.

*Form(s):* N/A.

*Affected Public:* Shippers and carriers of hazardous materials in intrastate, interstate, and foreign commerce.

*Abstract:* Shipping papers and emergency response information are a basic communication tool used in the safe transportation of hazardous materials. They serve as a principal means of identifying hazardous materials during transportation, including emergencies, by providing the proper shipping name, hazard class, UN identification number, packing group, and quantity of each hazardous material being transported. Shipping papers also provide emergency response information for use in the mitigation of an incident, and an emergency response telephone number for use in the event of an emergency. The telephone number must be monitored at all times the hazardous material is in transportation, by a person who is either knowledgeable of the hazardous material being shipped and has comprehensive emergency response and incident mitigation information for that material, or has immediate access to a person who possesses such knowledge and information. Shipping papers also serve as a means of notifying transport workers that hazardous materials are present, so that the proper loading, unloading, handling and safety procedures may be followed. This information collection renewal includes new requirements for: shippers and carriers to retain shipping papers for one year as mandated by Section 5110(e) under the Federal hazardous material transportation law; compliance with the HMR by intrastate shippers and carriers, published under Docket HM–200, ''Hazardous Materials in Intrastate Commerce; Final Rule'', on January 8, 1997 (62 FR 1108); and the President's initiative to reduce the regulatory burdens imposed by the Federal government.

*Total Annual Burden Hours:* 6,500,000.

*2. Title: Radioactive Materials (RAM) Transportation Requirements.*

*OMB Control Number:* 2137–0510.

*Type Request:* Extension of a currently approved collection.

*Form(s):* N/A.

*Affected Public:* Shippers and carriers of radioactive materials.

*Abstract:* The requirements for transportation of RAM are provided in 49 CFR parts 171–180. Information collection requirements for RAM include shipper notification to consignees of the dates of shipment of RAM, expected arrival, special loading/unloading instructions; verification that shippers using foreign-made packages hold a foreign competent authority

certificate and verification that the terms of the certificate are being followed for RAM shipments being made into this country; and specific handling instructions from shippers to carriers for fissile RAM, bulk shipments of low specific activity RAM and packages of RAM which emit high levels of external radiation. These information collection requirements help to establish that proper packages are used for the type of radioactive material being transported, external radiation levels do not exceed prescribed limits, packages are handled appropriately and delivered in a timely manner, so as to ensure the safety of the general public, transport workers and emergency responders. This information collection has been adjusted to reflect program changes regarding responsibility for the routing of highway controlled quantities of radioactive materials.

*Total Annual Burden Hours:* 14,480.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention RSPA Desk Officer.

OMB is required to make a decision concerning these collections of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on January 29, 1998.

**Phillip A. Leach,**

*Clearance Officer, United States Department of Transportation.*

[FR Doc. 98–2694 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–60–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Exemption Concerning the Foreign Air Carrier Family Support Act of 1997

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** Docket OST 98–3304, Order 98–1–31.

**SUMMARY:** The Department is exempting those foreign air carriers which currently hold, or may subsequently receive, Department authority to conduct operations in foreign air transportation using only small aircraft, from the provisions of the Foreign Air Carrier Family Support Act of 1997. The order, the text of which is attached, is effective until further order of the Department.

**FOR FURTHER INFORMATION CONTACT:** George Wellington, Foreign Air Carrier Licensing Division, U.S. Department of Transportation, Room 6412, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2391.

Dated: January 29, 1998.

Attachment

**Patrick V. Murphy,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

Issued by the Department of Transportation on the 29th day of January, 1998.

*Served:* February 3, 1998.

In the matter of: The Foreign Air Carrier Family Support Act of 1997.

**Order Granting Exemption**

*Summary*

In this order we exempt foreign air carriers which currently hold, or may subsequently receive, Department authority to conduct operations in foreign air transportation using only small aircraft, from the provisions of 49 U.S.C. section 41313.

*Background*

The Foreign Air Carrier Family Support Act of 1997 (PL 105–148), signed into law December 16, 1997, adds to Title 49 of the U.S. Code a new section 41313, ''Plans to address needs of families of passengers involved in foreign air carrier accidents.'' Section 41313 extends to foreign air carriers requirements similar to those imposed on U.S. certificated carriers in 49 U.S.C. section 41113 by the Aviation Disaster Family Assistance Act of 1996. Sections 41113 and 41313 require, among other things, that all certificated and foreign air carriers develop and submit to the Department and to the National Transportation Safety Board a plan to address the needs of families of passengers involved in aircraft accidents.

*Decision*

Section 41113 limits the scope of its coverage to certificated U.S. air carriers, thus excluding, as a class, U.S. air taxi operators. The language in section 41313, however, makes no distinction as to the size of aircraft operated by affected foreign carriers, thus technically requiring compliance from all such carriers, including those operating only small, air taxi-sized aircraft. However, the clear intent of the Foreign Air Carrier Family Support Act of 1997 was to extend the coverage of the Aviation Disaster Family Assistance Act of 1996 to comparably situated foreign air carriers, and not to expand that coverage to include an additional class of carrier that operates only small aircraft.

In light of this situation, we have decided to exempt those foreign air carriers that currently hold, or may subsequently receive, Department authority to conduct operations in foreign air transportation using *only* small aircraft (*i.e.,* aircraft designed to have a maximum passenger capacity of not more than 60 seats or a maximum payload capacity of not more than 18,000 pounds), from the provisions of 49 U.S.C. 41313.[1] We find that our action will result in more effective implementation of the important objectives of the Foreign Air Carrier Family Support Act of 1997, and will remove an unintended and inappropriate burden from the affected class of foreign carrier small-aircraft operators.

Note that this exemption applies solely to foreign carriers whose Department authority is limited to small-aircraft operations only. For example, a foreign carrier authorized to conduct U.S. operations using large and small aircraft (*i.e.,* without limitation as to aircraft size), and that elects to conduct those operations using only small aircraft, is *not* relieved from the requirement to file a plan. Similarly, if the foreign carrier operates a mixed fleet of large and small aircraft, *all* of its operations must be covered by its plan, including its operations with small aircraft. In view of the above, we find that it is consistent with the public interest to grant the exemption described above. We also find that our action does not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

*Accordingly*

1. We exempt all foreign air carriers that currently hold, or may subsequently receive, Department authority to conduct operations in foreign air transportation using only small aircraft (*i.e.,* aircraft designed to have a maximum passenger capacity of not more than 60 seats or a maximum payload capacity of not more than 18,000 pounds), from the provisions of 49 U.S.C. 41313;

2. This order is effective immediately, and shall remain in effect until further order of the Department;

3. We may amend, modify, or revoke this order at any time and without hearing;

4. We shall serve this order on all Canadian air taxi operators conducting operations under 14 CFR Part 294, and all other foreign air carriers holding Department authority to conduct operations using only ''small'' aircraft as defined in ordering paragraph 1 above; and

5. We will publish this order in the **Federal Register**.

By: Patrick V. Murphy, Deputy Assistant Secretary for Aviation and International Affairs.

**Footnote 1.** For the purposes of this order, we have used the definition of ''small aircraft'' applicable to U.S. air taxi operators and contained in 14 CFR Part 298. The exemption we are granting here therefore encompasses (in addition to other foreign air carriers) Canadian air taxis conducting operations under 14 CFR Part 294.

An electronic version of this document is available on the World Wide Web at: http://dms.dot.gov/general/orders/aviation.html.

[FR Doc. 98–2674 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

**[Docket 37554]**

### Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 97–12–12 established the currently effective two-month SFFL applicable through January 31, 1998.

In establishing the SFFL for the two-month period beginning February 1, 1998, we have projected non-fuel costs based on the year ended September 30, 1997 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 98–1–32 fares may be increased by the following adjustment factors over the October 1979 level:

| | |
|---|---|
| Atlantic | 1.3739 |
| Latin America | 1.4571 |
| Pacific | 1.5552 |

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: on January 29, 1998.

**Patrick V. Murphy,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 98–2692 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Prosthetics and Special Disabilities Programs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held Monday and Tuesday, March 16–17, 1998, at VA Headquarters, Room 930, 810 Vermont Avenue, N.W., Washington, D.C. The March 16 session will convene at 8:00 a.m. and adjourn at 4 p.m. and the March 17 session will convene at 8:00 a.m. and adjourn at 12:00 noon. The meeting's agenda will include: officially welcoming two new members to the Advisory Committee, involve briefings by the National Program Directors of the Special Disabilities Programs regarding the status of their activities over the last six months, receive a briefing of the Veterans Equitable Resource Allocation (VERA) model, and a status report on implementation of the Veterans' Health Care Eligibility Reform Act of 1996 as it pertains to the legislative requirement to maintain capacity to meet specialized needs of disabled veterans. The purpose of the Advisory Committee on Prosthetics and Special Disabilities Programs is to advise the Department on its prosthetic programs designed to provide state-of-the art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Advisory Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

The meeting is open to the public to the capacity of the room. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D.C. 20420, prior to March 9, 1998.

Dated: January 28, 1998.

**Heyward Bannister,**

*Committee Management Officer.*

[FR Doc. 98–2644 Filed 2–3–98; 8:45 am]

BILLING CODE 8320–01–M

# Corrections

Federal Register
Vol. 63, No. 23
Wednesday, February 4, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–9–000]**

### Puget Sound Energy Inc., Notice of Filing

*Correction*

In notice document 98–2309, appearing on page 4629, in the issue of Friday, January 30, 1998, the docket number should appear as set forth above.

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[AD–FRL–5951–5]**

### Federal Plan Requirements for Large Municipal Waste Combustors Constructed On or Before September 20, 1994

*Correction*

In proposed rule document 98–1521 beginning on page 3509, in the issue of Friday, January 23, 1998, make the following corrections:

**§ 62.14109 [Corrected]**

1. On page 3526, in the third column, in §62.14109 (a), in the fourth line, after ''40 CFR 60.59b'' add ''of subpart Eb''.

2. On page 3526, in the third column, in §62.14109 (a)(1), in the second line, after ''(d)(11)'' add ''of subpart Eb''.

3. On page 3527, in the first column, in §62.14109(d), in the fifth line, after ''40 CFR 60.58b(g)(5)(iii)'' add '' of subpart Eb''.

4. On page 3528, in Table 4 of Subpart FFF, in the second column, ''[Insert date 240 days after publication in the Federal Register]'' should read ''September 21, 1998''.

5. On page 3528, in Table 4 of Subpart FFF, in the third column, ''[Insert date 480 days after publication in the Federal Register]'' should read ''May 18, 1999''.

6. On page 3528, in Table 4 of Subpart FFF, in the fourth column, ''[Insert date 660 days after publication in the Federal Register]'' should read ''November 16, 1999.''

7. On page 3529, in Table 5 of Subpart FFF, in the second column, ''[Insert date 240 days after publication in the Federal Register]'' should read '' September 21, 1998''.

8. On page 3529, in Table 5 of Subpart FFF, in the third column, ''[Insert date 480 days after publication in the Federal Register]'' should read ''May 18, 1999''.

9. On page 3529, in Table 5 of Subpart FFF, in the fourth column, ''[Insert date 660 days after publication in the Federal Register]'' should read ''November 16, 1999''.

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[AZ–005–ROP FRL–5953–4]**

### Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory

*Correction*

In proposed rule document 98–1765, beginning on page 3687, in the issue of Monday, January 26, 1998, in the first column, in the **DATES** section, in the second and third lines, ''March 27, 1998'' should read ''February 25, 1998''.

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 8763]**

**RIN 1545–AU06**

### Modifications of Bad Debts and Dealer Assignments of Notional Principal Contracts

*Correction*

In rule document 98–2093 beginning on page 4394 in the issue of Thursday, January 29, 1998, make the following correction:

On page 4395, in the first column, in the **DATES** section, in the second line, ''February 29, 1998'' should read ''January 29, 1998''.

BILLING CODE 1505-01-D

federal register

Wednesday
February 4, 1998

# Part II

# Department of Commerce

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

## Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales; Final Rule

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 960206024–8008–03; I.D. 043097A]**

**RIN 0648–AG32**

## Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales

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

**ACTION:** Final rule.

**SUMMARY:** NMFS amends the regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs) to establish performance, technical, operational, maintenance, and testing requirement for motion-compensated scales that may be required by NMFS to weigh catch at sea. This rule does not require vessels to weigh catch at sea. Any such requirements would be imposed by other rulemaking. This action is intended to promote the objectives of the FMPs.

**DATES:** Effective March 6, 1998, except § 679.28(b)(2)(iii)(B) which is not effective until the Office of Management and Budget approves the information collection requirement contained in that section. NMFS will publish a document in the **Federal Register** announcing the effective date for that section. NMFS will announce in the **Federal Register** the dates when NMFS will accept type evaluation documentation under 50 CFR 679.28(b)(1) and when scale inspections under 50 CFR 679.28(b)(2) will be conducted.

**ADDRESSES:** Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503, Attn: NOAA Desk Officer and to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK.

**FOR FURTHER INFORMATION CONTACT:** Sally Bibb, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

### Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands Management Area (BSAI) is managed by NMFS according to the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by U.S. vessels is governed by regulations implementing the FMPs at subpart H of 50 CFR part 600 and at 50 CFR part 679.

On June 16, 1997, NMFS published a proposed rule (PR) proposing to establish the performance, technical, operational, maintenance, and testing requirements for motion-compensated scales that may be required by NMFS to weigh catch at sea (62 FR 32564). Public comment was invited through July 16, 1997. Ten letters of comment were received.

The Response to Comments section below addresses only comments about the performance, technical, operational, maintenance, and testing requirements for scales used to weigh catch at sea. Some of the comments received on this PR were in response to a different PR that would require trawl catcher/processors and motherships participating in the Western Alaska Community Development Quota Program (CDQ) to weigh catch at sea using such scales (62 FR 43866, August 15, 1997). The end of the public comment period on that proposed rule was September 29, 1997. NMFS will respond to the following issues in the Response to Comments section in the preamble to the final rule resulting from that proposed rule: (1) Which vessels will be required to weigh catch on a scale, (2) whether scales should be required in particular fisheries or for particular vessel types, (3) whether additional scale testing is needed before NMFS requires vessels to use scales, (4) whether other types of catch-weight estimates could be used if a scale breaks down, (5) questions about the use of species composition sampling to estimate the weight of each species in the catch, and (6) the validity of NMFS cost estimates for scales on certain types of vessels.

