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Friday
March 27, 1998

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Contents

Federal Register

Vol. 63, No. 59

Friday, March 27, 1998

Actuaries, Joint Board for Enrollment
See Joint Board for Enrollment of Actuaries

Agency for Toxic Substances and Disease Registry
NOTICES
Hazardous substances releases and facilities:
Public health assessments and effects—
Quarterly listing; correction, 14945

Agricultural Marketing Service
PROPOSED RULES
Cotton classing, testing, and standards:
Classification services to growers; 1998 user fees, 14839–14840

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration
See Natural Resources Conservation Service
NOTICES
Privacy Act:
Systems of records, 14894–14896

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Census Bureau
NOTICES
2000 Census address list information, procedures for reconciling and appealing, 14978–14981

Coast Guard
RULES
Regattas and marine parades:
Whitbread Round-the-World Offshore Yacht Race, 14818–14820
NOTICES
Meetings:
Marine transportation system; waterways, ports, and their intermodal connections; correction, 14988–14989

Commerce Department
See Census Bureau
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14897–14898

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 14896–14897
Procurement list; additions and deletions; correction, 14897

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
El Salvador, 14906
Honduras, 14906–14907

Commodity Futures Trading Commission
PROPOSED RULES
Organization, functions, and authority delegations:
Exemptive, non-action and interpretive letters; requests filing procedures establishment, 14866

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
AmeriCorps education awards program, 14907–14909

Defense Department
RULES
Acquisition regulations:
Defense contracts; list of firms not eligible, 14836
PROPOSED RULES
Acquisition regulations:
Spanish laws and insurance compliance, 14885

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Cambridge Isotope Lab, 14963
Ganes Chemicals, Inc., 14963
High Standard Products, 14963–14964
Inhalon Pharmaceuticals, Inc., 14964
North Pacific Trading Co., 14957

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 14970–14971

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Aerospace manufacturing and rework facilities, 15006–15033
PROPOSED RULES
Air pollution; hazardous; national emission standards:
Aerospace manufacturing and rework facilities, 15034–15040
Toxic substances:
Testing requirements—
Hydrogen fluoride, 14869–14871
Maleic anhydride, 14866–14869
Phthalic anhydride, 14871–14874
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14919–14921
Confidential business information and data transfer, 14921

Drinking water:
Safe Drinking Water Act—
Community and nontransient noncommunity public water systems; certification and recertification of operators, 15064–15068
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 14922–14923
Weekly receipts, 14922
Meetings:
Ground Water Disinfection Rule, 14923
Pesticide Program Dialogue Committee, 14923–14924
Pesticide, food, and feed additive petitions:
American Cyanamid Co. et al., 14926–14936
Pesticide registration, cancellation, etc.:
Rid-A-Bird, Inc., 14924–14926
Pesticides; emergency exemptions, etc.:
Triazamate, 14936–14937
Superfund program:
Prospective purchaser agreement—
American Western Refining, L.P., IL, 14937

Executive Office of the President
See Management and Budget Office

Export Administration Bureau
NOTICES
Export privileges, actions affecting:
Realtek Semi-Conductor Co. Ltd., 14898

Export-Import Bank
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14937–14938

Federal Aviation Administration
RULES
Airworthiness directives:
Bombardier, 14804–14806
PROPOSED RULES
Airworthiness directives:
Airbus, 14849–14850, 14857–14859
Boeing, 14850–14851, 14863–14865
Construcciones Aeronauticas, S.A., 14861–14863
Empresa Brasileira de Aeronautica, S.A., 14853–14857
McDonnell Douglas, 14851–14853
Short Brothers, 14859–14861

Federal Communications Commission
NOTICES
Infrastructure report; modifications; comment request, 14938–14940
Reporting and recordkeeping requirements, 14940–14942
Service quality and customer satisfaction reports; improvements; comment request, 14942–14944

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 14944

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Alabama et al., 14826–14836
Connecticut et al., 14823–14826
Florida et al., 14821–14823
PROPOSED RULES
Flood elevation determinations:
Connecticut et al., 14874–14885
NOTICES
Disaster and emergency areas:
Florida, 14944

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
PG & E Generating Co. et al., 14915–14919
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 14910
Consumers Energy Co., 14910–14912
Denver City Energy Associates, L.P., 14912
French Paper Co., 14912
NorAm Gas Transmission Co., 14913
Northwest Pipeline Corp., 14913–14915
R.J. Patrick Operating Co., 14915

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Clark County, IN and Jefferson County, KY; Ohio river crossings, 14989
Crawford and Perry Counties, IN, 14989–14990

Federal Maritime Commission
NOTICES
Agreements filed, etc., 14944–14945

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
New Jersey Transit Rail Operations, Inc., 14990

Federal Reserve System
RULES
Bank holding companies and change in bank control (Regulation Y):
Nonbank subsidiaries underwriting and dealing in securities; prudential restrictions eliminated; clarification to section 20 orders, 14803–14804
NOTICES
Banks and bank holding companies:
Change in bank control, 14945

Federal Trade Commission
PROPOSED RULES
Industry guides:
Decorative wall paneling industry, 14865

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Devils River minnow, 14885–14892
Pecos pupfish, 14892–14893
NOTICES
Endangered and threatened species permit applications, 14955
Environmental statements; availability, etc.:
Northern Tallgrass Prairie Habitat Preservation Area; Minnesota and Iowa, 14955
Gyrfalcons and peragrine falcons; breeding operation registration, 14955–14956
Marine mammals permit applications, 14956–14957

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Tilmicosin phosphate injection; correction, 14818

Color additives:
Canthaxanthin, 14814–14817
Food for human consumption:
Food labeling—
Technical amendments, 14817–14818
NOTICES
Meetings:
Medical Devices Advisory Committee, 14945

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Alabama
Shell Oil Co.; oil refinery; Mobile Co., AL; correction, 14898
Washington
Darigold, Inc.; dairy product processing facility, 14898–14899

Forest Service
RULES
National recreation areas:
Smith River National Recreational Area, CA; mineral operations, 15042–15062
NOTICES
Meetings:
Olympic Provincial Interagency Executive Committee Advisory Committee, 14896

Grain Inspection, Packers and Stockyards Administration
PROPOSED RULES
Fees:
Official inspection and weighing services, 14840–14844

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 14946–14954

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 15000–15003

International Trade Administration
NOTICES
Antidumping:
Pasta from—
Italy, 14899
Silicon metal from—
Brazil, 14899–14900

Joint Board for Enrollment of Actuaries
NOTICES
Meetings:
Actuarial Examinations Advisory Committee, 14894

Justice Department
See Drug Enforcement Administration
See Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14961
Submission for OMB review; comment request, 14961–14963

Justice Programs Office
NOTICES
Sex offenders; National Sex Offender Registry Assistance Program, FY 1998, 14964–14969

Labor Department
See Employment Standards Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14969
Committees; establishment, renewal, termination, etc.:
Labor Research Advisory Council, 14969
Meetings:
Business Research Advisory Council, 14970

Land Management Bureau
PROPOSED RULES
State grants:
Alaska; withdrawn, 14874
NOTICES
Meetings:
Resource advisory councils—
Southeast Oregon, 14957–14958
Oil and gas leases:
Wyoming, 14958

Management and Budget Office
NOTICES
2000 Census address list information, procedures for reconciling and appealing, 14978–14981

Minerals Management Service
NOTICES
Meetings:
Minerals Management Advisory Board, 14958

Minority Business Development Agency
NOTICES
Business development center program applications:
Florida et al., 14900–14903
Minnesota et al., 14903–14905

National Aeronautics and Space Administration
NOTICES
Meetings:
NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, 14971–14972

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic shark, 14837–14838
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14905
Permits:
Marine mammals, 14905–14907

National Park Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14958–14959
Submission for OMB review; comment request, 14959
Concession contract negotiations:
Everglades National Park, FL; tram tours, bicycle rental, snacks, and sundries, 14959–14960
National Register of Historic Places:
Pending nominations, 14960
Native American human remains and associated funerary objects:
Nevada State office, Bureau of Land Management; Reno, NV; inventory completion, 14960–14961

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Little Toby Creek Watershed, PA, 14896

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 14977–14978
Applications, hearings, determinations, etc.:
Northern States Power Co., 14972–14974
Texas Utilities Electric Co., 14974–14975
Vermont Yankee Nuclear Power Corp., 14976–14977

Office of Management and Budget
See Management and Budget Office

Personnel Management Office
NOTICES
Meetings:
Federal Prevailing Rate Advisory Committee, 14982

Postal Service
RULES
Domestic Mail Manual:
Special services reform; implementation standards, 14820–14821

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration

Railroad Retirement Board
NOTICES
Privacy Act:
Computer matching programs, 14982–14984

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 14990–14998

Securities and Exchange Commission
RULES
Securities:
Offshore sales of securities and investment services; dissemination of advertisements and other information; Internet Web sites use, 14806–14814
Open-end management investment companies—Registration form; correction, 14814
NOTICES
Applications, hearings, determinations, etc.:
Public utility holding company filings, 14984–14986

Small Business Administration
NOTICES
Disaster loan areas:
Alabama, 14987
Florida, 14987
Georgia, 14987–14988
Maine, 14988
New Jersey, 14988

State Department
NOTICES
Foreign Operations, Export Financing, and Related Programs Appropriations Act:
Bosnia-Herzegovina; U.S. support for mulilateral assistance, 14988
Republika Srpska; U.S. bilateral assistance programs, 14988

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Dakota, Minnesota, & Eastern Railroad Corp., 14998–14999
Railroad services abandonment:
Fillmore Western Railway Co., 14999–15000

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

Thrift Supervision Office
PROPOSED RULES
Savings associations:
Prior notice of appointment or employment of directors and senior executive officers; requirements, 14844–14848

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

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Research and Special Programs Administration
See Surface Transportation Board

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office

United States Information Agency
NOTICES
Art objects; importation for exhibition:
An Expressionist in Paris: The Paintings of Chaim Soutine, 15003–15004

Separate Parts In This Issue

Part II
Environmental Protection Agency, 15006–15040

Part III
Department of Agriculture, Forest Service, 15042–15062

Part IV
Environmental Protection Agency, 15064–15068

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

Proposed Rules:

28 14839
800 14840

12 CFR

225 14803

Proposed Rules:

563f 14844
574 14844

14 CFR

39 14804

Proposed Rules:

39 (9 documents) 14849, 14850, 14851, 14853, 14855, 14857, 14859, 14861, 14863

16 CFR

Proposed Rules:

243 14865

17 CFR

231 14806
239 14814
241 14806
271 14806
274 14814
276 14806

Proposed Rules:

140 14866

21 CFR

73 14814
101 14814
104 14814
135 14814
522 14818

33 CFR

100 14818

36 CFR

292 15042

39 CFR

111 14820

40 CFR

9 15006
63 15006

Proposed Rules:

63 15034
799 (3 documents) 14866, 14869, 14871

43 CFR

Proposed Rules:

2620 14874

44 CFR

65 (2 documents) 14821, 14823
67 14826

Proposed Rules:

67 14874

48 CFR

209 14836
252 14836

Proposed Rules:

228 14885
252 14885

50 CFR

678 14837

Proposed Rules:

17 (2 documents) 14885, 14892

Rules and Regulations

Federal Register
Vol. 63, No. 59
Friday, March 27, 1998

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1010]

Bank Holding Companies and Change in Bank Control; Clarification to the Board's Section 20 Orders

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Conditions to Board Orders.

SUMMARY: The Board is clarifying one of the operating standards established in its decisions under the Bank Holding Company Act and section 20 of the Glass-Steagall Act permitting a nonbank subsidiary of a bank holding company to underwrite and deal in securities. The Board is modifying the customer disclosure operating standard to make clear that a section 20 subsidiary operating off bank premises may satisfy the standard by providing a one-time disclosure in writing when an investment account is opened.

EFFECTIVE DATE: March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Corsi, Senior Counsel, (202) 452–3275, *Legal Division;* Michael J. Schoenfeld, Senior Supervisory Financial Analyst, (202) 452–2781, Division of Banking Supervision and Regulation; for the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins, (202) 452–3544.

SUPPLEMENTARY INFORMATION: In August 1997 the Board approved a substantial revision to the prudential limitations governing the activities of section 20 subsidiaries of bank holding companies.[1] The Board removed all of the existing firewalls and adopted in their place 8 operating standards.[2] Operating standard 4(i) mandates that a section 20 subsidiary provide its retail customers with the same oral and written disclosures that are required of depository institutions by the Interagency Statement on the Retail Sale of Nondeposit Investment Products (Interagency Statement),[3] even when the section 20 subsidiary is operating off bank premises.[4]

The Interagency Statement generally applies to retail sales of securities and other nondeposit investment products on the premises of depository institutions, and requires that customers be informed that the products being sold are not FDIC-insured, are not deposits of or guaranteed by any depository institution, and are subject to investment risks, including possible loss of principal. The Statement requires that these disclosures be given orally during sales presentations, in connection with investment advice, and when an investment account is opened. Written disclosures also are required when an investment account is opened.[5] Disclosures are generally required in advertisements and promotional materials as well as in customer confirmations and account statements.

A section 20 subsidiary, like any affiliated or unaffiliated broker, operating on the premises of a depository institution is subject to the provisions of the Interagency Statement. The operating standards extend the disclosure requirements of the Interagency Statement to apply even when a section 20 subsidiary is operating off the premises of a depository institution.

The Board recently received a request from several bank holding companies that control section 20 subsidiaries to clarify the operating standard on disclosures. These holding companies believe that requiring a section 20 subsidiary to comply with the oral disclosures mandated by the Interagency Statement when operating off the premises of a depository institution is excessively burdensome. The holding companies contend that it is not unusual for customers to call a broker several times a day to solicit the broker's views on a particular security. The companies believe that requiring brokers to provide oral disclosures to customers in every instance is potentially damaging to customer relationships and serves no purpose.

The Board retained a disclosure requirement as one of the section 20 operating standards to avoid customer confusion regarding whether products sold by a section 20 subsidiary are federally insured or guaranteed by an affiliated bank. The Board sought to limit the burden of the disclosure requirement on section 20 subsidiaries by requiring only disclosures to retail customers, and requiring the disclosures in the Interagency Statement, which are familiar to banking organizations. The Board stated that the disclosure requirement provides some benefit at minimal cost.

The requesting bank holding companies are now stating that the cost of complying with the disclosure requirement is higher than anticipated when the Board adopted the operating standards. The cost has become particularly apparent in view of the large numbers of registered representatives employed by broker-dealers that have been acquired by bank holding companies in recent months. The burden on large numbers of brokers in complying with the oral disclosure requirement, and the burden on institutions of monitoring compliance with the requirement does not appear to be offset by a corresponding benefit. The potential for customer confusion regarding the nature of products being purchased should be less when a section 20 subsidiary is not operating on bank premises. Accordingly, it appears appropriate to reduce the regulatory burden on bank holding companies in these instances.

When a section 20 subsidiary is operating off bank premises, the concern regarding customer confusion should be adequately mitigated if, when a retail customer opens an investment account, the subsidiary provides the customer with the written disclosures required by the Interagency Statement in that situation. None of the other provisions of the Interagency Statement would apply to a section 20 subsidiary unless it is engaged in activities through arrangements with a bank that are

[1] 62 FR 45295 (August 27, 1997). Section 20 subsidiaries are companies that underwrite and deal in, to a limited extent, securities that a member bank may not underwrite or deal in.

[2] These operating standards are set out at 12 CFR 225.200.

[3] I FRRS ¶ 3–1579.51.

[4] 12 CFR 225.200(b)(4)(i).

[5] The Interagency Statement states that customers should sign a statement acknowledging that they understand the written disclosures that they receive.

covered by the Interagency Statement. This revised requirement should relieve some of the compliance burden on section 20 subsidiaries while continuing to mitigate the concerns expressed by the Board in adopting the disclosure requirement.

Public Comment and Deferred Effective Date

The Board does not believe that the notice, public comment and delayed effective date requirements of the Administrative Procedure Act at 5 U.S.C. 553 apply with respect to this action. The requirements of section 553 do not apply when an agency finds that notice and public procedure thereon are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b). Similarly, a delayed effective date is not required with respect to agency action that relieves a restriction. 5 U.S.C. 553(d)(1).

The Board believes that notice, public procedure and a delayed effective date are unnecessary in connection with this action. The Board recently amended this restriction after providing notice and seeking public comment. Furthermore, this action would relieve a restriction on bank holding companies that operate section 20 subsidiaries. Accordingly, the Board concludes that the requirements of section 553 do not apply to this action.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Board amends 12 CFR Part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, 3908, and 3909.

2. Section 225.200 is amended by revising paragraph (b)(4)(i) to read as follows:

§ 225.200 Conditions to Board's section 20 orders.

* * * * *

(b) *Conditions.* * * *

(4) *Customer disclosure*—(i) *Disclosure to section 20 customers.* A section 20 subsidiary shall provide, in writing, to each of its retail customers,[4] at the time an investment account is opened, the same minimum disclosures, and obtain the same customer acknowledgment, described in the Interagency Statement on Retail Sales of Nondeposit Investment Products (Statement) as applicable in such situations. These disclosures must be provided regardless of whether the section 20 subsidiary is itself engaged in activities through arrangements with a bank that is covered by the Statement.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 23, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–7972 Filed 3–26–98; 8:45 am]

BILLING CODE 6210–01–P

[4] For purposes of this operating standard, a retail customer is any customer that is not an ''accredited investor'' as defined in 17 CFR 230.501(a).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–21–AD; Amendment 39–10425]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B16 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B16 series airplanes, that currently requires disabling the remote fuel/defuel panel in the cockpit; and provides for an optional modification of the remote fuel/defuel panel, which would terminate the requirement to disable the panel. This amendment reduces the applicability of the existing AD. This amendment is prompted by reports of in-flight failure of the panel that resulted when a circuit breaker on a battery bus opened due to insufficient current flow capacity. The actions specified in this amendment are intended to prevent the circuit breakers from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit.