This final rule adds a new § 679.28 to 50 CFR part 679, titled ''Equipment and operational requirements for catch weight measurement'' and adds a new appendix A to part 679. Besides setting forth the equipment, operational, maintenance, and testing requirements for such scales, § 679.28 sets forth the information that scale manufacturers must submit to NMFS in order for a scale to be eligible for approval by NMFS to be used to weigh catch at sea. In addition, § 679.28 sets forth the responsibilities of vessel owners and operators with respect to initial after-installation scale inspections and annual reinspections, and it also sets forth at-sea testing requirements and recordkeeping and reporting requirements. The new appendix A to part 679 sets forth the performance and technical requirements for type evaluation and initial and annual reinspections for belt-conveyor (flow) scales, automatic hopper scales, platform scales, and hanging scales.

Section 679.28 and appendix A to this part do not impose any requirement on vessels or processors to weigh catch at sea. Any such requirement would be imposed by other rulemakings. For example, NMFS has proposed in a separate rulemaking that trawl catcher/processors and motherships be required to weigh all CDQ catch and that all processor vessels, including those using trawl, longline, and pot gear, provide an observer sampling station which includes a motion-compensated platform scale (62 FR 43866, August 15, 1997). If the proposal is adopted, these weighing and scale requirements would be codified in § 679.32 with other regulations governing monitoring of the CDQ program. All scales used would have to be approved by NMFS under § 679.28 and appendix A to this part.

### Response to Comments

*Comment 1:* The proposed at-sea scale requirements are very different from scale certification requirements for shoreside processors. Scales in shoreside plants are required to be certified annually by the Alaska Division of Measurement Standards but are not required to be tested between annual certifications. Specifically, they are not required to meet accuracy standards in daily tests. NMFS should not implement at-sea scale requirements until parallel requirements are implemented by the State of Alaska for scales used to weigh federally managed species in shorebased processing plants in Alaska.

*Response:* Scales in shoreside processing plants are under the jurisdiction of the State of Alaska Division of Measurement Standards because the buying and selling of fish is commerce, and the State of Alaska requires that these fish be weighed on a scale approved under Alaska Statutes. The State of Alaska determines what constitutes an approved scale, how often the scale has to be tested, what tests must be conducted, and what

accuracy standards must be met. Scales in shoreside plants must meet significantly more restrictive performance requirements—maximum permissible errors (MPEs)—and are operated in a less hostile environment than those at sea.

NMFS believes it is unnecessary to have identical requirements for scales in the shoreside plants and scales on vessels. The environment in which the weighing occurs is different, and, therefore, the design of the land-based versus at-sea scales is different. Once calibrated and sealed, land-based scales are expected to hold their calibration over an extended period of time. However, some motion-compensated belt scales are specifically designed to be recalibrated regularly in order to weigh accurately. Because the operator must adjust the scale several times a day, NMFS believes that a daily test of the scale is necessary to monitor the performance of the scale.

NMFS may re-evaluate the need for daily tests for at-sea scales in the future if scales with sealed calibration mechanisms are available or if daily scale test results indicate that fewer tests would provide sufficient information about the scale's performance.

*Comment 2:* NMFS should not implement requirements that vessels be required to weigh catch on a scale evaluated under § 679.28(b) until NMFS demonstrates that at-sea scales are capable of weighing accurately on specific vessels or classes of vessels defined by length categories or processing modes, e.g., catcher/processors that head, gut, and freeze (H&G).

*Response:* This rule does not require any vessel to weigh catch at sea. Such requirements are the subject of other rulemakings. Rather, this rule establishes performance and technical requirements for scales used to weigh catch at sea, from platform scales used to weigh observers' samples to high capacity scales used to weigh total catch. Questions such as whether at-sea weighing is necessary, which vessels would be required to weigh catch, and whether back-up methods can be used when a scale breaks down are being addressed in other rulemakings. The technical and performance requirements for scales used at sea need to be issued as soon as possible so that scale manufacturers can prepare for future scale requirements.

*Comment 3:* NMFS should use the term ''approved for use'' rather than ''certified'' to refer to a scale that has met laboratory and dockside inspection and test requirements to be consistent with the terms used by weights and measures agencies.

*Response:* NMFS concurs with the suggestion. This final rule refers to scales that have met laboratory and initial or annual inspection requirements as ''approved for use'' rather than ''certified.'' Once a scale is approved for use, it must also pass daily at-sea scale test requirements in order to be used to weigh catch at sea.

*Comment 4:* Testing the scale in a laboratory or on a vessel tied up to a dock will not verify whether the scale weighs accurately in motion. These tests can only be performed once the scale has been purchased and installed on the vessel, successfully evaluated in the laboratory and by a scale inspector, and used in a commercial fishery. A scale could pass laboratory and dockside inspection requirements but fail the at-sea scale tests. Failure of the scale at this point would be costly to the vessel owner in terms of scale installation and purchase costs, as well as of loss of time in a commercial fishery.

*Response:* NMFS is implementing a three-part process for evaluating whether at-sea scales are meeting NMFS' performance and technical requirements. This process consists of type evaluation of each model of scale, dockside inspection of each scale once installed on a vessel and once a year thereafter, and at-sea testing of each scale. No single element of the process alone is sufficient to determine whether a scale is meeting performance and technical requirements.

The laboratory tests are designed to determine whether the model of scale meets technical and performance standards under a range of environmental and operating conditions on the vessel, including temperature, humidity, power fluctuations, short-time power reduction, power bursts, electrostatic discharge, and electromagnetic susceptibility. However, the laboratory tests are not designed to test the scale's performance in motion.

The dockside inspection of each scale will determine, among other things, whether the scale weighs accurately while in a nearly stationary position. This evaluation is necessary to identify scales that are not installed properly or do not meet other technical or performance requirements before the vessel starts fishing.

The at-sea scale tests will be conducted daily to verify that the scale is weighing accurately at sea. This is the only test that will be performed while the scale is in motion. The MPEs are higher in the at-sea scale tests than in the dockside tests to allow a greater tolerance for scales tested in motion.

NMFS considered the need for laboratory tests that would verify whether a scale could weigh accurately in motion and agrees that, if such tests existed, they would provide valuable information about a scale's performance. Unfortunately, laboratory tests specifically designed to test at-sea scales in motion do not exist, and it would be very costly and time consuming for NMFS to develop laboratory tests that could accurately reproduce the motion and other environmental conditions experienced by a vessel.

Although more extensive laboratory tests could provide more information about the performance of a scale, the at-sea scale tests would still be the official test of the scale's performance in motion. It is possible that a scale could pass laboratory and dockside inspection requirements but fail daily at-sea scale tests. Scale manufacturers must understand the conditions under which their scale will be used to accurately specify the performance capabilities of their scales and to provide the necessary performance guarantees to their customers. Vessel owners are responsible for proper installation and maintenance of the scale according to the manufacturer's instructions.

*Comment 5:* In rough weather, some vessels may pitch and roll so much that the fish being conveyed through the factory will slide across the belt or be lifted off the belt. Laboratory tests would not determine how the belt scale will function if fish are not in contact with the weighing plate of the scale. Do NMFS certification tests tell us if the scale will work if fish are not continually in contact with the belt itself or are moving against the flow direction of the conveyor belt because of the extreme motion of a vessel?

*Response:* Laboratory tests are probably not needed to determine how a belt scale would function under these circumstances because the scale is not designed to weigh accurately if fish are sliding across the scale's conveyor belt or are being lifted off the belt while they are being weighed. If fish are sliding forward across the scale or are being lifted off the scale when the vessel pitches, catch weight probably would be underestimated. If fish are sliding backwards across the scale, catch weight probably would be overestimated.

The scale is required to be tested once a day by the vessel crew at a time determined by the crew. NMFS acknowledges that these daily scale tests cannot identify all weighing problems that will occur between tests on successive days. However, other

features of the scale program should minimize this risk. These other features include the type evaluation, and dockside tests, and the audit trail that electronically records and stores records of scale calibrations, adjustments, and observer monitoring.

The vessel operators and scale manufacturers must decide whether a particular type of scale or model of scale will be able to weigh accurately under the conditions that will be experienced by the vessel. If a vessel regularly fishes in circumstances where a belt scale is not advisable, the owner or operator should consider installing an automatic hopper scale in which fish are conveyed into the hopper of the scale, which is a partially enclosed container, and weighed in batches rather than being weighed as they flow across a scale.

*Comment 6:* NMFS should require scale manufacturers to post a performance bond.

*Response:* NMFS will not require that scale manufacturers post a performance bond to guarantee that their scales will meet NMFS' requirements at sea. Arrangements to compensate vessel owners for problems with the scales should be specified in a contract between the scale manufacturer and the vessel owner without involvement by NMFS.

*Comment 7:* Can laboratory tests required by NMFS be conducted at laboratories in the United States?

*Response:* Yes, influence factors tests for static temperature (annex A, A.3.1 to appendix A to part 679), damp heat, steady state (appendix A, annex A, A.3.2), and power voltage variation (appendix A, annex A, A.3.3) can be conducted by laboratories accredited under the National Type Evaluation Program (NTEP). The west coast NTEP laboratory is located in Sacramento, CA, telephone 916–229–3000. The NTEP laboratory also can refer scale manufacturers to other laboratories that have the capability to conduct disturbance tests.

*Comment 8:* NMFS should allow a combination of NTEP approval on components and a history of scale use in a shoreside processing plant in lieu of type evaluation requirements.

*Response:* NMFS does not agree with this suggestion in its entirety, but will accept NTEP Certificates of Conformance and test results to be submitted in partial fulfillment of the type evaluation requirements. Section 679.28(b)(1)(iv) has been revised accordingly.

The NTEP Certificate of Conformance requires that a component or device undergo only one or two of the seven laboratory tests recommended for at-sea scales by our technical advisor (temperature and power voltage fluctuation). The additional five tests are recommended for at-sea scales because they represent the type of external factors present on a vessel that may affect the scale's performance. A history of use of a similar model of scale in a shoreside processing plant does not offer NMFS the assurances it needs that the scale is designed to operate successfully on a vessel.

*Comment 9:* NMFS should accept International Organization of Legal Metrology (OIML) Certificates of Conformance for all types of scales covered by appendix A to part 679, rather than just for belt scales.

*Response:* NMFS agrees and has revised § 679.28(b)(1)(iv) to specify OIML certificates and test results for automatic hopper scales, platform scales, and hanging scales as acceptable verification of test results. Scale manufacturers who submit NTEP or OIML Certificates of Conformance must also submit all other information required by NMFS listed in § 679.28(b)(1)(i) and (b)(1)(ii).

*Comment 10:* Will NMFS accept an OIML Certificate of Conformance on a land-based version of the motion-compensated scale?

*Response:* Yes, NMFS will accept OIML Certificates of Conformance and test data if they are based on tests of a model of scale without motion compensation as long as the model of scale that was tested and the model of scale that will be used to weigh catch at sea differ only in the elements of the scale that are designed to perform motion compensation, the size or capacity of the scale, and the software used by the scale. Section 679.28(b)(1)(ii)(G) was added to the final rule in order to clarify this allowance.

*Comment 11:* Vessel owners need an alternative to the weights and measures inspectors that would be provided through NMFS' cooperative agreement with the State of Alaska, Division of Measurement Standards. Alternative weights and measures inspectors are needed in case NMFS cannot provide scale inspectors when and where they are needed by the vessel owners. NMFS could specify the qualifications and training requirements for the inspectors, and the industry could contract directly with the alternative scale inspectors.

*Response:* Section 679.28(b)(2)(iii)(B) was added to the final rule in order to authorize inspectors other than those employed by the State of Alaska to conduct initial and periodic inspections of at-sea scales. NMFS will not pay any of the costs associated with these inspections. A person wishing to conduct scale inspections must be an employee of a U.S., state, or local weights and measures agency. He or she must be trained to conduct the inspection by NMFS' authorized scale inspectors and must notify NMFS in writing that he or she meets the previous two requirements prior to conducting any inspections. Such person must provide NMFS with at least 3 days notice that a scale inspection will be conducted in order to provide NMFS employees with an opportunity to observe the inspection. This section is not yet effective; OMB must first approve the collection of information requirements. The section's effectiveness will be announced by notice in the **Federal Register**.

*Comment 12:* NMFS needs to clarify where scale inspections could occur, because the preamble to the PR says that inspections would occur in Seattle, WA, or Dutch Harbor, AK, but the regulations do not limit inspections to these two ports. In addition, NMFS should provide for scale inspections in Kodiak because these regulations could apply to vessels in the Gulf of Alaska in the future.

*Response:* Section 679.28(b)(2)(v) has been added to the final rule in order to clarify that inspections by inspectors paid for by NMFS must be conducted only in the Puget Sound area of Washington State and Dutch Harbor, AK. This restriction is necessary to stay within the budget NMFS has allocated for the scale inspection program. NMFS will consider amending these regulations to allow scale inspections in other ports if the demand exists and the budget can be increased. One possible option would be to allow inspections in other ports if vessel owners pay for the cost of travel and transportation of equipment from Seattle, WA, or Dutch Harbor, AK, to the port in which the scale inspection is requested.

NMFS also may propose to limit scale inspections to certain months of the year if necessary to perform all scale inspections within budget limits.

*Comment 13:* NMFS should pre-approve scale installation plans.

*Response:* NMFS will review scale installation plans with vessel owners and discuss installation, performance, and technical requirements. However, NMFS cannot approve the vessel owner's plans. Determination of whether a scale meets NMFS requirements can only be determined once the scale is installed and in use.

*Comment 14:* NMFS should give a 1-month grace period for annual inspections. The purpose of this would be to increase the scheduling flexibility for both NMFS and vessel owners

without resulting in a situation where the vessel is required to undergo the inspection more than once per year.

*Response:* The final regulations require that the scale be inspected and tested by an inspector authorized by NMFS when it is first installed (initial inspection) and one time each year within 12 months of the date of the most recent inspection. This means that a scale that passes the inspection requirements on May 1, 1998, would not be required to pass the inspection requirements again until May 1, 1999. Because no scale must be inspected more than once in a 12-month period, a 1-month grace period is not necessary. Vessel owners may schedule their second inspection for a date less than 12 months from the initial inspection so that future annual inspections may occur during a more convenient time of the year. See the response to comment 15 for additional information.