DATES: Effective June 25, 1998.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register on December 23, 1997 (62 FR 64519, December 8, 1997).

Comments for inclusion in the Rules Docket must be received on or before April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–21–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier Aviation Services, 1255 East Aeropark Boulevard, Tucson, Arizona 85706. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On December 1, 1997, the FAA issued AD 97–25–11, amendment 39–10235 (62 FR 64519, December 8, 1997), applicable to certain Bombardier Model CL–600–2B16 series airplanes. That action requires disabling the remote fuel/defuel panel in the cockpit, and provides for an optional modification of the remote fuel/defuel panel, which would terminate the requirement to disable the panel. That action was prompted by reports of in-flight failure of the panel that resulted when a circuit breaker on a battery bus opened due to insufficient current flow capacity. The actions required by that AD are intended to prevent the circuit breakers from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit.

Actions Since Issuance of Previous Rule

The applicability of the existing AD specifies that the AD applies to Model CL–600–2B16 series airplanes that have been modified in accordance with Supplemental Type Certificate SA6003NM. However, since the

issuance of the existing AD, the FAA has discovered that the only airplanes affected by the AD are those listed in the service bulletins referred to in the existing action (Bombardier Service Bulletins SB TUS–28–20–02–1 and SB TUS–28–20–02, both dated November 13, 1997). In light of this, the FAA finds that certain airplanes affected by the existing AD should be removed from the applicability. The applicability of this AD has been revised to specify the serial numbers of the affected airplanes.

U.S. Type Certification of the Airplane

This airplane model is manufactured in Canada 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.

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 revises AD 97–25–11 to continue to require disabling the remote fuel/defuel panel in the cockpit; and to continue to provide for an optional modification of the remote fuel/defuel panel in the cockpit, which would terminate the requirement to disable the panel. This amendment reduces the applicability of the existing AD. The actions are required to be accomplished in accordance with the service bulletins referenced previously.

Cost Impact

Since this amendment merely revises the applicability of the existing AD, it adds no additional costs, and requires no additional work to be performed by affected operators. The current costs associated with this amendment are reiterated in their entirety (as follows) for the convenience of affected operators:

The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $840, or $60 per airplane. This new amendment adds no new costs to affected operators.

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

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 200 work hours to accomplish it, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the optional terminating action would be $12,000 per airplane.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. The only change effecting this revision is the limitation of the applicability of the existing AD. The date for compliance with the requirements of the existing rule has passed, and the FAA has already addressed requests from operators for approval of alternative methods of compliance. Therefore, the FAA does not anticipate receiving additional comments regarding this regulation.

In accordance with 14 CFR 11.17, unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received; at that time, the AD number will be specified, and the date on which the final rule will become effective will be confirmed. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by 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 98–NM–21–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 noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained 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 39–10235 (62 FR 64519, December 8, 1997), and by adding a new airworthiness directive (AD), amendment 39–10425, to read as follows:

Bombardier Inc. (Formerly Canadair): Amendment 39–10425. Docket 98–NM–21–AD. Revises AD 97–25–11, Amendment 39–10235.

Applicability: Model CL–600–2B16 series airplanes, serial numbers 5113, 5117, 5127, 5134, 5136, 5144, 5150, 5151, 5166, 5174, 5175, 5176, 5179, and 5188; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the circuit breakers on the battery bus from opening during flight, which could result in irreversible loss of engine indicating and fuel quantity systems in the cockpit, accomplish the following:

(a) Within 5 days after December 23, 1997 (the effective date of AD 97–25–11, amendment 39–10235), disable the remote fuel/defuel panel, in accordance with Bombardier Service Bulletin SB TUS–28–20–02–1, dated November 13, 1997.

(b) Modification of the remote fuel/defuel panel in accordance with Bombardier Service Bulletin SB TUS–28–20–02, dated November 13, 1997, permits the remote fuel-defuel panel to be enabled, and constitutes terminating action for the requirements of paragraph (a) of this AD.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles 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 Bombardier Service Bulletin SB TUS–28–20–02–1, dated November 13, 1997; or Bombardier Service Bulletin SB TUS–28–20–02, dated November 13, 1997. This incorporation by reference was approved previously by the Director of the Federal Register as of December 23, 1997 (62 FR 64519, December 8, 1997). Copies may be obtained from Bombardier Aviation Services, 1255 East Aeropark Boulevard, Tucson, Arizona 85706. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 25, 1998.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8095 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 271, 276

[Release Nos. 33–7516, 34–39779, IA–1710, IC–23071; International Series Release No. 1125]

Statement of the Commission Regarding Use of Internet Web Sites to Offer Securities, Solicit Securities Transactions or Advertise Investment Services Offshore

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission is publishing its views on the application of the registration obligations under the U.S. federal securities laws to the use of Internet Web sites to disseminate offering and solicitation materials for offshore sales of securities and investment services.

EFFECTIVE DATE: March 23, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Dudek, Chief, and Rani Doyle, Attorney, Office of International Corporate Finance at 202–942–2990 (with respect to Securities Act issues); Paula Jenson, Deputy Chief Counsel, Division of Market Regulation, at 202–942–0073 (with respect to broker-dealer registration issues), Elizabeth King, Senior Special Counsel, Division of Market Regulation, at 202–942–0140 (with respect to exchange registration issues); and Karrie McMillan, Assistant Chief Counsel, Sarah A. Wagman, Special Counsel, and Brendan C. Fox, Attorney, Division of Investment Management, at 202–942–0660 (with respect to matters relating to investment companies and investment advisers).

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Internet permits market participants to disseminate advertisements and other information regarding securities and investment services across national borders. Because persons in the United States have access to this securities-related information, market participants have expressed uncertainty about the application of the registration requirements of the U.S. securities laws to their offshore Internet offers (*i.e.*, offers over Internet Web sites of securities or investment services that by their terms are not made to U.S. persons). Today, we are providing our views on how issuers, investment companies, broker-dealers, exchanges and investment advisers may use Internet Web sites to solicit offshore securities transactions and clients without the securities or investment company being registered with the Commission under the Securities Act of 1933[1] or the Investment Company Act of 1940,[2] or without the investment service provider registering under the Investment Advisers Act of 1940,[3] or the broker-dealer or exchange registering under the broker-dealer and exchange registration provisions under the Securities Exchange Act of 1934.[4]

The purpose of this interpretation is to clarify when the posting of offering or solicitation materials on Internet Web sites would not be considered activity taking place ''in the United States.'' We are only providing clarification on this aspect of the registration requirements and are not altering the fundamental requirement that all offers and sales in

[1] 15 U.S.C. 77a, *et seq.* (the ''Securities Act'').

[2] 15 U.S.C. 80a–1, *et seq.* (the ''Investment Company Act'').

[3] 15 U.S.C. 80b–1, *et seq.* (the ''Advisers Act'').

[4] 15 U.S.C. 78a, *et seq.* (the ''Exchange Act'').

the United States be registered under the U.S. securities laws or made under an applicable exemption.

Under this interpretation, application of the registration provisions of the U.S. securities laws depends on whether Internet offers, solicitations or other communications are targeted to the United States. We would not view issuers, broker-dealers, exchanges, and investment advisers that implement measures that are reasonably designed to guard against sales or the provision of services to U.S. persons to have targeted persons in the United States with their Internet offers. Under these circumstances, Internet postings would not, by themselves, result in a registration obligation under the U.S. securities laws.

The determination of whether measures reasonably designed to guard against sales to U.S. persons have been implemented depends on the facts and circumstances, and can be satisfied through different means. We discuss in this release examples of measures that are adequate to serve this purpose for both U.S. and foreign entities. We also discuss why measures that are adequate for foreign issuers would not necessarily be adequate measures for U.S. issuers. U.S. issuers should undertake more restrictive measures when using the Internet to solicit offshore securities transactions.

This interpretation does not address the anti-fraud and anti-manipulation provisions of the securities laws, which will continue to reach all Internet activities that satisfy the relevant jurisdictional tests.[5] Even in the absence of sales in the United States, we will take appropriate enforcement action whenever we believe that fraudulent or manipulative Internet activities have originated in the United States or placed U.S. investors at risk. Further, we are not addressing the circumstances under which a U.S. court could exercise personal jurisdiction over a non-U.S. person with respect to that person's offshore Internet offer.

The interaction between the U.S. securities laws and the Internet can be expected to continue to evolve. As technology and practice develop, we may revisit these and related issues.

II. Background

A. The Global Reach of the Internet

The development of the Internet presents numerous opportunities and benefits for consumers and investors throughout the world. It also presents significant challenges for regulators charged with protecting consumers and investors. Regulators in many countries are attempting to administer their respective laws to preserve important protections provided by their regulatory schemes without stifling the Internet's vast communications potential.[6] We share this goal in our administration of the U.S. securities laws.[7]

Information posted on Internet Web sites concerning securities and investments can be made readily available without regard to geographic and political boundaries.[8] Additionally, the interactive nature of the Internet makes it possible for investors to purchase electronically the securities or services offered. For these and other reasons, we believe that the use of the Internet by market participants and investors presents significant issues under the U.S. securities laws.

Although this release focuses on Internet Web sites, the Internet offers a variety of forms of communication. We distinguish between Web site postings and more targeted Internet communication methods. More targeted communication methods are comparable to traditional mail because the sender directs the information to a particular person, group or entity. These methods include e-mail and technology that allows mass e-mailing or ''spamming.'' Information posted on a Web site, however, is not sent to any particular person, although it is available for anyone to search for and retrieve.[9] Offerors using those more targeted technologies must assume the responsibility of identifying when their offering materials are being sent to persons in the United States and must comply fully with the U.S. securities laws.

B. Regulation of Offers

Many registration requirements under the U.S. securities laws are triggered when an offer of securities or financial services, such as brokerage or investment advisory services, is made to the general public.

- Under the Securities Act, absent an exemption, an issuer that offers or sells securities in the United States through use of the mails or other means of interstate commerce must register the offering with the Commission.[10] An offering of securities may be exempt from registration if it is conducted as a ''private placement,'' without any general solicitation of investors.[11]
- Under the Investment Company Act, a foreign investment company may not use the mails or other means of interstate commerce to publicly offer its securities in the United States or to U.S. persons unless the investment company receives an order from the Commission permitting it to register under the Investment Company Act.[12] A foreign investment company may, however, make a private offer of its securities in the United States or to U.S. persons in reliance on one of the exclusions from the definition of ''investment company'' under the Investment Company Act.[13]
- Under the Advisers Act, an adviser is prohibited from using the mails or other means of interstate commerce in connection with its business as an investment adviser, unless the adviser is registered with the Commission, or is exempted or excluded from the requirement to register.[14]
- Under the Exchange Act, a broker or dealer generally must register with the Commission if it uses the mails or any means of interstate commerce to effect

[5] The courts have recognized U.S. jurisdiction over fraudulent conduct where substantial conduct or effects occur in the United States. *See generally Itoba Ltd.* v. *LEP Group PLC,* 54 F.3d 118 (2d Cir. 1995), *cert. denied,* 516 U.S. 1044 (1996) and *Robinson* v. *TCI/US West Communications Inc.,* 117 F.3d 900 (5th Cir. 1997) (citing *Schoenbaum* v. *Firstbrook,* 405 F.2d 200 (2d Cir.), *rev'd on other grounds on rehrg. en banc,* 405 F.2d 215 (2d Cir. 1968), *cert. denied,* 395 U.S. 906 (1969) (effects test)); *Bersch* v. *Drexel Firestone Inc.,* 519 F.2d 974 (2d Cir.), *cert. denied,* 423 U.S. 1018 (1975) (conduct test); *Leasco Data Processing Equipment Corp.* v. *Maxwell,* 468 F.2d 1326 (2d Cir. 1972) (conduct test).

[6] *See* President William J. Clinton and Vice President Albert Gore, Jr., *A Framework for Global Electronic Commerce* (1997), <http://www.iitf.nist.gov/eleccomm/ecomm.htm>; European Ministerial Conference, ''Global Information Networks: Realizing the Potential,'' July 6–8, 1997, Ministerial Declaration, Global Informational Networks, <http://www2.echo.lu/bonn/final.html>.

[7] For a discussion of recent Commission actions addressing the Internet, *see The Impact of Recent Technological Advances on the Securities Markets,* Report prepared by the Staff of the U.S. Securities and Exchange Commission pursuant to Section 510(a) of the National Securities Markets Improvements Act of 1996 (Oct. 1997) <http://www.sec.gov/news/studies/techrp97. htm>.

[8] Wilske and Schiller, *International Jurisdiction in Cyberspace: Which States May Regulate the Internet?,* <http://www.law.indiana.edu/fcj/pubs/v50/no1/wilske.html>, Section II.A.2.(c).

[9] The Web site sponsor can aid Internet searches by adding ''tags'' to its Web site that facilitate a search engine identifying the site as containing information relating to targeted topics. Generally, we will not view the use of tags relating to securities or investments as transforming the Web site into a targeted communication that would require additional measures to assure against sales to U.S. persons, such as blocking access by U.S. persons to the offering materials.

[10] Section 5 of the Securities Act, 15 U.S.C. 77e.

[11] *See, e.g.,* Section 4(2) of the Securities Act, 15 U.S.C. 77d(2); Regulation D [17 CFR 230.501–508].

[12] Section 7(d) of the Investment Company Act, 15 U.S.C. 80a–7(d).

[13] *See* Section 3(c)(1) and Section 3(c)(7) of the Investment Company Act, 15 U.S.C. 80a–3(c)(1), 15 U.S.C. 80a–3(c)(7). *See also* Staff no-action letter, Goodwin, Procter & Hoar (available Feb. 28, 1997) (''Goodwin Procter'').

[14] Section 203(a) of the Advisers Act, 15 U.S.C. 80b–3(a).

transactions in, or to induce or attempt to induce the purchase or sale of, any security.[15]

• Under the Exchange Act, an exchange generally must register with the Commission if it uses the mails or any means of interstate commerce for the purpose of using its facilities to effect any transaction in a security or to report any such transaction.[16]

The posting of information on a Web site may constitute an offer of securities or investment services for purposes of the U.S. securities laws.[17] Our discussion of these issues will proceed on the assumption that the Web site contains information that constitutes an ''offer'' of securities or investment services under the U.S. securities laws.[18] Because anyone who has access to the Internet can obtain access to a Web site unless the Web site sponsor adopts special procedures to restrict access, the pertinent legal issue is whether those Web site postings are offers *in the United States* that must be registered.

III. Offshore Offers and Solicitations on the Internet

A. General Approach

Some may argue that regulators could best protect investors by requiring registration or licensing for any Internet offer of securities or investment services that their residents could access. As a practical matter, however, the adoption of such an approach by securities regulators could preclude some of the most promising Internet applications by investors, issuers, and financial service providers.

The regulation of offers is a fundamental element of federal and some U.S. state securities regulatory schemes. Absent the transaction of business in the United States or with U.S. persons, however, our interest in regulating solicitation activity is less compelling.[19] We believe that our investor protection concerns are best addressed through the implementation by issuers and financial service providers of precautionary measures that are reasonably designed to ensure that offshore Internet offers are not targeted to persons in the United States or to U.S. persons.[20]

B. Procedures Reasonably Designed to Avoid Targeting the United States

When offerors implement adequate measures to prevent U.S. persons from participating in an offshore Internet offer, we would not view the offer as targeted at the United States and thus would not treat it as occurring in the United States for registration purposes. What constitutes adequate measures will depend on all the facts and circumstances of any particular situation. We generally would not consider an offshore Internet offer made by a non-U.S. offeror as targeted at the United States, however, if:

• The Web site includes a prominent disclaimer making it clear that the offer is directed only to countries other than the United States. For example, the Web site could state that the securities or services are not being offered in the United States or to U.S. persons, or it could specify those jurisdictions (other than the United States) in which the offer is being made;[21] and

• The Web site offeror implements procedures that are reasonably designed to guard against sales to U.S. persons in the offshore offering. For example, the offeror could ascertain the purchaser's residence by obtaining such information as mailing addresses or telephone numbers (or area code) prior to the sale. This measure will allow the offeror to avoid sending or delivering securities, offering materials, services or products to a person at a U.S. address or telephone number.

These procedures are not exclusive; other procedures that suffice to guard against sales to U.S. persons also can be used to demonstrate that the offer is not targeted at the United States. Regardless of the precautions adopted, however, we would view solicitations that appear by their content to be targeted at U.S. persons as made in the United States. Examples of this type of solicitation include purportedly offshore offers that emphasize the investor's ability to avoid U.S. income taxes on the investments.[22] We are concerned that the advice that we provide to assist those who attempt to comply with both the letter and spirit of the securities laws will be used by others as a pretext to violate those laws. Sham offshore offerings or procedures, or other schemes will not allow issuers or promoters to escape their registration obligations under the U.S. securities laws.

C. Effect of Attempts by U.S. Persons to Evade Restrictions

We recognize that U.S. persons may respond falsely to residence questions, disguise their country of residence by using non-resident addresses, or use other devices, such as offshore nominees, in order to participate in offshore offerings of securities or investment services. Thus, even if the foreign market participant has taken measures reasonably designed to guard against sales to U.S. persons, a U.S. person nevertheless could circumvent those measures.