*Comment 15:* NMFS should grant a trip-by-trip exemption if an inspector is not available.

*Response:* NMFS intends to establish a scale inspection program that will provide inspectors when they are needed within 10 working days of the date the request for a scale inspection is received. Vessel owners are encouraged to plan ahead in order to ensure that they obtain an annual inspection prior to the deadline.

*Comment 16:* The proposed MPE of 3 percent for at-sea scale tests is too high. Scales could and should achieve better than that at sea.

*Response:* A 3-percent MPE was proposed as a compromise between what scale manufacturers said they could achieve and what NMFS believed would be acceptable for fisheries management purposes. NMFS did not want to propose an MPE so restrictive that it would cause scales to regularly fail at-sea tests. Tests conducted on a belt conveyor scale between August 1996 and March 1997 showed that a 1.5-percent MPE could be met in most cases but that a 3-percent MPE was not exceeded in any test. NMFS will maintain the MPE for belt and automatic hopper scales at 3 percent, and may re-evaluate the 3-percent MPE in the future if at-sea scale test results indicate that better performance can practically be achieved. See the response to comment 17 about MPEs for platform and hanging scales.

*Comment 17:* The MPE for at-sea tests of the platform and hanging scales should be reduced from 3 percent to 0.5 percent because these types of scales can meet more restrictive MPEs at sea. In addition, many of the platform scales will be used to weigh test material for testing the belt or automatic hopper scales. If the allowable error in the scale used to weigh test material is 3 percent, then a cumulative error of 6 percent could be allowed for the belt and automatic hopper scales.

*Response:* NMFS agrees and has revised § 678.28(b)(3) accordingly.

*Comment 18:* The MPE for belt and automatic hopper scales at initial and periodic inspections should be 1 percent.

*Response:* Section 2.2.1.3 (belt scales) and section 3.2.1.2 (automatic hopper scales) of appendix A to part 679 specify that the MPE for material tests and increasing and decreasing load tests conducted in a laboratory or on a scale installed on a stationary vessel is 1 percent. The MPE for at-sea tests of belt and automatic hopper scales is 3 percent.

*Comment 19:* NMFS needs to clarify what information is required on the scale's ''audit trail.''

*Response:* The audit trail is an electronic and printed record of changes that are made to the scale or the scale weights by the scale operator. Appendix A to part 679 requires that when a scale is adjusted or calibrated, either a security seal must be broken or an audit trail must be provided. Changes in adjustable components, such as span (calibration) and automatic zero-setting, that affect the performance or accuracy of the scale must be recorded on the audit trail.

NMFS has revised the regulations and annex A to appendix A in order to clarify that the information on the audit trail must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction by NMFS or by an authorized scale inspector.

NMFS removed the requirement that ''a unique identifying number from 000 to 999 to identify the type of adjustment being made to any parameter that affects the performance of the scale'' be recorded on the audit trail. The requirement to record the date and time of each adjustment will provide sufficient information about the chronological order of adjustments. NMFS also removed the requirement that the ''source of the change'' be provided on the audit trail. This referred to the identification of the person making the change which, upon consultation with our technical advisor and scale manufacturers, NMFS determined was not meaningful information to require.

If the adjustment recorded on the audit trail is a scale calibration performed by the scale operator, the audit trail would record the date and time the calibration procedure was performed, the name or type of adjustment being made, such as ''span adjustment'' or ''calibration,'' and the initial and final values of the parameter changed.

The final rule has also been changed to add the requirement that any information to be provided on the audit trail be described in the ''information about the scale'' submitted to NMFS under § 679.28(b)(1)(ii)(H) and to add the definition of ''adjustable component'' to section 5 of appendix A to part 679.

*Comment 20:* Can the information on the audit trail be printed on a remote computer that captures the data from the scale?

*Response:* Yes. Information on the audit trail is required to be recorded and retained in memory until it is cleared from memory at the annual inspection. The information is not required to be displayed on the scale indicator. However, the scale system must include the capability to print the information on the audit trail at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer.

*Comment 21:* Can the printed information required in sections 2.3.1.8, 3.3.1.7, and 4.3.1.5 of appendix A to part 679 be provided by an auxiliary printer connected to the scale?

*Response:* The printed information could come from either a printer that is connected directly to the scale or that is connected through another computer on the vessel.

*Comment 22:* The proposed rule would appear to allow the scale operator to recalibrate the scale every day just prior to the scale test. This would render the test valueless because a scale could be operated with as great as 10 percent error for 24 hours and still satisfy NMFS requirements.

*Response:* NMFS does not agree with this comment. The scales are required to be adjusted so that the error is as close as possible to zero, which means that vessel operators are prohibited from deliberately adjusting the scale incorrectly. Although scales may be recalibrated or tested at any time during the day, the audit trail is designed to record information that will be used to determine whether a scale had been incorrectly adjusted and then readjusted just prior to the scale test.

*Comment 23:* NMFS needs to clarify the difference in requirements for different uses of platform scales.

*Response:* Platform scales could be used for two different purposes on a

vessel. First, a platform scale could be used as an observer sampling scale and to verify the weight of fish used to test the belt or automatic hopper scales on trawl catcher/processors and motherships. In this case, the scale will not be required to provide printed output of scale weights because all information from the scale weights will be recorded by hand on the observer's forms or on the scale test report form. In addition, the platform scale will not be required to provide an audit trail of all adjustments to the scale. The purpose of the audit trail for scales used to weigh total catch is to monitor whether the scale is being improperly adjusted so that weights are incorrectly reported. An audit trail is not necessary for a scale used primarily by the observer or witnessed by the observer during a scale test because the observer can test the scale immediately prior to use to verify its accuracy.

Second, a platform scale could be used to weigh total catch. In this case, the scale would be required to meet all of the performance and technical requirements specified in § 679.28(b) and section 4 of appendix A to part 679.

For all uses of a platform scale, the scale is required to meet type evaluation requirements and to be inspected and approved by an authorized scale inspector upon initial installation and each year thereafter. In addition, the vessel owner is required to provide certified test weights as described in § 679.28(b)(3)(ii)(B) for the daily scale tests at sea.

*Comment 24:* In appendix A to part 679, sections 2.3.1.5 and 3.3.1.9, NMFS proposes to require that belt scales and automatic hopper scales be capable of indicating at least 99,999,999 kilograms so that the cumulative weight of all catch in a year could be displayed on the indicator. Scales currently on the market cannot display this many digits.

*Response:* NMFS has revised sections 2.3.1.5 and 3.3.1.9 of appendix A to part 679 to allow the information required on the scale indicator to be displayed in either kilograms or metric tons. These sections now read: ''the range of the weight indications and printed values for each haul or set must be from 0 kg to 999,999 kg and for the cumulative weight must be from 0 to 99,999 metric tons.'' This revision allows the cumulative catch of all material weighed on the scale to be displayed in less space.

NMFS also revised the wording in several other sections of appendix A to part 679 to make other requirements consistent with the changes in sections 2.3.1.5 and 3.3.1.9.

Sections 2.3.1.1 and 3.3.1.1 were revised to replace technical terms with plain English. For example, the first two sentences of section 2.3.1.1 previously read, ''a belt scale must be equipped with a primary indicator in the form of a master weight totalizer, a printer, and a rate of flow indicator. It must also be equipped with auxiliary means to indicate or print values for specified partial loads.'' Section 2.3.1.1 has been revised to read, ''a belt scale must be equipped with an indicator capable of displaying both the weight of fish in each haul or set and the cumulative weight of all fish or other material weighed on the scale between annual inspections (''the cumulative weight''); a rate of flow indicator; and a printer.'' Section 3.3.1.1 has been revised similarly.

Sections 2.3.1.3 and 3.3.1.3 have been revised to read, ''the weight of each haul or set must be indicated in kilograms and the cumulative weight may be indicated in kilograms or metric tons and decimal subdivisions.''

Section 2.3.1.6 has been revised to read, ''the means to indicate the weight of fish in each haul or set must be resettable to zero. The means to indicate the cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction by NMFS or an authorized scale inspector.'' Section 3.3.1.10 has been revised to read, ''the cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction by NMFS or an authorized scale inspector.''

*Comment 25:* NMFS should allow limited component exchange for load cells without requiring that the scale be re-evaluated at a laboratory.

*Response:* NMFS agrees that metrologically equivalent load cells from the same or a different manufacturer may be installed into a scale without requiring that scale to be resubmitted for laboratory tests or retested by a scale inspector. However, a materials test should be conducted immediately after replacing the load cell to assure that the scale is weighing accurately.

*Comment 26:* NMFS should clarify the definition of a major modification that would require a scale to be inspected by an authorized scale inspector between annual inspections.

*Response:* It would be difficult for NMFS to distinguish between scale modifications that should require re-inspection versus those that should not. Therefore, NMFS is requiring only that the scales be inspected when they are first installed on a vessel and at least one time per year thereafter. Between annual inspections, NMFS will rely on the daily scale test requirement to determine whether a scale is weighing accurately after scale modifications.

*Comment 27:* For automatic hopper scales, NMFS should allow the option of having the scale return to zero after weighing each hopper of fish rather than requiring the scale to print the load and no-load reference values for each hopper load because this provision is allowed for automatic hopper scales used in shoreside plants.

*Response:* NMFS revised section 3.3.1.1 of appendix A to part 679 to allow this option for automatic hopper scales.

*Comment 28:* A material test should be used to test both belt scales and automatic hopper scales at sea. The material used in the test should be weighed immediately before or after the test to establish its true weight, regardless of whether this material is fish or an alternative (such as sand bags).

*Response:* NMFS agrees and has revised the requirements for at-sea scale tests in § 679.28(b)(3) accordingly.

*Comment 29:* The overload protection requirement should be increased from 150 percent to 200 percent because of the extra stress on scales used at sea.

*Response:* Increasing the overload protection requirement for the scales is unnecessary. Loads in excess of 150 percent of the capacity of the scale should not normally accumulate on the scale. In the event that they do, the scale should be recalibrated before it is used to weigh more fish.

*Comment 30:* Stating specific sizes of scales under the definition of a platform scale may unintentionally favor specific scale manufacturers.

*Response:* Scale dimensions were included as examples representative of some scales in use, but were not intended to specify designs of any particular manufacturer, nor to preclude the design of a manufacturer. NMFS has removed this particular sentence from the definition.

*Comment 31:* Can a ''security means'' be a password needed to enter the indicator that will be known only to the inspector and that can be changed only by the inspector?

*Response:* This comment refers to the requirement in sections 2.3.1.11, 3.3.1.12, and 4.3.1.8 of appendix A to part 679 which states that ''an adjustable component that can affect the performance of the scale must be held securely in position and must not be capable of adjustment without breaking a security means, unless a record of the adjustment is made on the audit trail

* * *.'' Because it would be impossible for NMFS to determine if the password needed to make a scale adjustment was known to the vessel crew, a password would not be considered a ''security means.'' Therefore, any feature of the scale that could be changed by entering a password prior to making the change is required to be recorded on the audit trail. NMFS also revised the definition of ''security seals or means'' in section 5.0 of appendix A to part 679 in order to be consistent with this response to comment 31. In the PR, the definition read, ''a physical seal such as a lead and wire seal or a key or code that when a change is made in the operating or performance characteristics of a scale it becomes evident.'' The definition now reads ''a physical seal such as a lead and wire seal that must be broken in order to change the operating or performance characteristics of the scale.''

*Comment 32:* The conveyors on belt scales are run by electricity rather than hydraulics, which is used for other conveyors on the vessel. Therefore, the scales will be less robust than regular conveyor belts. The electricity-driven belts will pose both safety and breakdown problems. In addition, scales will be exposed to more sand and grit on vessels that head, gut, and freeze groundfish than they would on vessels fishing for pollock, making durability a greater concern. Scales should not be required on H&G vessels until hydraulically operated belt scales are available.

*Response:* NMFS is setting the performance and technical standards for scales, specifying the fisheries in which scales are required, and will monitor the use of scales in these fisheries. NMFS cannot guarantee that scales will be able to operate on all fishing vessels under all sea conditions. It is the responsibility of vessel owners who wish to participate in these fisheries and of the scale manufacturers to make sure that they have installed a scale that is capable of meeting NMFS' standards. The decision of how a scale or a component of a scale is powered on a vessel should be made by the scale manufacturers and the vessel operators.

*Comment 33:* Fish should be used in the initial evaluation of the scale conducted by the scale inspector.

*Response:* NMFS agrees that it is most desirable to use the same material that will be weighed by the scale in material tests of the scale. However, it would be very difficult to make fish available for scale tests that are most likely to occur outside commercial fishing seasons and in ports far from where the fish are harvested. It is also very difficult and expensive to require inspectors to conduct scale tests on a vessel after it starts fishing. Therefore, NMFS believes that the only option will be to conduct the material tests in the laboratory and at dockside with an alternative material that simulates the flow of fish as much as possible.

*Comment 34:* Section 2.2.2 of appendix A to part 679 specifies a minimum flow rate for belt scales. What is required of the scale if it is weighing below the minimum flow rate?

*Response:* Section 2.2.2 requires that the manufacturer specify the minimum flow rate for the scale and that the scale produce an audio or visual signal when the rate of flow is less than the minimum flow rate or greater than 98 percent of the maximum flow rate. NMFS is not requiring that the scale stop operating if the alarm indicates that the scale is operating below the minimum flow rate. However, the scale operator should correct the situation because the scale is not being operated according to the manufacturer's specifications.

*Comment 35:* How long must the zero load test required in section 2.2.1.2 of appendix A to part 679 be performed?

*Response:* Section 2.4.2.2 of appendix A to part 679 requires that the zero load test be conducted for a time equal to that required to deliver the minimum totalized load, which will depend on the capacity and belt speed of the individual scale.

**Changes From the Proposed Rule**

In addition to the changes discussed in the preceding responses to comments and editorial corrections and minor changes for grammar, consistency of word usage, and clarity, NMFS has made the following changes from the proposed rule:

1. NMFS added the following sentence to § 679.28(b)(2)(iv) to more clearly state the responsibility of the vessel owner in providing advance notice of the need for a scale inspection: ''[v]essel owners must request a scale inspection at least 10 working days in advance of the requested inspection by contacting an authorized scale inspector at the address indicated on the list of authorized inspectors.''

2. NMFS added the requirement in § 679.28(b)(3)(ii)(B) that the weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory and that a copy of the laboratory certification documents be maintained on board the vessel at all times while the scale is required. This requirement is necessary in order to accurately determine the weight of the test weights which will be used to calibrate and test scales at sea.

3. NMFS revised § 679.28(b)(2)(vii) to require that the vessel owner maintain a copy of the scale inspection test report form on the vessel rather than submit a copy to NMFS. NMFS will receive a copy of this report form from the scale inspectors.

4. NMFS revised § 679.28(b)(3), (b)(4), and (b)(5) to clarify that both the vessel owner and the vessel operator are responsible for ensuring that the daily scale tests are conducted, that adjustments made to the scale bring the performance errors as close as practicable to a zero value, and that the required printed reports are provided.

5. NMFS added § 679.28(b)(5)(i) to clarify that scale weights may not be adjusted to account for the perceived weight of water, mud, dirt, or other non-fish material. The scale must display, record, and print the weight of the material being weighed. Sections 2.3.1.13 and 3.3.1.16 of appendix A to part 679, titled ''Adjustments to Scale Weights,'' were added to read: ''The indicators and printer must be designed so that the scale operator cannot change or adjust the indicated and printed weight values.''

6. NMFS added § 679.28(b)(6) to require that the observer be able to see the product on the scale and the scale indications at the same time. This section prevents the scale indicator, which displays the scale weights, from being installed somewhere on the vessel where it could not be watched as fish were being weighed.

7. NMFS revised section 2.2.1.2 of appendix A to part 679 in order to clarify its meaning. The requirement in the PR was that ''the MPE for zero load tests conducted in a laboratory or on a scale installed on a stationary vessel is ±0.1 percent or 1 scale division (d).'' NMFS revised the last part of this sentence to read '' +0.1 percent of the value of the minimum totalized load or 1 scale division (d), whichever is greater.''

8. NMFS revised the last sentence of sections 2.2.1 and 3.2.1 of appendix A to part 679 in order to be consistent with § 679.28(b)(2)(i) which states that scale inspections will be conducted on a vessel tied up at a dock. In the PR, sections 2.2.1 and 3.2.1 of appendix A to part 679 read, ''a stationary vessel refers to a vessel that is tied up at a dock or anchored near shore and is not under power at sea.'' NMFS removed ''or anchored near shore.''

9. NMFS revised the requirements for the information from the scales used to weigh total catch that must be printed each day (sections 2.3.1.8, and 3.3.1.7 of

appendix A to part 679). These revisions added the requirements to print vessel name, the value of the cumulative catch recorded on the totalizer, and the date and time the information is printed. The following information is required to be printed each day:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The haul or set number;

iv. Month, day, year, and time (to the nearest minute) weighing catch from the haul or set started;

v. Month, day, year, and time (to the nearest minute) weighing catch from the haul or set ended;

vi. The total weight of catch in each haul or set;

vii. The total cumulative weight of all fish or other material weighed on the scale; and

viii. The date and time the information is printed.

10. NMFS added a sentence in section 2.2.1.1 c. of annex A to appendix A to part 679 in order to change the temperature effect at zero flow rate from 10° C to 10° C ± 0.2° C.

Following is an example of how the information required to be printed each day could be presented for the first day that weighing on the scale occurs:

Vessel Name: _____ Federal Permit #:

| Haul or set number | Date | Time | | Haul or set weight (kg) |
|---|---|---|---|---|
| | | Weighing started | Weighing stopped | |
| 1 | 1/1/98 | 0200 | 0500 | 50,000 |
| 2 | 1/1/98 | 0600 | 0900 | 50,000 |
| 3 | 1/1/98 | 1600 | 1900 | 50,000 |
| Cumulative weight | 1/1/98 | N/A | N/A | 150,000 |

Date and time information printed: 1/1/98, 2100 hrs.
Signature of vessel operator:_____

10. In section 2.3.4 of appendix A to part 679, the value of the scale division (d) was added to the list of marking requirements. In section 3.3.6, the accuracy class and the value of the scale division (d) were added to the list of marking requirements.

11. Section 4.2.1 of appendix A to part 679 was revised to clarify and correct the sections referring to MPEs in type evaluation and initial and periodic inspections. Table 1 was also revised to delete the last column of MPEs for ''in-service.'' In-service refers to the time when the scale is in use at sea, and this MPE is already specified in § 679.28(b)(3). Table 2 was added to section 4.2.2 of appendix A to part 679 to define the accuracy classes referred to in table 1 to appendix A.

12. In section 4.2.3 of appendix A to part 679, two typographical errors were corrected. ''Class III scale 10 d'' should have read, ''Class IIII scale 10d.'' The weights and measures industry uses ''IIII'' rather than the Roman numeral IV to refer to a class four scale.

13. The word ''sealable'' was deleted from the definition of ''event logger'' because the parameters being recorded by the event logger are parameters that cannot be sealed. The definition also was revised to make it consistent with the changes made to the audit trail described in the response to comment 19.

**Classification**

This final rule has been determined to be not significant for purposes of E.O. 12866.

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that it would not have a significant economic impact on a substantial number of small entities. The rationale for this determination appeared in the preamble to the proposed rule. NMFS received one comment regarding this certification. However, the comment was in reference to a different proposed rule which would require trawl catcher/processors and motherships participating in the CDQ fisheries to use a scale approved by NMFS. NMFS will respond to this comment in the comment section of the relevant rulemaking. No comments were received regarding the forms for the certification. Accordingly, no regulatory flexibility analysis was prepared.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. A request has been submitted to OMB for approval of a requirement that inspectors from agencies other than an agency designated by NMFS submit written verification that they have completed training requirements prior to conducting a scale inspection. The public reporting burden for this proposed requirement is estimated to average 30 minutes per response. Inspectors from agencies other than the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS must notify the Regional Administrator of the date, time, and location of the scale inspection at least 3 working days before the inspection is conducted. The public reporting burden for this requirement is estimated to average 2 minutes per notice.

Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

The other collections of information in this rule have been approved by the Office of Management and Budget, OMB control number 0648–0330. The new information requirements include the following: (1) Scale manufacturers must submit completed At-Sea Scales Type Evaluation Certification documents to the Regional Administrator prior to being placed on the list of eligible at-sea scales; (2) vessel owners must maintain a copy of the scale certification document issued by a scale inspector

approved by the Regional Administrator to NMFS prior to participating in a fishery in which a certified at-sea scale is required; (3) vessel operators must maintain a record of the results of daily at-sea scale tests; (4) vessel operators must maintain printed output from the scale; and (5) vessel operators must print information from the scale's audit trail once per year. The public reporting burden for this collection of information is estimated to average 176 hours per response for the type evaluation certification documents, 1 minute per response to maintain the scale certification on the vessel, 45 minutes per response for the at-sea scale tests, 5 minutes per response for the printed output from the scale, and 3 minutes per response for the printed audit trail. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 23, 1998.

**David L. Evans,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In subpart B, § 679.28 is added to read as follows:

### § 679.28 Equipment and operational requirements for catch weight measurement.

(a) *Applicability.* This section contains the requirements for NMFS approval of scales used to weigh catch at sea and other requirements relating to such scales. This section does not require any vessel to weigh catch at sea. Such requirements appear elsewhere in this part.

(b) *Scales used to weigh catch at sea.* In order to be approved by NMFS a scale used to weigh catch at sea must meet the type evaluation requirements set forth in paragraph (b)(1) of this section and the initial inspection and annual reinspection requirements set forth in paragraph (b)(2) of this section. Once a scale is installed on a vessel and approved by NMFS for use to weigh catch at sea, it must be reinspected annually and must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (b)(3) of this section.

(1) *List of scales eligible for approval.* The model of scale must be included on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea before an inspector will schedule or conduct a scale inspection under paragraph (b)(2) of this section. A scale will be included on the list when the Regional Administrator receives the information specified in paragraphs (b)(1)(i) through (iv) of this section. This information identifies and describes the scale, sets forth contact information regarding the manufacturer, and sets forth the results of required type evaluations and testing. Type evaluation and testing must be conducted by a laboratory accredited by the government of the country in which the tests are conducted.

(i) *Information about the scale.* (A) Name of scale manufacturer.

(B) Name of manufacturer's representative.

(C) Mailing address of scale manufacturer and manufacturer's representative.

(D) Telephone and fax number of manufacturer's representative.

(E) Model and serial number of the scale tested.

(F) A written description of the scale and diagrams explaining how the scale operates and how it compensates for motion.

(G) A list of the model numbers of all scales for which type evaluation results are applicable, identifying the differences between the model evaluated in the laboratory and other models listed. The scales may differ only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale.

(H) A list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment.

(ii) *Information about the laboratory.* (A) Name of laboratory.

(B) Mailing address of laboratory.

(C) Telephone and fax number of laboratory's representative.

(D) Name and address of government agency accrediting the laboratory.

(E) Name and signature of person responsible for evaluation of the scale and the date of signature.

(iii) *Checklist.* A completed checklist indicating that all applicable technical and performance standards in appendix A to this part and the laboratory tests in the annex to appendix A to this part have been met.

(iv) *Verification of test results.* Verification that a scale meets the laboratory evaluation and testing requirements in appendix A of this part and each of the influence quantity and disturbance tests as specified in the annex to appendix A to this part:

(A) Test results and data on forms supplied by NMFS;

(B) National Type Evaluation Program (NTEP) Certificates of Conformance, test results and data for a component of a scale or for the entire device. NTEP Certificates of Conformance, test results, and data may be submitted only in lieu of the specific influence factor tests conducted to obtain the NTEP Certificates of Conformance. Additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP; and/or

(C) International Organization of Legal Metrology (OIML) Certificates of Conformance, test results and data.

(2) *Inspection of at-sea scales*—(i) *What is an inspection?* An inspection is a visual assessment and test of a scale after it is installed on the vessel and while the vessel is tied up at a dock and not under power at sea to determine if the scale meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and in appendix A to this part. A scale will be approved by the inspector if it meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and appendix A to this part.

(ii) *How often must a scale be inspected?* Each scale must be inspected and approved before the vessel may participate in any fishery requiring the weighing of catch at sea with an approved scale. Each scale must be reinspected within 12 months of the date of the most recent inspection.

(iii) *Who may perform scale inspections?* Scales must be inspected by a scale inspector authorized by NMFS. A list of scale inspectors authorized by NMFS is available from the Regional Administrator upon request. NMFS authorizes two types of scale inspectors:

(A) *Inspectors from an agency designated by NMFS.* Inspectors employed by a weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS. Scale inspections by such inspectors are paid for by NMFS.

(B) *Inspectors from other agencies.* Inspectors employed by a U.S., state, or local weights and measures agency other than the weights and measures agency designated by NMFS and meeting the following requirements:

(*1*) The inspector successfully completes training conducted by a scale inspector from the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS. The training consists of observing a scale inspection conducted by a scale inspector designated by NMFS and conducting an inspection under the supervision of a scale inspector designated by NMFS. The inspector must obtain this training for each type of scale inspected.

(*2*) The inspector notifies NMFS in writing that he/she meets the requirements of this paragraph (b)(2)(iii)(B) prior to conducting any inspections.

(*3*) Inspectors from agencies other than the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS must notify the Regional Administrator of the date, time, and location of the scale inspection at least 3 working days before the inspection is conducted so that NMFS staff may have the opportunity to observe the inspection.

(iv) *How does a vessel owner arrange for a scale inspection?* The time and place of the inspection may be arranged by contacting the authorized scale inspectors. Vessel owners must request a scale inspection at least 10 working days in advance of the requested inspection by contacting an authorized scale inspector at the address indicated on the list of authorized inspectors.

(v) *Where will scale inspections be conducted?* Scale inspections by inspectors paid by NMFS will be conducted on vessels tied up at docks in Dutch Harbor, Alaska, and in the Puget Sound area of Washington State.

(vi) *Responsibilities of the vessel owner during a scale inspection.* After the vessel owner has installed a model of scale that is on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea, the vessel owner must:

(A) Make the vessel and scale available for inspection by a scale inspector authorized by the Regional Administrator.

(B) Provide a copy of the scale manual supplied by the scale manufacturer to the inspector at the beginning of the inspection.

(C) Transport test weights, test material, and equipment required to perform the test to and from the inspector's vehicle and the location on the vessel where the scale is installed.

(D) Apply test weights to the scale or convey test materials across the scale, if requested by the scale inspector.

(E) Assist the scale inspector in performing the scale inspection and testing.

(vii) *Scale inspection report.* A scale is approved for use when the scale inspector completes and signs a scale inspection report form verifying that the scale meets all of the requirements specified in this paragraph (b)(2) and appendix A to this part. Inspectors must use the scale inspection report form supplied by the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS. The scale inspector must provide the original of this inspection report form to the vessel owner and a copy to NMFS. NMFS will maintain a list of all scales for which the inspection report form has been received and that are approved for use. The vessel owner is not required to submit the scale inspection report form to NMFS. However, the vessel owner must maintain a copy of the report form on board the vessel at all times when the processor or vessel is required to use a scale approved under this section. The scale inspection report form must be made available to the observer, NMFS personnel or an authorized officer, upon request. When in use, scales for which a scale inspection form has been completed and signed must also meet requirements described in paragraphs (b)(3) through (b)(6) of this section.

(3) *At-sea scale tests.* The vessel owner must ensure that the vessel operator tests each scale or scale system used to weigh total catch one time during each 24-hour period in which fish are weighed on the scale to verify that the scale meets the MPEs specified in this paragraph (b)(3).

(i) *Belt scales and automatic hopper scales.* (A) The MPE in the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material.

(B) *Test procedure.* A material test must be conducted by weighing at least 400 kg of fish or an alternative material supplied by the scale manufacturer on the scale under test. The known weight of the test material must be determined by weighing it on a platform scale approved for use under paragraph (b)(7) of this section.

(ii) *Platform and hanging scales*—(A) *Maximum Permissible Error.* The MPE for platform and hanging scales is plus or minus 0.5 percent of the known weight of the test material.

(B) *Test weights.* Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory. A copy of the laboratory certification documents must be maintained on board the vessel at all times while the scale is required. The amount of test weights that must be provided by the vessel owner is specified in paragraphs (b)(3)(ii)(B)(*1*) and (b)(3)(ii)(B)(*2*) of this section.