In our view, if a U.S. person purchases securities or investment services notwithstanding adequate procedures reasonably designed to prevent the purchase, we would not view the Internet offer after the fact as having been targeted at the United

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[15] Section 15(a) of the Exchange Act, 15 U.S.C. 78o(a).

[16] Section 6 of the Exchange Act, 15 U.S.C. 78f.

[17] *See, e.g.,* Securities Act Release No. 7233, Question 20 (Oct. 6, 1995) [60 FR 53458] (''The placing of the offering materials on the Internet would not be consistent with the prohibition against general solicitation or advertising in Rule 502(c) of Regulation D.'').

[18] We also assume that the Internet is an instrument of interstate commerce and that its use satisfies the ''jurisdictional means'' requirements of the federal securities laws. *See American Library Ass'n* v. *Pataki,* 969 F. Supp. 160, 161 (S.D.N.Y. 1997).

[19] Under a resolution adopted by the North American Securities Administrators Association (''NASAA''), states are encouraged to take appropriate steps to exempt Internet offers from the registration provisions of their securities laws when the offers indicate that the securities are not being offered to residents of their state and the offers are not otherwise specifically made to any persons in their state. Sales of the securities that were the subject of the Internet offer could be made in that state after the offering has been registered and the final prospectus has been delivered to investors, or where the sales are exempt from registration. NASAA, *Resolution Regarding Securities Offered on the Internet* (adopted Jan. 7, 1996), 1996 CCH Par. 7040 (Jan. 1996).

According to NASAA, 32 states have implemented the resolution and 15 states have indicated an intent to do so.

Several foreign authorities have provided guidance on Internet and securities related issues. *See, e.g., Policy Statement 107 on Electronic Prospectuses* (Sept. 1996) <http://www.asc.gov.au> (Australia); Notice and Interpretation Note, *Trading Securities and Providing Advice Respecting Securities on the Internet* (Mar. 3, 1997), NIN #97/9 (British Columbia, Canada).

[20] We use the term ''U.S. person'' as it is defined in Rule 902(k) of Regulation S under the Securities Act [17 CFR 230.902(k)], which is premised on residence in the United States, regardless of any temporary presence outside the United State. *See* Securities Act Release No. 7505 (Feb. 18, 1998) [63 FR 9632 (Feb. 25, 1998)] (renumbering CFR sections). ''U.S. person'' generally has the same meaning for purposes of Section 7(d) of the Investment Company Act as under Rule 902(k) of Regulation S under the Securities Act. *See* Goodwin Procter, *supra* note 13. For purposes of this release, we deem Internet offers ''targeted at the United States'' to include Internet offers targeted to U.S. persons. *Cf.* Rule 902(h)(2) of Regulation S [17 CFR 230.902(h)(2)] (offers targeting identifiable groups of U.S. persons offshore are not offshore transactions).

[21] The disclaimer would have to be meaningful. For example, the disclaimer could state, ''This offering is intended only to be available to residents of countries within the European Union.'' Because of the global reach of the Internet, a disclaimer that simply states, ''The offer is not being made in any jurisdiction in which the offer would or could be illegal,'' however, would not be meaningful. In addition, if the disclaimer is not on the same screen as the offering material, or is not on a screen that must be viewed before a person can view the offering materials, it would not be meaningful.

[22] In our view, while a relevant factor, the fact that an Internet offeror posts offering materials in English even though it is based in a non-English speaking country will not, by itself, demonstrate that the offer is targeted at the United States.

States, absent indications that would put the issuer on notice that the purchaser was a U.S. person. This information might include (but is not limited to): receipt of payment drawn on a U.S. bank; provision of a U.S. taxpayer identification or social security number; or, statements by the purchaser indicating that, notwithstanding a foreign address, he or she is a U.S. resident. Confronted with such information, we would expect offerors to take steps to verify that the purchaser is not a U.S. person before selling to that person.[23] Additionally, if despite its use of measures that appear to be reasonably designed to prevent sales to U.S. persons, the offeror discovers that it has sold to U.S. persons, it may need to evaluate whether other measures may be necessary to provide reasonable assurance against future sales to U.S. persons.

D. Third-Party Web Services

An issuer, underwriter or other type of offshore Internet offeror may seek to have its offering materials posted on a third-party's Web site. In that event, if the offeror uses a third-party Web service that employs at least the same level of precautions against sales to U.S. persons as would be adequate for the offshore Internet offeror to employ, we would not view the third-party's Web site as an offer that is targeted to the United States.[24]

When an offeror, or those acting on its behalf, uses a third-party's Web site to generate interest in the Internet offer, more stringent precautions by the offeror than those outlined in Section III.B. may be warranted. These precautions may include limiting access to its Internet offering materials to persons who can demonstrate that they are not U.S. persons. For example, additional precautions may be called for when the Internet offeror:

- Posts offering or solicitation material or otherwise causes the offer to be listed on an investment-oriented Web site that has a significant number of U.S. clients or subscribers, or where U.S. investors could be expected to search for information about investment opportunities or services; or
- Arranges for direct or indirect hyperlinks from a third-party investment-oriented page to its own Web page containing the offering material.

IV. Additional Issues Under the Securities Act

Our Securities Act analysis assumes that the information posted on a Web site would, were we to deem it to occur in the United States, constitute an ''offer'' within the meaning of Section 5(c) of the Securities Act and Regulation S, a ''public offering'' prohibited under Section 4(2) of the Act, a ''general solicitation or general advertising'' prohibited under Rule 502(c) of Regulation D,[25] and a ''directed selling effort'' prohibited under Regulation S.[26] The focus of our analysis, then, is under what circumstances should we deem offshore Internet offers to which U.S. persons can gain access not to occur in the United States.

A. Offshore Offerings by Foreign Issuers

1. Regulation S

When a foreign issuer is making an unregistered offshore Internet offer and does not plan to sell securities in the United States as part of the offering, it should implement the general measures outlined in Section III.B. to avoid targeting the United States. Assuming that the offering is made pursuant to Regulation S, the offering must comply with all of the applicable requirements under that regulation, including the requirement that all offers and sales be made in ''offshore transactions.''[27]

2. U.S. Exempt Component

Foreign issuers commonly make offshore offerings concurrently with private offerings to U.S. institutional buyers. An offering exempt under Section 4(2) of the Securities Act may not involve ''any public offering.'' Regulation D specifically prohibits the offer or sale of securities through a ''general solicitation or general advertising.'' Publicly accessible Web site postings may not be used as a means to locate investors to participate in a pending or imminent U.S. offering relying on those provisions. If a Web site posting would be inappropriate for a U.S. private placement, an issuer should not attempt to accomplish the same result indirectly through the posting of an offshore Internet offer.

In addition to implementing the type of precautionary measures previously discussed, foreign issuers could implement other procedures to prevent their offshore Internet offers from being used to solicit participants for their U.S.-based exempt offerings, including:

- The Internet offeror could allow unrestricted access to its offshore Internet offering materials, but not permit persons responding to the offshore Internet offering to participate in its exempt U.S. offering, even if otherwise qualified to do so. In that situation, the offeror would keep a record of all persons responding over the Internet and all persons who otherwise indicate that they are responding to the offshore Internet offering;[28] *or*
- The Web site offeror could ensure that access to the posted offering materials is limited to those viewers who first provide their residence information and, in doing so, do not provide information such as a U.S. area code or address that indicates that they are a U.S. person.[29] Thus, U.S. persons could obtain access only by misrepresenting their residence information.[30]

We believe that it would not be advisable for us to dictate the use of any one particular technology or screening method to protect against general solicitation in these instances. Any less

[23] These additional steps could include a request for further evidence (*e.g.*, a copy of a passport or driver's license).

[24] Governmental authorities or securities exchanges could post issuer information that is required by law to be filed with them, including prospectuses, on their Web sites without restriction. Securities exchanges, however, should consider the U.S. registration implications of their Web sites as a whole. *See infra* Section VII.B

[25] Rule 502(c) under the Securities Act [17 CFR 240.502(c)].

[26] Rule 902(c) [17 CFR 230.902(C)].

[27] Rule 902(h) and Rule 903 of Regulations S [17 CFR 230.902(h) and 230.903]. The issuer's or underwriter's use of an Internet Web site to offer securities will not, by itself, prevent bona fide offshore purchasers in a Regulation S offering from reselling into the United States pursuant to registration or an exemption, such as Rule 144A [17 CFR 230.144A], provided that: (1) those purchasers are not part of the selling group; (2) those purchasers are not affiliated with the issuer or any member of the selling group; and (3) the issuer's or underwriter's use of the Web site was not undertaken as part of an arrangement with, or on behalf of, such offshore purchasers.

[28] To identify those persons who are responding to the Internet offer, the Web site could provide telephone numbers, contact persons, or addresses that differ from those used in the offeror's other, more traditional offering materials. Under an approach suggested in staff no-action letters, the offeror could communicate with U.S. persons on the list to determine whether they are accredited investors with a view towards permitting their participation in separate, future exempt U.S. offerings by the issuer or, where the Web site offeror is an intermediary, other issuers. *See* Staff no-action letters, Royce Exchange Fund (available Aug. 28, 1996); Bateman Eichler (available Dec. 3, 1985); E.F. Hutton & Co. (available Dec. 3, 1985); Woodtrails-Seattle (available Aug. 9, 1982). Likewise, any investor solicited by the issuer or underwriter prior to or independent of the Web site posting could participate in the private offer, regardless of whether the investor may have viewed the posted offshore offering materials.

[29] This step could be accomplished in multiple ways. For example, when a person reaches the Web site and then attempts to move to a section that includes offering information, a screen could ask for the required residence information. After the user enters the information, the area code and address could be automatically and immediately screened to eliminate further access to those who match a U.S. area code or address. Alternately, the offeror could require a password and not assign a password until it verifies that address information, or it could block access by using technology that recognizes the country from which the Web site is being accessed.

[30] Web site offerors must act in good faith to screen U.S. persons from viewing offering information. A screening mechanism that suggests ways of easy bypass would not be evidence of good faith.

costly, less intrusive method that is equally or more effective than those that we have suggested would be adequate as well.

In addition, the posted offering materials should relate only to the offshore offering.[31] The materials should contain only that information (if any) concerning the private U.S. offering that is required by foreign law to be provided to investors participating in the offshore public offering.[32]

B. Offshore Offerings by U.S. Issuers

Our approach to the use of Web sites to post offshore securities offerings distinguishes between domestic and foreign issuers.[33] For the following reasons, additional precautions are justified for Web sites operated by domestic issuers purporting not to make a public offering in the United States:

- The substantial contacts that a U.S. issuer has with the United States justifies our exercise of more extensive regulatory jurisdiction over its securities-related activities;
- There is a strong likelihood that securities of U.S. issuers initially offered and sold offshore will enter the U.S. trading markets; and
- U.S. issuers and investors have a much greater expectation that securities offerings by domestic issuers will be subject to the U.S. securities laws.

Our experience with abusive practices under Regulation S indicates that we should proceed cautiously when giving guidance to U.S. issuers in the area of unregistered offshore offerings. As a result, we would not consider a U.S. issuer using a Web site to make an unregistered offer to have implemented reasonable measures to prevent sales to U.S. persons unless, in addition to the general precautions discussed above in Section III.B., the U.S. issuer implements password-type procedures that are reasonably designed to ensure that only non-U.S. persons can obtain access to the offer.[34] Under this procedure, persons seeking access to the Internet offer would have to demonstrate to the issuer or intermediary that they are not U.S. persons before obtaining the password for the site.[35]

In the context of broader Securities Act reform, we have been considering whether the current general solicitation and other offering communications restrictions on issuers and other offering participants should be modified to create greater flexibility.[36] To the extent that we reform those restrictions on offering communications in the future, we also will consider the implications of those changes for unregistered offshore Internet offerings.

C. Concurrent U.S. Registered Offering

A registered offering in the United States that takes place concurrently with an unregistered offshore Internet offer presents concerns because of the Securities Act's restrictions on making offers prior to the filing of a registration statement or, in the case of written or published offers, outside of the statutory prospectus. Consistent with these requirements, therefore, premature posting of offering information must be avoided. Existing Commission rules that provide a safe harbor for announcements of anticipated offerings provide guidance in this respect.[37] The Commission is considering whether to provide further guidance or to make further changes concerning concurrent U.S. registered offerings and offshore Internet offers in the context of broader Securities Act reforms.

D. Underwriters

Just as an issuer must take reasonable steps to avoid offers of unregistered securities in the United States, so too must persons acting on behalf of the issuer, such as underwriters or distributors. These persons, for purposes of the Securities Act, stand in the place of the issuer.

Thus, regardless of whether the underwriter is foreign or domestic, what constitutes measures reasonably designed to prevent sales to U.S. persons will depend on the status of the issuer. For example, if the issuer is domestic and precautionary measures would call for its Web site containing offshore offering information to be password-protected, so too should the information be protected on the underwriter's Web site.[38]

V. Additional Issues Under the Investment Company Act

This portion of the release addresses certain issues that arise under the Investment Company Act when a foreign fund (that is, an investment company that is organized under the laws of a jurisdiction other than the United States) makes an offshore Internet offer of its securities. In general, as with other types of securities offerings, we would not consider an Internet offer by a foreign fund to cause the fund to be subject to regulation or registration under the Investment Company Act if the foreign fund implements measures reasonably designed to guard against sales to U.S. persons.

The issue raised by the use of the Internet is whether a foreign fund's Internet offer that can be accessed by U.S. persons should be considered a public offer in the United States.[39] Consistent with our position under the Securities Act, if a foreign fund implements measures reasonably designed to guard against sales to U.S. persons, we would not consider the foreign fund's Internet offer to be targeted to U.S. persons, and therefore would not consider the Internet offer to constitute a public offer in the United

[31] A foreign issuer that wishes to use an Internet Web site to conduct the concurrent private placement in the United States could follow the general procedures developed in the domestic context for private placements on the Internet. *See, e.g.,* Staff no-action letters, IPONET (available July 26, 1996); Lamp Technologies, Inc. (available May 29, 1997). Under these procedures, the public offer posted on the Web site may not provide a hyperlink or otherwise alert the viewer to any Web site containing private placement offering materials.

[32] Rule 135c under the Securities Act [17 CFR 230.135c] provides useful guidance on what limited information could be included on the Web site under these circumstances.

[33] We use the term ''foreign issuer'' as it is defined in Rule 902(e) of Regulation S [17 CFR 230.902(e)]. *See* Securities Act Release No. 7505.

[34] *See, e.g.,* IPONET and Lamp Technologies, Inc., *supra* note 31. Our interpretation therefore would allow for the creation of limited-access systems. Eventually, closed systems may develop that target only non-U.S. persons and qualified U.S. investors.

[35] *See* Securities Act Release No. 7392 at n.31 (Feb. 28, 1997) [62 FR 9258] (issuer cannot accept at face value representations by investors regarding their residence). *See also* IPONET, *supra* note 31(IPONET's activities were supervised by an entity that verified information provided to IPONET by people who filled out IPONET's on-line questionnaire. Information from the questionnaires was used to determine whether respondents qualified as accredited investors and therefore were eligible to obtain password to access password-protected Web pages where IPONET posted private offerings).

[36] Securities Act Release No. 7314 (July 25, 1996) [61 FR 40044]; Securities Act Release No. 7187 (July 10, 1995) [60 FR 356545].

[37] *See, e.g.,* Rule 135 under the Securities Act [17 CFR 230.135].

[38] This, however, would not include bona fide research that complies with the Commission's safe harbor rules for research reports. *See* Rules 137–139 under the Securities Act [17 CFR 230.137–230.139]. *Cf.* Exchange Act Rule 15a–6(a)(2) [17 CFR 240.15a–6(a)(2)] (conditional exemption from U.S. broker-dealer registration for foreign broker-dealers that furnish research reports to ''major institutional investors'' as defined in the rule).

[39] Section 7(d) of the Investment Company Act generally prohibits a foreign fund from using U.S. jurisdictional means to make a public offer of its securities in the United States or to U.S. persons, unless the fund receives an order from the Commission permitting it to register under the Investment Company Act. The Commission may issue such an order only if it finds that it is legally and practically feasible to enforce the provisions of the Investment Company Act effectively against the foreign fund, and that the issuance of the order is consistent with the public interest and the protection of investors.

For purposes of Section V, references to offers and sales to U.S. persons include offers or sales in the United States. Similarly, references to offers or sales in the United States include offers or sales to U.S. persons.

States subjecting the foreign fund to regulation and registration under the Investment Company Act.

An Internet offer by a foreign fund may arise in a number of situations. For example, a foreign fund could conduct an Internet offer that is targeted exclusively offshore. A foreign fund also could conduct an offshore Internet offer in addition to a private U.S. offer.[40] We discuss these situations separately below. We also address the use of the Internet by unregistered U.S. funds making private offshore offers, and the use of other forms of Internet marketing of investment company securities.

A. Internet Offers by a Foreign Fund

1. Offers Targeted Exclusively Offshore

When a foreign fund is making an unregistered offshore Internet offer and does not intend to sell securities in the United States as part of the offering, our general statements in Section III.B. outlining the need for precautionary measures to avoid targeting the United States apply here as well. We may view an Internet offer as being targeted to U.S. persons, however, if the foreign fund is engaged in activities, either as a part of or in addition to its Internet offer, that are designed to attract U.S. persons to the Internet offer, such as advertising the existence of the foreign fund's Web site in a U.S. publication.