(*1*) *Platform scales used as observer sampling scales or to determine the known weight of test materials.* Any combination of test weights that will allow the scale to be tested at 10 kg, 25 kg, and 50 kg.

(*2*) *Scales used to weigh total catch.* Test weights equal to the largest amount of fish that will be weighed on the scale in one weighment.

(iii) *Requirements for all scale tests.* (A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.

(B) Conduct the scale test by placing the test material or test weights on or across the scale and recording the following information on the at-sea scale test report form:

(*1*) Vessel name;

(*2*) Month, day, and year of test;

(*3*) Time test started to the nearest minute;

(*4*) Known weight of test material or test weights;

(*5*) Weight of test material or test weights recorded by scale;

(*6*) Percent error as determined by subtracting the known weight of the test material or test weights from the weight recorded on the scale, dividing that amount by the known weight of the test material or test weights, and multiplying by 100; and

(*7*) Sea conditions at the time of the scale test.

(C) Maintain the test report form on board the vessel until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the scale test report forms must be retained by the vessel owner for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(4) *Scale maintenance.* The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use; that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value; and that no adjustment is made that will cause the scale to weigh fish inaccurately.

(5) *Printed reports from the scale.* The vessel owner must ensure that the vessel operator provides the printed reports required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made. All printed reports from the scale must be signed by the vessel operator.

(i) *Reports of catch weight and cumulative weight.* Reports must be printed at least once each 24-hour period in which the scale is being used to weigh catch or before any information stored in the scale computer memory is replaced. The haul or set number recorded on the scale print-out must correspond with haul or set numbers recorded in the processor's daily cumulative production logbook. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. The information that must be printed is described in Sections 2.3.1.8, 3.3.1.7, and 4.3.1.5 of appendix A to this part.

(ii) *Printed report from the audit trail.* The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to this part. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer.

(6) *Scale installation requirements.* The observer must be able to see the product on the scale and the scale indications at the same time.

(7) *Platform scales used as observer sampling scales or to determine the known weight of test materials.* Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are required to meet all of the requirements of paragraph (b) of this section and appendix A to this part except sections 4.3.1 and 4.3.1.5 of appendix A to this part (printer) or section 4.3.1.8 (audit trail) of appendix A to this part.

3. Appendix A to part 679 is added immediately following subpart F of part 679, before the figures and tables, to read as follows:

## Appendix A to Subpart F of Part 679—Performance and Technical Requirements for Scales Used To Weigh Catch at Sea in the Groundfish Fisheries Off Alaska

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*1. Introduction*

(a) This appendix to part 679 contains the performance and technical requirements for scales to be approved by NMFS for use to weigh, at sea, catch from the groundfish fisheries off Alaska. The performance and technical requirements in this document have not been reviewed or endorsed by the National Conference on Weights and Measures. Regulations implementing the requirements of this appendix and additional requirements for and with respect to scales used to weigh catch at sea are found at 50 CFR 679.28(b).

(b) Revisions, amendments, or additions to this appendix may be made after notice and opportunity for public comments. Send requests for revisions, amendments, or additions to the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

(c) *Types of Scales Covered by Appendix*—This appendix contains performance and technical requirements for belt, automatic hopper, platform, and hanging scales.

(d) *Testing and Approval of Scales Used to Weigh Catch at Sea*—Scales used to weigh catch at sea are required to comply with four categories of performance and technical requirements: (1) Type evaluation; (2) initial inspection after installation while the vessel is tied up at a dock and is not under power at sea; (3) annual reinspection while the vessel is tied up at a dock and is not under power at sea; and (4) daily at-sea tests of the scale's accuracy. This appendix contains only the performance and technical requirements for type evaluation and initial and annual reinspections by an authorized scale inspector.

*2. Belt Scales*

2.1 *Applicability.* The requirements in this section apply to a scale or scale system that employs a conveyor belt in contact with a weighing element to determine the weight of a bulk commodity being conveyed across the scale.

2.2 *Performance Requirements*—2.2.1 *Maximum Permissible Errors.* For laboratory tests of a scale and initial inspections and annual reinspections of an installed scale when the vessel is tied up at a dock and is not under power at sea, the following maximum permissible errors (MPEs) are specified:

2.2.1.1 *Laboratory Tests.* See annex A to this appendix A for procedures for disturbance tests and influence factors.

a. *Disturbances.* ±0.18 percent of the weight of the load totalized.

b. *Influence Factors.* ±0.25 percent of the weight of the load totalized.

c. *Temperature Effect at Zero Flow Rate.* The difference between the values obtained at zero flow rate taken at temperatures that differ by 10° C ±0.2° C must not be greater than 0.035 percent of the weight of the load totalized at the maximum flow-rate for the time of the test.

2.2.1.2 *Zero Load Tests.* For zero load tests conducted in a laboratory or on a scale installed on a vessel and conducted when the vessel is tied up at a dock and not under power at sea, ±0.1 percent of the value of the minimum totalized load or 1 scale division (d), whichever is greater.

2.2.1.3 *Material Tests.* For material tests conducted in a laboratory or on a scale installed on a vessel and conducted when the vessel is tied up at a dock and not under power at sea, ±1.0 percent of the known weight of the test material.

2.2.2 *Minimum Flow Rate (Qmin).* The minimum flow rate must be specified by the manufacturer and must not be greater than 35 percent of the rated capacity of the scale in kilograms per hour (kg/hr) or metric tons per hour (mt/hr).

2.2.3 *Minimum Totalized Load (*Σmin). The minimum totalized load must not be less than the greater of—

a. Two percent of the load totalized in 1 hour at the maximum flow rate;

b. The load obtained at the maximum flow rate in 1 revolution of the belt; or

c. A load equal to 800 scale divisions (d).

2.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory.

2.2.4.1 *Temperature.* A belt scale must comply with the performance and technical requirements at a range of temperatures from −10° C to +40° C. However, for special applications the temperature range may be different, but the range must not be less than 30° C and must be so specified on the scale's descriptive markings.

2.2.4.2 *Power Supply.* A belt scale must comply with the performance and technical requirements when operated within a range of −15 percent to +10 percent of the power supply specified on the scale's descriptive markings.

2.3.1 *Technical Requirements.*

2.3.1 *Indicators and Printers.*

2.3.1.1 *General.* A belt scale must be equipped with an indicator capable of displaying both the weight of fish in each haul or set and the cumulative weight of all fish or other material weighed on the scale between annual inspections (''the cumulative weight''), a rate of flow indicator, and a printer. The indications and printed representations must be clear, definite, accurate, and easily read under all conditions of normal operation of the belt scale.

2.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

2.3.1.3 *Units.* The weight of each haul or set must be indicated in kilograms, and the cumulative weight must be indicated in either kilograms or metric tons and decimal subdivisions.

2.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

2.3.1.5 *Range of Indication.* The range of the weight indications and printed values for each haul or set must be from 0 kg to 999,999 kg and for the cumulative weight must be from 0 to 99,999 metric tons.

2.3.1.6 *Resettable and Non-resettable Values.* The means to indicate the weight of fish in each haul or set must be resettable to zero. The means to indicate the cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction of NMFS or an authorized scale inspector.

2.3.1.7 *Rate of Flow Indicator.* Permanent means must be provided to produce an audio or visual signal when the rate of flow is less than the minimum flow rate or greater than 98 percent of the maximum flow rate.

2.3.1.8 *Printed Information.* The information printed must include—

a. For catch weight:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The haul or set number;

iv. The month, day, year, and time (to the nearest minute) weighing catch from the haul or set started;

v. The month, day, year, and time (to the nearest minute) weighing catch from the haul or set ended;

vi. The total weight of catch in each haul or set;

vii. The total cumulative weight of all fish or other material weighed on the scale; and

viii. The date and time the information is printed.

b. For the audit trail:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The date and time (to the nearest minute) that the adjustment was made;

iv. The name or type of adjustment being made; and

v. The initial and final values of the parameter being changed.

2.3.1.9 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

2.3.1.10 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of fish in each haul or set for which a printed record has not yet been made, the cumulative weight, and the information on the audit trail.

2.3.1.11 *Adjustable Components.* An adjustable component that when adjusted

affects the performance or accuracy of the scale must be held securely in position and must not be capable of adjustment without breaking a security means unless a record of the adjustment is made on the audit trail described in 2.3.1.12.

2.3.1.12 *Audit Trail.* An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction by NMFS or by an authorized scale inspector:

a. The date and time (to the nearest minute) of the change;

b. The name or type of adjustment being made; and

c. The initial and final values of the parameter being changed.

2.3.1.13 *Adjustments to Scale Weights.* The indicators and printer must be designed so that the scale operator cannot change or adjust the indicated and printed weight values.

2.3.2 *Weighing Elements.*

2.3.2.1 *Speed Measurement.* A belt scale must be equipped with means to accurately sense the belt travel and/or speed whether the belt is loaded or empty.

2.3.2.2 *Conveyer Belt.* The weight per unit length of the conveyor belt must be practically constant. Belt joints must be such that there are no significant effects on the weighing results.

2.3.2.3 *Overload Protection.* The load receiver must be equipped with means so that an overload of 150 percent or more of the capacity does not affect the metrological characteristics of the scale.

2.3.2.4 *Speed Control.* The speed of the belt must not vary by more than 5 percent of the nominal speed.

2.3.2.5 *Adjustable Components.* An adjustable component that can affect the performance of the belt scale must be held securely in position and must not be capable of adjustment without breaking a security means.

2.3.2.6 *Motion Compensation.* A belt scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information demonstrating that the scale can weigh accurately at sea.

2.3.3 *Installation Conditions.* A belt scale must be rigidly installed in a level condition.

2.3.4 *Marking.* A belt scale must be marked with the—

a. Name, initials, or trademark of the manufacturer or distributer;

b. Model designation;

c. Non-repetitive serial number;

d. Maximum flow rate (Qmax);

e. Minimum flow rate (Qmin);

f. Minimum totalized load (Σmin);

g. Value of a scale division (d);

h. Belt speed;

i. Weigh length;

j. Maximum capacity (Max);

k. Temperature range (if applicable); and

l. Mains voltage.

2.3.4.1 *Presentation.* The markings must be reasonably permanent and of such size, shape, and clarity to provide easy reading in normal conditions of use. They must be grouped together in a place visible to the operator.

2.4 Tests.

2.4.1 *Minimum Test Load.* The minimum test load must be the greater of—

a. 2 percent of the load totalized in 1 hour at the maximum flow rate;

b. The load obtained at maximum flow rate in one revolution of the belt; or

c. A load equal to 800 scale divisions.

2.4.2 *Laboratory Tests.*

2.4.2.1 *Influence Quantity and Disturbance Tests.* Tests must be conducted according to annex A and the results of these tests must be within the values specified in section 2.2.1.1.

2.4.2.2 *Zero-Load Tests.* A zero-load test must be conducted for a time equal to that required to deliver the minimum totalized load (''min). At least two zero-load tests must be conducted prior to a material test. The results of these tests must be within the values specified in section 2.2.1.2.

2.4.2.3 *Material Tests.* At least one material test must be conducted with the weight of the material or simulated material equal to or greater than the minimum test load. The results of these tests must be within the values specified in section 2.2.1.3.

2.4.3 *Annual Inspections.*

2.4.3.1 *Zero-Load Tests.* A zero-load test must be conducted for a time equal to that required to deliver the minimum totalized load (Σmin). At least one zero-load test must be conducted prior to each material test. The results of this test must be within the values specified in section 2.2.1.2.

2.4.3.2 *Material Tests.* At least one material or simulated material test must be conducted with the weight of the material or simulated material equal to or greater than the minimum test load. The results of these tests must be within the values specified in section 2.2.1.3.

3. *Automatic Hopper Scales*

3.1 *Applicability.* The requirements in this section apply to a scale or scale system that is designed for automatic weighing of a bulk commodity in predetermined amounts.

3.2 *Performance Requirements.*

3.2.1 *Maximum Permissible Errors.* For laboratory tests of a scale and initial inspection and annual reinspections of an installed scale when the vessel is tied up at a dock and is not under power at sea, the following MPEs are specified:

3.2.1.1 *Laboratory Tests.* See annex A to appendix A for procedures for disturbance test and influence factors.

a. *Disturbances.* Significant fault (sf) (±scale division).

b. *Influence Factors.* ±1 percent of test load.

3.2.1.2 *Increasing and Decreasing Load Tests.* For increasing and decreasing load tests conducted in a laboratory or on a scale installed on a vessel tied up at a dock and not under power at sea, ±1.0 percent of the test load.

3.2.2 *Minimum Weighment (*Σmin). The minimum weighment must not be less than 20 percent of the weighing capacity, or a load equal to 100 scale intervals (d), except for the final weighment of a lot.

3.2.3 *Minimum Totalized Load (Lot).* The minimum totalized load must not be less than 4 weighments.

3.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory:

3.2.4.1 *Temperature.* A hopper scale must comply with the metrological and technical requirements at temperatures from –10° C to +40° C. However, for special applications the temperature range may be different, but the range must not be less than 30° C and must be so specified on the scale's descriptive markings.

3.2.4.1.1 *Operating Temperature.* A hopper scale must not display or print any usable weight values until the operating temperature necessary for accurate weighing and a stable zero-balance condition have been attained.

3.2.4.2 *Power Supply.* A hopper scale must comply with the performance and technical requirements when operated within –15 percent to +10 percent of the power supply specified on the scale's descriptive markings.

3.3 *Technical Requirements.*

3.3.1 *Indicators and Printers.*

3.3.1.1 *General.* a. A hopper scale must be equipped with an indicator and printer that indicates and prints the weight of each load and a no-load reference value; and a printer that prints the total weight of fish in each haul or set and the total cumulative weight of all fish and other material weighed on the scale between annual inspections (''the cumulative weight''). The indications and printed information must be clear, definite, accurate, and easily read under all conditions of normal operation of the hopper scale.

b. A no-load reference value may be a positive or negative value in terms of scale divisions or zero. When the no-load reference value is zero, the scale must return to a zero indication (within ± 0.5 scale division) when the load receptor (hopper) is empty following the discharge of all loads, without the intervention of either automatic or manual means.

3.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

3.3.1.3 *Units.* The weight of each haul or set must be indicated in kilograms, and the cumulative weight must be indicated in either kilograms or metric tons and decimal subdivisions.

3.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

3.3.1.5 *Weighing Sequence.* For hopper scales used to receive (weigh in), the no-load

reference value must be determined and printed only at the beginning of each weighing cycle. For hopper scales used to deliver (weigh out), the no-load reference value must be determined and printed only after the gross-load weight value for each weighing cycle has been indicated and printed.

3.3.1.6 *Printing Sequence.* Provision must be made so that all weight values are indicated until the completion of the printing of the indicated values.

3.3.1.7 *Printed Information.* The information printed must include—

a. For catch weight:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The haul or set number;

iv. The month, day, year, and time (to the nearest minute) weighing catch from the haul or set started;

v. The month, day, year, and time (to the nearest minute) weighing catch from the haul or set ended;

vi. The total weight of catch in each haul or set;

vii. The total cumulative weight of all fish or other material weighed on the scale; and

viii. The date and time the information is printed.

b. For the audit trail:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The date and time (to the nearest minute) of the change;

iv. The name or type of adjustment being made; and

v. The initial and final values of the parameter being changed.

3.3.1.8 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

3.3.1.9 *Range of Indication.* The range of the weight indications and printed values for each haul or set must be from 0 kg to 999,999 kg and for the cumulative weight must be from 0 to 99,999 metric tons.

3.3.1.10 *Non-Resettable Values.* The cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction by NMFS or by an authorized scale inspector.

3.3.1.11 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of fish in each haul or set for which a printed record has not yet been made, the cumulative weight, and the information on the audit trail described in 3.3.1.13.

3.3.1.12 *Adjustable Components.* An adjustable component that, when adjusted, affects the performance or accuracy of the scale must not be capable of adjustment without breaking a security means, unless a record of the adjustment is made on the audit trail described in 3.3.1.13.

3.3.1.13 *Audit Trail.* An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction of NMFS or by an authorized scale inspector:

a. The date and time (to the nearest minute) of the change;

b. The name or type of adjustment being made; and

c. The initial and final values of the parameter being changed.

3.3.1.14 *Zero-Load Adjustment.* A hopper scale must be equipped with a manual or semi-automatic means that can be used to adjust the zero-load balance or no-load reference value.

3.3.1.14.1 *Manual.* A manual means must be operable or accessible only by a tool outside of, or entirely separate from, this mechanism or enclosed in a cabinet.

3.3.1.14.2 *Semi-Automatic.* A semi-automatic means must be operable only when the indication is stable within ±1 scale division and cannot be operated during a weighing cycle (operation).

3.3.1.15 *Damping Means.* A hopper scale must be equipped with effective automatic means to bring the indications quickly to a readable stable equilibrium. Effective automatic means must also be provided to permit the recording of weight values only when the indication is stable within plus or minus one scale division.

3.3.1.16 *Adjustments to Scale Weights.* The indicators and printer must be designed so that the scale operator cannot change or adjust the indicated and printed weight values.

3.3.2 *Interlocks and Gate Control.* A hopper scale must have operating interlocks so that—

a. Product cannot be weighed if the printer is disconnected or subject to a power loss;

b. The printer cannot print a weight if either of the gates leading to or from the weigh hopper is open;

c. The low paper sensor of the printer is activated;

d. The system will operate only in the sequence intended; and

e. If the overfill sensor is activated, this condition is indicated to the operator and is printed.

3.3.3 *Overfill Sensor.* The weigh hopper must be equipped with an overfill sensor that will cause the feed gate to close, activate an alarm, and stop the weighing operation until the overfill condition has been corrected.

3.3.4 *Weighing Elements.*

3.3.4.1 *Overload Protection.* The weigh hopper must be equipped with means so that an overload of 150 percent or more of the capacity of the hopper does not affect the metrological characteristics of the scale.

3.3.4.2 *Adjustable Components.* An adjustable component that can affect the performance of the hopper scale must be held securely in position and must not be capable of adjustment without breaking a security means.

3.3.4.3 *Motion Compensation.* A hopper scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information demonstrating that the scale can weigh accurately at sea.

3.3.5 *Installation Conditions.* A hopper scale must be rigidly installed in a level condition.

3.3.6 *Marking.* A hopper scale must be marked with the following:

a. Name, initials, or trademark of the manufacturer or distributer;

b. Model designation;

c. Non-repetitive serial number;

d. Maximum capacity (Max);

e. Minimum capacity (min);

f. Minimum totalized load (Σmin);

g. Minimum weighment;

h. Value of the scale division (d);

i. Temperature range (if applicable); and

j. Mains voltage.

3.3.6.1 *Presentation.* Descriptive markings must be reasonably permanent and grouped together in a place visible to the operator.

3.4 *Tests.*

3.4.1 *Standards.* The error of the standards used must not exceed 25 percent of the MPE to be applied.

3.4.2 *Laboratory Tests.*

3.4.2.1 *Influence Quantity and Disturbance Tests.* Tests must be conducted according to annex A and the results of these tests must be within the values specified in section 3.2.1.1.

3.4.2.2 *Performance Tests.* Performance tests must be conducted as follows:

a. *Increasing load test.* At least five increasing load tests must be conducted with test loads at the minimum load, at a load near capacity, and at 2 or more critical points in between; and

b. *Decreasing load test.* A decreasing load test must be conducted with a test load approximately equal to one-half capacity when removing the test loads of an increasing load test.

3.4.3 *Annual Inspections.*

At least two increasing load tests and two decreasing load tests must be conducted as specified in 3.4.2.2. Additionally, tests must be conducted with test loads approximately equal to the weight of loads at which the scale is normally used.

*4. Platform Scales and Hanging Scales*

4.1 *Applicability.* The requirements in this section apply to platform and hanging scales used to weigh total catch. Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are not required to have a printer under sections 4.3.1 and 4.3.1.5 or an audit trail under section 4.3.1.8.

4.2 *Performance Requirements.*

4.2.1 *Maximum Permissible Errors.* For laboratory tests of a scale and initial inspection and annual reinspections of an installed scale while the vessel is tied up at a dock and is not under power at sea, the following MPEs are specified:

4.2.1.1 *Laboratory Tests.* See annex A to this appendix A for procedures for disturbance tests and influence factors.

a. *Disturbances.* Significant fault (±1 scale division); and

b. *Influence Factors.* See Table 1 in section 4.2.1.2.

4.2.1.2 *Increasing and Decreasing Load and Shift Tests.* Increasing and decreasing load and shift tests conducted in a laboratory or on a scale installed on a vessel while the vessel is tied up at a dock and is not under power at sea, see Table 1 as follows:

TABLE 1.—INFLUENCE FACTORS

| Test load in scale divisions (d) | | Maximum permissible error (d) |
|---|---|---|
| Class III [1] | Class IIII | |
| 0 < m[2] ≤ 500 ..... | 0 < m ≤ 50 ... | 0.5 |
| 500 < m ≤ 2000 .. | 50 < m ≤ 200 | 1.0 |
| 2000 < m ..... | 200 < m ..... | 1.5 |

[1] Scale accuracy classes are defined in section 4.2.2, table 2.

[2] Mass or weight of the test load in scale divisions.

4.2.2 *Accuracy Classes.* Scales are divided into two accuracy classes, class III and class IIII. The accuracy class of a scale is designated by the manufacturer. The design of each accuracy class with respect to number of scale divisions (n) and the value of the scale division (d) is specified according to table 2:

TABLE 2.—ACCURACY CLASSES

| Accuracy class | Value of scale division (d) | Number of scale divisions (n) | |
|---|---|---|---|
| | | Minimum | Maximum |
| III ..... | 5 g or greater | 500 | 10,000 |
| IIII ..... | 5 g or greater | 100 | 1,000 |

4.2.3 *Minimum Load:* For a Class III scale, 20d; for a Class IIII scale, 10d.

4.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory.

4.2.4.1 *Temperature.* A scale must comply with the performance and technical requirements at temperatures from −10° C to +40° C. However, for special applications the temperature range may be different, but the range must not be less than 30° C and must be so specified on the descriptive markings.

4.2.4.1.1 *Operating Temperature.* A scale must not display or print any usable weight values until the operating temperature necessary for accurate weighing and a stable zero-balance condition have been attained.

4.2.4.2 *Power Supply.* A scale must comply with the performance and technical requirements when operated within −15 percent to +10 percent of the power supply specified on the scale's descriptive markings.

4.3 *Technical Requirements.*

4.3.1 *Indicators and Printers.*

4.3.1.1 *General.* A scale must be equipped with an indicator and a printer. The indications and printed information must be clear, definite, accurate, and easily read under all conditions of normal operation of the scale.

4.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

4.3.1.3 *Units.* The weight units indicated must be in terms of kilograms and decimal subdivisions.

4.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

4.3.1.5 *Printed Information.* The information printed must include—

a. For catch weight:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The haul or set number;

iv. The month, day, year, and time (to the nearest minute) of weighing; and

v. Net weight of the fish.

b. For the audit trail:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The date and time (to the nearest minute) of the change;

iv. The name or type of adjustment being made; and

v. The initial and final values of the parameter being changed.

4.3.1.6 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

4.3.1.7 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of the last weighment if it is a non-repeatable weighment.

4.3.1.8 *Adjustable Components.*

a. An adjustable component that, when adjusted, affects the performance or accuracy of the scale must be held securely in position and must not be capable of adjustment without breaking a security means.

b. An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction of NMFS or an authorized scale inspector:

i. The date and time (to the nearest minute) of the change;

ii. The name or type of adjustment being made; and

iii. The initial and final values of the parameter being changed.

4.3.1.9 *Zero-Load Adjustment.* A scale must be equipped with a manual or semi-automatic means that can be used to adjust the zero-load balance or no-load reference value.

4.3.1.9.1 *Manual.* A manual means must be operable or accessible only by a tool outside of or entirely separate from this mechanism or enclosed in a cabinet.

4.3.1.9.2 *Semi-automatic.* A semi-automatic means must meet the provisions of 4.3.1.8 or must be operable only when the indication is stable within ±1 scale division and cannot be operated during a weighing cycle (operation).

4.3.1.10 *Damping Means.* A scale must be equipped with effective automatic means to bring the indications quickly to a readable stable equilibrium. Effective automatic means must also be provided to permit the recording of weight values only when the indication is stable within plus or minus one scale division.

4.3.2 *Weighing Elements.*

4.3.2.1 *Overload Protection.* The scale must be so designed that an overload of 150 percent or more of the capacity does not affect the metrological characteristics of the scale.

4.3.2.2 *Adjustable Components.* An adjustable component that can affect the performance of the scale must be held securely in position and must not be capable of adjustment without breaking a security means.

4.3.2.3 *Motion Compensation.* A platform scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information demonstrating that the scale can weigh accurately at sea.

4.3.3 *Installation Conditions.* A platform scale must be rigidly installed in a level condition. When in use, a hanging scale must be freely suspended from a fixed support or a crane.

4.3.4 *Marking.* A scale must be marked with the following:

a. Name, initials, or trademark of the manufacturer or distributor;

b. Model designation;

c. Non-repetitive serial number;

d. Accuracy class (III or IIII);

e. Maximum capacity (Max);

f. Minimum capacity (min);

g. Value of a scale division (d);

h. Temperature range (if applicable); and

i. Mains voltage.

4.3.4.1 *Presentation.* Descriptive markings must be reasonably permanent and grouped together in a place visible to the operator.

4.4 *Tests.*

4.4.1 *Standards.* The error of the standards used must not exceed 25 percent of the MPE applied.

4.4.2 *Laboratory Tests.*

4.4.2.1 *Influence Quantities and Disturbance Tests.* Tests must be conducted according to annex A to this appendix A, and the results of these tests must be within the values specified in section 4.2.1.1.

4.4.2.2 *Performance Tests.* Performance tests must be conducted as follows:

a. *Increasing load test.* At least five increasing load tests must be conducted with

test loads at the minimum load, at a load near capacity, and at 2 or more critical points in between.

b. *Shift test (platform scales only).* A shift test must be conducted during the increasing load test at one-third capacity test load centered in each quadrant of the platform.

c. *Decreasing load test.* A decreasing load test must be conducted with a test load approximately equal to one-half capacity when removing the test loads of an increasing load test.

4.4.3 *Annual Scale Inspections.*

At least two increasing load tests, shift tests, and decreasing load tests must be conducted as specified in section 4.4.2.2. Additionally tests must be conducted with test loads approximately equal to the weight of loads at which the scale is normally used. The results of all tests must be as specified in Table 1 in section 4.2.1.2.

*5. Definitions*

*Adjustable component*—Any component that, when adjusted, affects the performance or accuracy of the scale, e.g., span adjustment or automatic zero-setting means. Manual or semi-automatic zero-setting means are not considered adjustable components.

*Audit trail*—An electronic count and/or information record of the changes to the values of the calibration or configuration parameters of a scale.

*Automatic hopper scale*—A hopper scale adapted to the automatic weighing of a bulk commodity (fish) in predetermined amounts. Capacities vary from 20 kg to 50 mt. It is generally equipped with a control panel, with functions to be set by an operator, including the start of an automatic operation. (See definition of hopper scale).

*Belt scale*—A scale that employs a conveyor belt in contact with a weighing element to determine the weight of a bulk commodity being conveyed. It is generally a part of a system consisting of an input conveyor, the flow scale, and an output conveyor. The conveyor belt may be constructed of various materials, including vulcanized rubber, canvas, and plastic. The capacity is generally specified in terms of the amount of weight that can be determined in a specified time, and can vary from, for example, 1 ton per hour to 100 or more tons per hour. An operator generally directs the flow of product onto the input conveyor.

*Calibration mode*—A means by which the span of a scale can be adjusted by placing a known ''test weight'' on the scale and manually operating a key on a key board.

*Disturbances*—An influence that may occur during the use of a scale but is not within the rated operating conditions of the scale.

*Event logger*—A form of audit trail containing a series of records where each record contains the identification of the parameter that was changed, the time and date when the parameter was changed, and the new value of the parameter.

*Final weighment*—The last partial load weighed on a hopper scale that is part of the weight of many loads.