2. Foreign Funds Conducting Offshore and Private U.S. Offers

Next, we address offshore Internet offers by foreign funds that also are conducting private U.S. offers.[41] We would not consider a foreign fund that is concurrently conducting both a private U.S. offer and an offshore Internet offer to be making a public offer of its securities in the United States if the foreign fund implements measures reasonably designed to guard against public sales of its securities to U.S. persons, and the Internet offer is not indirectly used as a general solicitation for participants in the private U.S. offer. As stated above, what constitutes adequate measures will depend on all of the facts and circumstances. In addition to implementing the type of precautionary measures discussed in Section III.B. (with one modification noted below), a foreign fund could use any procedures reasonably designed to guard against use of its Internet offer to generally solicit participants in the U.S. private offer.[42]

If a foreign fund that is concurrently conducting a private U.S. offer and an Internet offer uses a disclaimer that reflects the existence of two separate offers and indicates that the Internet offer is not being made in the United States, we would view this action as an indication that the fund has taken measures reasonably designed to guard against publicly selling its securities to U.S. persons. The disclaimer could state, for example, that *this* offer (the offshore Internet offer) is not being made in the United States (or identify the jurisdictions in which the Internet offer is being made) and that the offer and sale of securities in the United States is not permitted except pursuant to an exemption from registration.

If, however, a foreign fund directly or indirectly provides any additional information on its Web site about the types of persons to whom offers and sales can be made pursuant to an exemption under U.S. law, or provides guidance on how U.S. persons may obtain this or other purchasing information, we would view this action as an indication that the foreign fund is using its Internet offer to target the United States, except to the extent that foreign law requires that the information be disclosed.[43] Moreover, if the foreign fund provides a hyperlink, or otherwise directs U.S. persons, to another source that provides information about the private offering, we would view this action as an indication that the foreign fund is targeting the United States. In our view, either of these actions could result in the foreign fund making a public offer in the United States.

A foreign fund also may be making a public offer in the United States if it provides any other information about the private U.S. offer on its Web site, except to the extent that foreign law requires that the information be disclosed.[44] If the foreign fund wishes to provide information on its Web site relating to its private U.S. offer (other than information required by foreign law), it generally may do so without registering under the Investment Company Act if it adopts and implements password-type procedures with respect to that information.[45]

As with our position under the Securities Act, we are concerned that our guidance with respect to the Investment Company Act may be used by some foreign funds that are conducting Internet offers to engage in activities that are part of a plan or scheme to make public offers in the United States. None of our statements in this release is intended to suggest that any foreign fund could do indirectly what it could not lawfully do directly.[46]

B. Offshore Offers by U.S. Funds

As previously noted, the Commission's position on the use of the Internet for unregistered offshore offers generally distinguishes between U.S.

[40] In addition, a foreign fund also may use the Internet exclusively to conduct a private U.S. offer. This release doe not address the ability of a foreign fund to conduct a private U.S. offer over the Internet, except to the extent that it is relevant to the foreign fund's ability to simultaneously conduct an offshore Internet offer. *See infra* note 45 and accompanying text. As discussed above in Section I, the statements made in this release do not alter the requirement that all offers and sales in the United States must be pursuant to registration under the U.S. securities laws or an applicable exemption.

[41] The staff previously took the position that under certain circumstances a foreign fund that is conducting an offshore offer also may make a private U.S. offer in reliance on the exclusion from the definition of ''investment company'' in Section 3(c)(1) of the Investment Company Act consistent with the public offering prohibition contained in Section 7(d). *See* Staff no-action letter, Touche Remnant & Co. (available Aug. 27, 1984) (''Touche Remnant''). In Goodwin Procter, *supra* note 13, the staff similarly took the position that under certain circumstances a foreign fund that is conducting an offshore offer also may make a private U.S. offer in reliance on the exclusion from the definition of ''investment company'' in Section 3(c)(7) of the Investment Company Act consistent with the public offering prohibition contained in Section 7(d). the staff also has stated that if U.S. persons become shareholders of a foreign fund for reasons beyond the control of the fund or persons acting on its behalf, the fund would not be required to count those shareholders as U.S. persons for purposes of determining whether the fund may rely on the exception from the definition of ''investment company'' in Section 3(c)(1) of the Investment Company Act. *See* Staff no-action letter, Investment Funds Institute of Canada (available Mar. 4, 1996). The same position applies to foreign funds relying on Section 3(c)(7) of the Investment Company Act. *See generally* Goodwin Procter, *supra* note 13. We take the position that Touche Remnant is superseded to the extent that it is inconsistent with these positions.

[42] *See* notes 28–32 *supra* and accompanying text.

[43] Although Rule 135c by its terms applies only to Section 5 of the Securities Act, we would take a similar approach with respect to the type of information that a foreign fund may, if required by foreign law, provide on its Internet site about a U.S. private offer without violating the public offering prohibition contained in Section 7(d) of the Investment Company Act. *See supra* note 32 and accompany text.

[44] An adviser to a foreign fund conducting an offshore Internet offer that also sponsors a U.S.-registered investment company with the same investment objectives and policies as the foreign fund may provide information about, or direct the viewer to, the registered U.S. offer without the Internet offer being considered to be a public offer of the foreign fund's securities in the United States.

[45] *See* Lamp Technologies, Inc. and IPONET, *supra* note 31. Prequalification and password-type procedures are intended to ensure that only persons eligible to privately purchase the securities can obtain access to a Web site used in connection with a private offer and that the dissemination of information through the Internet site does not constitute a ''general solicitation'' under Rule 502(c) of Regulation D under the Securities Act. In addition to the procedures discussed in Lamp Technologies, there may be other, equally effective procedures designed to restrict access to information on the Internet to those persons who are eligible to purchase securities in a private U.S. offer.

[46] *See* Section 48(a) of the Investment Company Act.

and foreign issuers, based upon the Commission's greater interest in regulating the conduct of U.S. issuers in the United States. As noted in Section IV.B., we will not require a U.S. issuer making an offshore offer over the Internet to register the offer under the Securities Act if it uses procedures reasonably designed to ensure that only non-U.S. persons may view the offer. We conclude that the same approach should apply under the Investment Company Act to U.S. funds making offshore Internet offers. Thus, we would not consider a U.S. fund making a private offshore offer in reliance on one of the exclusions from the definition of ''investment company'' in Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act to be making a public offer in the United States if the fund uses procedures, such as password-protected web sites, reasonably designed to ensure the private nature of the offer.[47]

As noted above, we are considering whether the current restrictions on general solicitations in connection with private offers under the Securities Act should be modified.[48] In the event that we revise current Securities Act restrictions on exempt private offers and unregistered offshore offers, we anticipate that we would consider parallel revisions under the Investment Company Act.

C. Other Forms of Internet Marketing of Investment Company Securities

We analyze Internet offers made by or on behalf of a foreign fund in generally the same manner as offers by other types of issuers.[49] If a foreign fund or persons acting on its behalf seek to use a third-party Web site to generate interest in an offshore offer, the implementation of more stringent restrictions on the offshore Internet offer may be necessary to ensure that the offer is not being directed into the United States, including limiting access to the Internet offering materials to persons who can demonstrate that they are not U.S. persons.[50]

VI. Offers of Advisory Services Under the Advisers Act

This portion of the release addresses issues that arise under the Advisers Act when a foreign adviser (that is, an investment adviser that is organized under the laws of a jurisdiction other than the United States) offers its advisory services over the Internet. In general, a foreign adviser may be able to rely on an exemption from registration under the Advisers Act if it has fewer than fifteen U.S. clients and implements measures reasonably designed to ensure that, based on its Internet activities, the adviser is not holding itself out as an investment adviser in the United States.[51]

The issue raised by a foreign investment adviser's use of the Internet is whether and, if so, under what circumstances, the foreign adviser may provide information about its advisory services over the Internet without being considered to be holding itself out as an investment adviser in the United States. We conclude that a foreign adviser providing advisory services over the Internet generally would be holding itself out as an investment adviser. Specifically, we have stated that we generally will consider an adviser who uses a publicly available electronic medium, such as the Internet, to provide information about its services to be holding itself out to the public as an adviser, and to not qualify for the exemption from registration contained in

Section 203(b)(3) of the Advisers Act.[52] If, however, the adviser implements measures reasonably designed to guard against directing information provided on the Internet about its advisory services to U.S. persons, we would not consider the foreign adviser to be holding itself out as an investment adviser in the United States for purposes of Section 203(b)(3).

What constitutes measures reasonably designed to guard against an adviser holding itself out as an investment adviser in the United States will depend on all of the facts and circumstances. We generally would consider an adviser to have implemented measures reasonably designed to guard against holding itself out as an investment adviser in the United States if:

- The Web site includes a prominent disclaimer making it clear to whom the site materials are (or are not) directed.[53]
- The adviser implements procedures reasonably designed to guard against directing information about its advisory services to U.S. persons (e.g., obtaining sufficient residency information such as mailing addresses or telephone numbers prior to sending further information), other than to its fourteen or fewer U.S. clients.[54]

Other measures also may provide adequate assurance that a foreign adviser is not holding itself out as an investment adviser in the United States.