*Hanging scale*—A scale that is designed to weigh a load that is freely suspended from an overhead crane or it may be permanently installed in an overhead position. The load receiver may be a part of the scale such as a pan suspended on chains, or simply a hook that is used to ''pick-up'' the container of the commodity to be weighed. The technology employed may be mechanical, electro-mechanical, or electronic. The loads can be applied either manually or by such means as a crane.

*Hopper scale*—A scale designed for weighing individual loads of a bulk commodity (fish). The load receiver is a cylindrical or rectangular container mounted on a weighing element. The weighing element may be mechanical levers, a combination of levers and a load cell, or all load cells. The capacity can vary from less than 20 kg to greater than 50 mt. The loads are applied from a bulk source by such means as a conveyor or storage hopper. Each step of the weighing process, that is the loading and unloading of the weigh hopper, is controlled by an operator.

*Indicator*—That part of a scale that indicates the quantity that is being weighed.

*Influence factor*—A value of an influence quantity, e.g., 10°, that specifies the limits of the rated operating conditions of the scale.

*Influence quantity*—A quantity that is not the subject of the measurement but which influences the measurement obtained within the rated operating conditions of the scale.

*Influence quantity and disturbance tests*—Tests conducted in a laboratory to determine the capability of the scale under test to perform correctly in the environmental influences in which they are used and when subjected to certain disturbances that may occur during the use of the scale.

*Initial verification*—The first evaluation (inspection and test) of a production model of a weighing instrument that has been type evaluated to determine that the production model is consistent with the model that had been submitted for type evaluation.

*Known weight test*—A test in which the load applied is a test weight with a known value simulating the weight of the material that is usually weighed.

*Load receiver*—That part of the scale in which the quantity is placed when being weighed.

*Material test*—A test using a material that is the same or similar to the material that is usually weighed, the weight of which has been determined by a scale other than the scale under test.

*Maximum flow-rate*—The maximum flow-rate of material specified by the manufacturer at which a belt scale can perform correctly.

*Minimum flow-rate*—The minimum flow-rate specified by the manufacturer at which a belt scale can perform correctly.

*Minimum load*—The smallest weight load that can be determined by the scale that is considered to be metrologically acceptable.

*Minimum totalized load*—The smallest weight load that can be determined by a belt scale that is considered to be metrologically acceptable.

*Minimum weighment*—The smallest weight that can be determined by a hopper scale that is considered to be metrologically acceptable.

*Motion compensation*—The means used to compensate for the motion of the vessel at sea.

*No-load reference value*—A weight value obtained by a hopper scale when the load receiver (hopper) is empty of the product that was or is to be weighed.

*Non-repeatable weighment*—A process where the product after being weighed is disposed of in such a manner that it cannot be retrieved to be reweighed.

*Number of scale divisions (n)*—The number of scale divisions of a scale in normal operation. It is the quotient of the scale capacity divided by the value of the scale division. n=Max/d

*Performance requirements*—A part of the regulations or standards that applies to the weighing performance of a scale, e.g., MPEs.

*Performance test*—A test conducted to determine that the scale is performing within the MPE applicable.

*Periodic verification*—A verification of a weighing instrument at an interval that is specified by regulation or administrative ruling.

*Platform scale*—A scale by the nature of its physical size, arrangement of parts, and relatively small capacity (generally 220 kg or less) that is adapted for use on a bench or counter or on the floor. A platform scale can be self contained, that is, the indicator and load receiver and weighing elements are all comprised of a single unit, or the indicator can be connected by cable to a separate load receiver and weighing element. The technology used may be mechanical, electro-mechanical, or electronic. Loads are applied manually.

*Rated capacity*—The maximum flow-rate in terms of weight per unit time specified by the manufacturer at which a belt scale can perform correctly.

*Scale division (d)*—The smallest digital subdivision in units of mass that is indicated by the weighing instrument in normal operation.

*Sealing*—A method used to prevent the adjustment of certain operational characteristics or to indicate that adjustments have been made to those operational characteristics.

*Security seals or means*—A physical seal such as a lead and wire seal that must be broken in order to change the operating or performance characteristics of the scale.

*Significant fault*—An error greater than the value specified for a particular scale. For a belt scale: A fault greater than 0.18 percent of the weight value equal to the minimum totalized load. For all other scales: 1 scale division (d). A significant fault does not include faults that result from simultaneous and mutually independent causes in the belt scale; faults that imply the impossibility of performing any measurement; transitory faults that are momentary variations in the indications that cannot be interpreted, memorized, or transmitted as a measurement result; faults so serious that they will inevitably be noticed by those interested in the measurement.

*Simulated material test*—A test in which the load applied is test material simulating the weight of the material that is usually weighed.

*Simulated test*—A test in which the weight indications are developed by means other than weight, e.g., a load cell simulator.

*Stationary installation*—An installation of a scale in a facility on land or a vessel that is tied-up to a dock or in dry dock.

*Subsequent verification*—Any evaluation of a weighing instrument following the initial verification.

*Suitability for use*—A judgement that must be made that certain scales by nature of their design are appropriate for given weighing applications.

*Technical requirements*—A part of the regulations or standards that applies to the operational functions and characteristics of a scale, e.g., capacity, scale division, tare.

*Testing laboratory*—A facility for conducting type evaluation examinations of a scale that can establish its competency and proficiency by such means as ISO Guide 25, ISO 9000, EN 45011, NVLAP, NTEP.

*Type evaluation*—A process for evaluating the compliance of a weighing instrument with the appropriate standard or regulation.

*User requirements*—A part of the regulations or standards that applies to the operator/owner of the scale.

*Weighment*—A single complete weighing operation.

**Annex A to Appendix A to Part 679—Influence Quantity and Disturbance Tests**

*A.1 General*—Included in this annex are tests that are intended to ensure that electronic scales can perform and function as intended in the environment and under the conditions specified. Each test indicates, where appropriate, the reference condition under which the intrinsic error is determined.

A.2 *Test Considerations*

A.2.1 All electronic scales of the same category must be subjected to the same performance test program.

A.2.2 Tests must be carried out on fully operational equipment in its normal operational state. When equipment is connected in other than a normal configuration, the procedure must be mutually agreed to by NMFS and the applicant.

A.2.3 When the effect of one factor is being evaluated, all other factors must be held relatively constant, at a value close to normal. The temperature is deemed to be relatively constant when the difference between the extreme temperatures noted during the test does not exceed 5° C and the variation over time does not exceed 5° C per hour.

A.2.4 Before the start of a test, the equipment under test (EUT) must be energized for a period of time at least equal to the warm-up time specified by the manufacturer. The EUT must remain energized throughout the duration of the test.

*A.3 Tests*

| Test | Characteristics under test | Conditions applied |
|---|---|---|
| A.3.1 Static temperatures | Influence factor | MPE |
| A.3.2 Damp heat, steady state | Influence factor | MPE |
| A.3.3 Power voltage variation | Influence factor | MPE |
| A.3.4 Short time power reduction | Disturbance | sf |
| A.3.5 Bursts | Disturbance | sf |
| A.3.6 Electrostatic discharge | Disturbance | sf |
| A.3.7 Electromagnetic susceptibility | Disturbance | sf |

*A.3 Tests*

*A.3.1 Static Temperatures*

*Test method:* Dry heat (non condensing) and cold.

*Object of the test:* To verify compliance with the applicable MPE under conditions of high and low temperature.

*Reference to standard:* See Bibliography (1).

*Test procedure in brief:* The test consists of exposure of the EUT to the high and low temperatures specified in section 2.2.4.1 for belt scales, section 3.2.4.1 for automatic hopper scales, and section 4.2.3.1 for platform scales and hanging scales, under ''free air'' condition for a 2-hour period after the EUT has reached temperature stability. The EUT must be tested during a weighing operation consisting of:

*For belt scales*—the totalization of the $\Sigma_{min}$, 2 times each at approximately the minimum flow rate, an intermediate flow rate, and the maximum flow rate.

*For platform, hanging, and automatic hopper scales*—tested with at least five different test loads or simulated loads under the following conditions:

a. At a reference temperature of 20° C following conditioning.

b. At the specified high temperature, 2 hours after achieving temperature stabilization.

c. At the specified low temperature, 2 hours after achieving temperature stabilization.

d. At a temperature of 5° C, 2 hours after achieving temperature stabilization.

e. After recovery of the EUT at the reference temperature of 20° C.

*Test severities:* Duration: 2 hours.

*Number of test cycles:* At least one cycle.

*Maximum allowable variations:*

a. All functions must operate as designed.

b. All indications must be within the applicable MPEs.

*Conduct of test:* Refer to the International Electrotechnical Commission (IEC) Publications mentioned in section A.4 Bibliography (a) for detailed test procedures.

*Supplementary information to the IEC test procedures.*

*Preconditioning:* 16 hours.

*Condition of EUT:* Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be ''on'' for the duration of the test. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test Sequence:*

a. Stabilize the EUT in the chamber at a reference temperature of 20° C. Conduct the tests as specified in the test procedure in brief and record the following data:

i. Date and time,

ii. Temperature,

iii. Relative humidity,

iv. Test load,

v. Indication,

vi. Errors, and

vii. Functions performance.

b. Increase the temperature in the chamber to the high temperature specified. Check by measurement that the EUT has reached temperature stability and maintain the temperature for 2 hours. Following the 2 hours, repeat the tests and record the test data indicated in this A.3.1 Test Sequence section.

c. Reduce the temperature in the chamber as per the IEC procedures to the specified low temperature. After temperature stabilization, allow the EUT to soak for 2 hours. Following the 2 hours, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section.

d. Raise the temperature in the chamber as per the IEC procedures to 5° C. After temperature stabilization, allow the EUT to soak for 2 hours. Following the 2 hours, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section. **Note:** This test relates to a −10° C to +40° C range. For special ranges, it may not be necessary.

e. Raise the temperature in the chamber as per the IEC procedures and to the 20° C reference temperature. After recovery, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section.

*A.3.2 Damp Heat, Steady State*

*Test method:* Damp heat, steady state.

*Object of the test:* To verify compliance with the applicable MPE under conditions of high humidity and constant temperature.

*Reference to standard:* See section A.4 Bibliography (b)

*Test procedure in brief:* The test consists of exposure of the EUT to a constant temperature at the upper limit of the temperature range and of a constant relative humidity of 85 percent for a 2-day period. The EUT must be tested during a weighing operation consisting of the following:

*For belt scales*—the totalization of the $\Sigma_{min}$, 2 times each at approximately the minimum

flow rate, an intermediate flow rate, and the maximum flow rate.

*For platform, hanging, and automatic hopper scales*—tested with at least five different test loads or simulated loads at a reference temperature of 20° C and a relative humidity of 50 percent following conditioning, and at the upper limit temperature and a relative humidity of 85 percent 2 days following temperature and humidity stabilization.

*Test severities:*

Temperature: upper limit.
Humidity: 85 percent (non-condensing).
Duration: 2 days.
*Number of test cycles:* At least one test.

*Maximum Allowable Variations:*

a. All functions must operate as designed.
b. All indications must be within the applicable MPE.

*Conduct of the test:* Refer to the IEC Publications mentioned in section A.4 Bibliography (b) for detailed test procedures.

*Supplementary information to the IEC test procedures.*

*Preconditioning:* None required.

*Condition of EUT:*

a. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be ''on'' for the duration of the test.
b. The handling of the EUT must be such that no condensation of water occurs on the EUT.
c. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test Sequence:*

a. Allow 3 hours for stabilization of the EUT at a reference temperature of 20° C and a relative humidity of 50 percent. Following stabilization, conduct the tests as specified in the test procedures in brief and record the following data:
i. Date and time,
ii. Temperature,
iii. Relative humidity,
iv. Test load,
v. Indication,
vi. Errors, and
vii. Functions performance.
b. Increase the temperature in the chamber to the specified high temperature and a relative humidity of 85 percent. Maintain the EUT at no load for a period of 2 days. Following the 2 days, repeat the tests and record the test data as indicated in this A.3.2 Test Sequence section.
c. Allow full recovery of the EUT before any other tests are performed.

A.3.3 *Power Voltage Variation*

A.3.3.1 *AC Power Supply*

*Test method:* Variation in AC mains power supply (single phase).

*Object of the test:* To verify compliance with the applicable MPEs under conditions of varying AC mains power supply.

*Reference to standard:* See section A.4 Bibliography (c).

*Test procedure in brief:* The test consists of subjecting the EUT to AC mains power during a weighing operation consisting of the following:

*For belt scales*—while totalizing the $\Sigma_{min}$ at the maximum flow rate.

*For platform, hanging, and automatic hopper scales*—at no load and a test load between 50 percent and 100 percent of weighing capacity.

*Test severities:* Mains voltage:
Upper limit U (nom) +10 percent.
Lower limit U (nom) −15 percent.
*Number of test cycles:* At least one cycle.
*Maximum allowable variations:*
a. All functions must operate correctly.
b. All indications must be within MPEs specified in sections 2, 3, or 4 of this appendix to part 679.

*Conduct of the test:*

*Preconditioning:* None required.

*Test equipment:*

a. Variable power source,
b. Calibrated voltmeter, and
c. Load cell simulator, if applicable.

*Condition of EUT:*

a. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer.
b. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test sequence:*

a. Stabilize the power supply at nominal voltage ±2 percent.
b. Conduct the tests specified in the test procedure in brief and record the following data:
i. Date and time,
ii. Temperature,
iii. Relative humidity,
iv. Power supply voltage,
v. Test load,
vi. Indications,
vii. Errors, and
viii. Functions performance.
c. Reduce the power supply to −15 percent nominal.
d. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.
e. Increase the power supply to +10 percent nominal.
f. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.
g. Unload the EUT and decrease the power supply to nominal power ±2 percent.
h. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.

**NOTE:** In case of three-phase power supply, the voltage variation must apply for each phase successively. Frequency variation applies to all phases simultaneously.

A.3.3.2 *DC Power Supply*

Under consideration.

A.3.4 *Short Time Power Reduction*

*Test method:* Short time interruptions and reductions in mains voltage.

*Object of the test:* To verify compliance with the applicable significant fault under conditions of short time mains voltage interruptions and reductions.

*Reference to standard:* See section A.4 Bibliography (d) IEC Publication 1000–4–11 (1994).

*Test procedure in brief:* The test consists of subjecting the EUT to voltage interruptions from nominal voltage to zero voltage for a period equal to 8–10 ms, and from nominal voltage to 50 percent of nominal for a period equal to 16–20 ms. The mains voltage interruptions and reductions must be repeated ten times with a time interval of at least 10 seconds. This test is conducted during a weighing operation consisting of the following:

*For belt scales*—while totalizing at the maximum flow rate at least the $\Sigma_{min}$ (or a time sufficient to complete the test).

*For platform, hanging, and automatic hopper scales*—tested with one small test load or simulated load.

*Test severities:* One hundred percent voltage interruption for a period equal to 8–10 ms. Fifty percent voltage reduction for a period equal to 16–20 ms.

*Number of test cycles:* Ten tests with a minimum of 10 seconds between tests.

*Maximum allowable variations:* The difference between the weight indication due to the disturbance and the indication without the disturbance either must not exceed 1d or the EUT must detect and act upon a significant fault.

*Conduct of the Test:*

*Preconditioning:* None required.

*Test equipment:*

a. A test generator suitable to reduce the amplitude of the AC voltage from the mains. The test generator must be adjusted before connecting the EUT.
b. Load cell simulator, if applicable.

*Condition of EUT:*

a. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer.
b. Adjust the EUT as close to zero indication as practicable prior to the test.

*Test sequence:*

a. Stabilize all factors at nominal reference conditions.
b. Totalize as indicated in this A.3.4 Test Sequence section and record the—
i. Date and time,
ii. Temperature,
iii. Relative humidity,
iv. Power supply voltage,
v. Test load,
vi. Indications,
vii. Errors, and
viii. Functions performance.
c. Interrupt the power supply to zero voltage for a period equal to 8–10 ms. During interruption observe the effect on the EUT and record, as appropriate.
d. Repeat the steps four times in this A.3.4 Test Sequence section, making sure that there is a 10 second interval between repetitions. Observe the effect on the EUT.
e. Reduce the power supply to 50 percent of nominal voltage for a period equal to 16–20 ms. During reduction observe the effect on the EUT and record, as appropriate.
f. Repeat the steps four times in this A.3.4 Test Sequence section, making sure that there is a 10 second interval between repetitions. Observe the effect on the EUT.

A.3.5 *Bursts*

*Test method:* Electrical bursts.

*Object of the test:* To verify compliance with the provisions in this manual under conditions where electrical bursts are superimposed on the mains voltage.

*Reference to standard:* See section A.4 Bibliography (e)

*Test Procedure in brief:*

The test consists of subjecting the EUT to bursts of double exponential wave-form transient voltages. Each spike must have a rise in time of 5 ns and a half amplitude duration of 50 ns. The burst length must be 15 ms, the burst period (repetition time interval) must be 300 ms. This test is conducted during a weighing operation consisting of the following:

*For belt scales*—while totalizing at the maximum flow rate at least the $\Sigma_{min}$ (or a time sufficient to complete the test).

*For platform, hanging, and automatic hopper scales*—tested with one small test load or simulated load.

*Test severities:* Amplitude (peak value) 1000 V.

*Number of test cycles:* At least 10 positive and 10 negative randomly phased bursts must be applied at 1000 V.

*Maximum allowable variations:* The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values given in sections 2.2.1.1b., 3.2.1.1b., and 4.2.1.1b, of this appendix, or the EUT must detect and act upon a significant fault.

*Conduct of the test:* Refer to the IEC Publication referenced in section A.4 Bibliography (e) for detailed test procedures.

*Supplementary information to the IEC test procedures:*

*Test equipment:*

A burst generator having an output impedance of 50 ohms.

*Test conditions:*

The burst generator must be adjusted before connecting the EUT. The bursts must be coupled to the EUT both on common mode and differential mode interference.

*Condition of EUT:*

a. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer.

b. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test Sequence:*

a. Stabilize all factors at nominal reference conditions.

b. Conduct the test as indicated in this A.3.5 Test Sequence section and record the—

i. Date and time,

ii. Temperature,

iii. Relative humidity,

iv. Test load,

v. Indication,

vi. Errors, and

vii. Functions performance.

c. Subject the EUT to at least 10 positive and 10 negative randomly phased bursts at the 1000 V mode. Observe the effect on the EUT and record, as appropriate.

d. Stabilize all factors at nominal reference conditions.

e. Repeat the test and record the test data as indicated in this A.3.5 Test Sequence section.

A.3.6 *Electrostatic Discharge*

*Test method:* Electrostatic discharge (ESD).

*Object of the test:* To verify compliance with the provisions of this manual under conditions of electrostatic discharges.

*Reference to standard:* See section A.4 Bibliography (f)

*Test procedure in brief:*

A capacitor of 150 pF is charged by a suitable DC voltage source. The capacitor is then discharged through the EUT by connecting one terminal to ground (chassis) and the other via 150 ohms to surfaces which are normally accessible to the operator. This test is conducted during a weighing operation consisting of the following:

*For belt scales*—while totalizing at the maximum flow rate at least the $\Sigma_{min}$ (or a time sufficient to complete the test).

*For platform, hanging, and automatic hopper scales*—test with one small test load or simulated load.

*Test severities*

Air Discharge: up to and including 8 kV.

Contact Discharge: up to and including 6 kV.

*Number of test cycles:* At least 10 discharges must be applied at intervals of at least 10 seconds between discharges.

*Maximum allowable variations:*

The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values indicated in sections 2.2.1.1 b., 3.2.1.1 b., and 4.2.1.1 b. of this appendix, or the EUT must detect and act upon a significant fault.

*Conduct of the test:* Refer to the IEC Publication mentioned in section A.4 Bibliography (d) for detailed test procedures.

*Supplementary information to the IEC test procedures.*

*Preconditioning:* None required.

*Condition of EUT:*

a. The EUT without a ground terminal must be placed on a grounded plate which projects beyond the EUT by at least 0.1 m on all sides. The ground connection to the capacitor must be as short as possible.

b. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be ''on'' for the duration of the test.

c. The EUT must be operating under standard atmospheric conditions for testing.

d. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test sequence:*

a. Stabilize all factors at nominal reference conditions.

b. Conduct test as indicated in this A.3.6 Test Sequence section and record the—

i. Date and time,

ii. Temperature,

iii. Relative humidity,

iv. Power supply voltage,

v. Test load,

vi. Indication,

vii. Errors, and

viii. Functions performance.

c. Approach the EUT with the discharge electrode until discharge occurs and then remove it before the next discharge. Observe the effect of the discharge on the EUT and record, as appropriate.

d. Repeat the above step at least nine times, making sure to wait at least 10 seconds between successive discharges. Observe the effect on the EUT and record as appropriate.

e. Stabilize all factors at nominal reference conditions.

f. Repeat the test and record the test data as indicated in this A.3.6 Test Sequence section.

A.3.7 *Electromagnetic Susceptibility*

*Test method:* Electromagnetic fields (radiated).

*Object of the Test:*

To verify compliance with the provisions in this manual under conditions of electromagnetic fields.

*Reference to standard:* See section A.4 Bibliography (g).

*Test procedure in brief:*

a. The EUT is placed in an EMI chamber and tested under normal atmospheric conditions. This test is first conducted at one load in a static mode, and the frequencies at which susceptibility is evident are noted. Then tests are conducted at the problem frequencies, if any, during a weighing operation consisting of the following:

*For belt scales*—while totalizing at the maximum flow rate at least the $\Sigma_{min}$ (or a time sufficient to complete the test). It is then exposed to electromagnetic field strengths as specified in the Test severities in this section A.3.7 of this annex to appendix A of this part.

*For platform, hanging, and automatic hopper scales*—tested with one small test load.

b. The field strength can be generated in various ways:

i. The strip line is used at low frequencies (below 30 MHz or in some cases 150 MHz) for small EUT's;

ii. The long wire is used at low frequencies (below 30 MHz) for larger EUT's;

iii. Dipole antennas or antennas with circular polarization placed 1 m from the EUT are used at high frequencies.

c. Under exposure to electromagnetic fields the EUT is again tested as indicated above.

*Test severities:* Frequency range: 26–1000 MHz.

*Field strength:* 3 V/m.

*Modulation:* 80 percent AM, 1 kHz sine wave.

*Number of test cycles:* Conduct test by continuously scanning the specified frequency range while maintaining the field strength.

*Maximum allowable variations:* The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values given in this manual, or the EUT must detect and act upon a significant fault.

*Conduct of the test:* Refer to the IEC Publication referenced in section A.4 Bibliography (g) for detailed information on test procedures.

*Supplementary information to the IEC test procedures.*

*Test conditions:*

a. The specified field strength must be established prior to the actual testing (without the EUT in the field). At least 1 m of all external cables must be included in the exposure by stretching them horizontally from the EUT.

b. The field strength must be generated in two orthogonal polarizations and the frequency range scanned slowly. If antennas with circular polarization, *i.e.*, log-spiral or helical antennas, are used to generate the electromagnetic field, a change in the position of the antennas is not required. When the test is carried out in a shielded enclosure to comply with international laws prohibiting interference to radio communications, care needs to be taken to handle reflections from the walls. Anechoic shielding might be necessary.

*Condition of EUT:*

a. Normal power supplied and ''on'' for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be ''on'' for the duration of the test. The EUT must be operating under standard atmospheric conditions for testing.

b. Adjust the EUT as close to a zero indication as practicable prior to the test.

*Test sequence:*

a. Stabilize all factors at nominal reference conditions.

b. Conduct the test as indicated in this A.3.7 Test Sequence section and record the—

i. Date and time,

ii. Temperature,

iii. Relative humidity,

iv. Test load,

v. Indication,

vi. Errors, and

vii. Functions performance.

c. Following the IEC test procedures, expose the EUT at zero load to the specified field strengths while slowly scanning the three indicated frequency ranges.

d. Observe and record the effect on the EUT.

e. Repeat the test and observe and record the effect.

f. Stabilize all factors at nominal reference conditions.

g. Repeat the test and record the test data.

A.4 Bibliography

Below are references to Publications of the International Electrotechnical Commission (IEC), where mention is made in the tests in annex A to appendix A of this part.

a. IEC Publication 68–2–1 (1974): Basic environmental testing procedures. Part 2: Tests, Test Ad: Cold, for heat dissipating equipment under test (EUT), with gradual change of temperature.

IEC Publication 68–2–2 (1974): Basic environmental testing procedures, Part 2: Tests, Test Bd: Dry heat, for heat dissipating equipment under test (EUT) with gradual change of temperature.

IEC Publication 68–3–1 (1974): Background information, Section 1: Cold and dry heat tests.

b. IEC Publication 68–2–56 (1988): Environmental testing, Part 2: Tests, Test Cb: Damp heat, steady state. Primarily for equipment.

IEC Publication 68–2–28 (1980): Guidance for damp heat tests.

c. IEC Publication 1000–4–11 (1994): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques, Section 11. Voltage dips, short interruptions and voltage variations immunity tests. Section 5.2 (Test levels—Voltage variation). Section 8.2.2 (Execution of the test-voltage variation).

d. IEC Publication 1000–4–11 (1994): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques, Section 11: Voltage dips, short interruptions and voltage variations immunity tests. Section 5.1 (Test levels—Voltage dips and short interruptions. Section 8.2.1 (Execution of the test-voltage dips and short interruptions) of the maximum transit speed and the range of operating speeds.

e. IEC Publication 1000–4–4 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 4: Electrical fast transient/burst immunity test. Basic EMC publication.

f. IEC Publication 1000–4–2 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 2: Electrostatic discharge immunity test. Basic EMC Publication.

g. IEC Publication 1000–4–3 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 3: Radiated, radio-frequency electromagnetic field immunity test.

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Wednesday
February 4, 1998

# Part III

# The President

## Presidential Determination No. 98–13—Renewal of Trade Agreement With the People's Republic of China

**Federal Register**
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Wednesday, February 4, 1998

# Presidential Documents

**Title 3—**

## The President

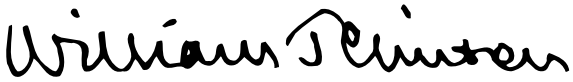
**Presidential Determination No. 98–13 of January 30, 1998**

## Renewal of Trade Agreement With the People's Republic of China

**Memorandum for the United States Trade Representative**

Pursuant to my authority under subsection 405(b)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)(B)), I have determined that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are being satisfactorily reciprocated by the People's Republic of China. I have further found that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement on Trade Relations between the United States of America and the People's Republic of China.

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



THE WHITE HOUSE,
*Washington, January 30, 1998.*

[FR Doc. 98–3000
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT FEBRUARY 4, 1998

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Tomatoes grown in Florida and imported; published 1-5-98

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Marine mammals:

Commercial fishing authorizations—

Fisheries categorized according to frequency of incidental takes; list; published 2-4-98

**COMMERCE DEPARTMENT**

**Patent and Trademark Office**

Patent cases:

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**DEFENSE DEPARTMENT**

Acquisition regulations:

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**ENVIRONMENTAL PROTECTION AGENCY**

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Oxyfluorfen; published 2-4-98

Terbacil; published 2-4-98

**FEDERAL COMMUNICATIONS COMMISSION**

Radio stations; table of assignments:

Georgia et al.; published 2-4-98

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:

Fokker; published 12-31-97

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Farm Service Agency**

Farm marketing quotas, acreage allotments, and production adjustments:

Tobacco; comments due by 2-13-98; published 2-2-98

**AGRICULTURE DEPARTMENT**

**Food Safety and Inspection Service**

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Fresh pork sausage; salmonella performance standard; comments due by 2-11-98; published 1-12-98

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

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**DEFENSE DEPARTMENT**

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**ENVIRONMENTAL PROTECTION AGENCY**

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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**FEDERAL COMMUNICATIONS COMMISSION**

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**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

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**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Inspector General Office, Health and Human Services Department**

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**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

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**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

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**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

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**LABOR DEPARTMENT**

**Mine Safety and Health Administration**

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**LABOR DEPARTMENT**

**Occupational Safety and Health Administration**

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**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

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**NUCLEAR REGULATORY COMMISSION**
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**TRANSPORTATION DEPARTMENT**
**Federal Railroad Administration**
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**TRANSPORTATION DEPARTMENT**
**Research and Special Programs Administration**
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**VETERANS AFFAIRS DEPARTMENT**
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## LIST OF PUBLIC LAWS

The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

**Note:** A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

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