VII. Exchange Act Registration Issues

The Internet activities of broker-dealers and markets (including exchanges) also raise issues under the Exchange Act. Foreign entities that perform these functions should consider whether their Internet activities would subject them to registration under the Exchange Act.

A. Broker-Dealer Activities

Broker-dealers must register with the Commission if they are physically present in the United States, or if, regardless of their location, they effect, induce, or attempt to induce securities transactions with investors in the United States. The issue, therefore, is whether the Commission would deem a broker-dealer's Web site to be an attempt to induce securities transactions with U.S. persons. Broker-dealer Web sites may offer market information and investment tools, real-time or delayed quote information, market summaries, research, portfolio management tools, and analytic programs. Some sites also include information on commissions and other fees, branch office locations, and instructions on how to contact the broker-dealer. In essence, Web sites advertise the broker-dealers' services to potential investors with the intent of attracting securities business.

In keeping with the general principles outlined above (Section III.B.), the Commission will not consider a foreign broker-dealer's advertising on an Internet Web site to constitute an attempt to induce a securities transaction with U.S. persons if the foreign broker-dealer takes measures reasonably designed to ensure that it does not effect securities transactions with U.S. persons as a result of its Internet activities.

Under our general principles, as applied in the broker-dealer context, a

[47] *See supra* notes 34–35 and accompanying text.

[48] *See supra* note 36 and accompanying text.

[49] *See* Section III.D., *supra.*

[50] *Id.*

[51] Section 203)a) of the Advisers Act generally prohibits any investment adviser from using U.S. jurisdictional means in connection with its business as an investment adviser, unless the adviser is registered with the Commission, or is exempted or excluded from the requirement to register. Section 203(b)(3) of the Advisers Act provides for an exemption from registration for any adviser who during the course of the preceding twelve months has had fewer than fifteen clients and who neither holds itself out generally to the public as an investment adviser nor acts as an adviser to a U.S.-registered investment company or business development company. The staff has taken the position that foreign advisers are required to count only their U.S. clients for purposes of determining whether they are exempt from registration under Section 203(b)(3). *See Protecting Investors: A Half Century of Investment Company Regulation,* at 223 n.6 (1992); Staff no-action letter, Murray Johnstone Ltd. (available Oct. 7, 1994).

[52] *See* use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Adviser for Delivery of Information, Securities Act Release No. 7288 (May 9, 1996) at text accompanying n. 32. *But see* Lamp Technologies, Inc., *supra* note 31.

[53] *See supra* note 21 and accompaying text.

[54] *See* text following *supra* note 21.

foreign broker-dealer generally would be considered to have taken measures reasonably designed to ensure it does not effect securities transactions with U.S. persons as a result of its Internet activities if it:

- Posts a prominent disclaimer on the Web site either affirmatively delineating the countries in which the broker-dealer's services are available, or stating that the services are not available to U.S. persons; and
- Refuses to provide brokerage services to any potential customer that the broker-dealer has reason to believe is, or that indicates that it is, a U.S. person, based on residence, mailing address, payment method, or other grounds.

As a means to implement the latter procedure, the broker-dealer should require potential customers to provide sufficient residence information.

These procedures are not exclusive. Adoption of other equally or more effective precautions can also suffice to demonstrate that the broker-dealer does not effect securities transactions with U.S. persons as a result of its Internet activities.

The Commission has exempted foreign broker-dealers that effect transactions with U.S. customers from registering in the United States if these customers initiated transactions with the foreign broker-dealers outside of the United States without solicitation. Specifically, Exchange Act Rule 15a–6 currently provides an exemption from U.S. broker-dealer registration for foreign broker-dealers that effect transactions in securities with or for persons that they have not solicited.[55] Foreign broker-dealers that solicit transactions with U.S. persons, however, are required to register as broker-dealers in the United States.

Foreign broker-dealers that have Internet Web sites and that intend to rely on Rule 15a–6's ''unsolicited'' exemption should ensure that the ''unsolicited'' customer's transactions are not in fact solicited, either directly or indirectly, through customers accessing their Web sites.[56] In particular, these broker-dealers could obtain, as a precaution reasonably designed to prevent that result, affirmative representations from potential U.S. customers that they deem unsolicited that those customers have not previously accessed their Web sites. Alternatively, a broker-dealer could maintain records that are sufficiently detailed and verifiable to reliably determine that such U.S. customers had not obtained access to its Web site.

B. Exchange Activities

Until recently, in order to obtain current market information about, and to purchase or sell securities on, a foreign market, a U.S. investor typically contacted a U.S. broker-dealer by telephone or facsimile. Alternatively, the U.S. investor could directly contact a foreign broker-dealer that is a member of the foreign market. Today, however, the technology exists for investors to obtain real-time information about trading on foreign markets from a number of different sources, and to enter and execute orders on those markets electronically from the United States. Many exchanges, for example, offer Web sites through which they provide real-time quotes and other market information, e-mail addresses for questions, general contact and membership information (including the names and addresses of members), and other investing tools.

The U.S. securities laws require exchanges to register with the Commission if they (or any broker or dealer) ''make use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange within or subject to the jurisdiction of the United States to effect any transaction in a security, or to report any such transaction.'' [57] The Commission currently is considering the question of under what circumstances a foreign market that provides the ability in the United States for U.S. persons to trade directly in the market must register as a U.S. exchange.[58]

At this time, however, the Commission will not apply the exchange registration requirements to a foreign market that sponsors a Web site generally advertising the foreign exchange, disseminating quotes (including real-time quotes with counterparty identification), or allowing orders to be directed to the market through its Web site, so long as the exchange takes steps reasonably designed to prevent U.S. persons from directing orders to the market through its Web site. In our view, an exchange generally would be considered to have taken steps reasonably designed to prevent U.S. persons from accessing the market through its Web site if it:

- Posts a disclaimer on the Web site affirmatively stating either the countries in which the exchange's services are directly available, or that the exchange's services are not directly available to U.S. persons;
- Requires potential members or direct participants in the exchange to state their residence and mailing address;
- Refuses to allow trading on the exchange through the Web site by any person that the exchange has reason to believe, or that indicates it, is a U.S. person; and
- Refrains from making arrangements to provide U.S. persons with access to the exchange over the Internet indirectly through its members.[59]

List of Subjects

17 CFR Parts 231, 241 and 276

Securities.

17 CFR Part 271

Investment companies, Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth in the preamble, the Commission is amending Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

1. Part 231 is amended by adding Release No. 33–7516 and the release date of March 23, 1998, to the list of interpretative releases.

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. Part 241 is amended by adding Release No. 34–39779 and the release date of March 23, 1998, to the list of interpretative releases.

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

3. Part 271 is amended by adding Release No. IC–23071 and the release date of March 23, 1998, to the list of interpretative releases.

[55] Exchange Act Rule 15a–6(a)(1) [17 CFR 240.15a–6(a)(1)].

[56] Because a securities firm's Web site itself typically is a solicitation, orders routed through the Web site would not be considered ''unsolicited.''

[57] Section 5 of the Exchange Act, 15 U.S.C. 78e.

[58] Exchange Act Release No. 38672 (May 23, 1997).

[59] This last step would preclude an exchange from relying on this release if it, for example, sets the terms under which exchange members provide Internet access to the exchange, or makes arrangements for U.S. persons to directly clear and settle trades conducted on the exchange through the Internet. Foreign exchanges that knowingly provide U.S. persons with access to their trading facilities through the Internet would not be able to rely on this interpretation, and may be required to register with the Commission.

PART 276—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT ADVISERS ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. Part 276 is amended by adding Release No. IA–1710 and the release date of March 23, 1998, to the list of interpretative releases.

By the Commission.

Dated: March 23, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8001 Filed 3–26–98; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239 and 274

[Release Nos. 33–7512A; 34–39748A; IC–23064A; File No. S7–10–97]

RIN 3235–AE46

Registration Form Used by Open-End Management Investment Companies; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** on Monday, March 23, 1998 (63 FR 13916). The regulations adopted amendments to Form N–1A, the form used by mutual funds to register under the Investment Company Act of 1940 and to offer their shares under the Securities Act of 1933.

DATES: Effective on June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Doretha M. VanSlyke, Attorney, 202–942–0721.

SUPPLEMENTARY INFORMATION: As published, the final regulations did not contain the Office of Management and Budget approval information that needs to appear on the front page of Form N–1A.

Accordingly, the publication on March 23, 1998 of the final regulations which were the subject of FR Doc. 98–7070 is corrected as follows.

On page 13944, first column, in Form N–1A, the Office of Management and Budget approval information is corrected as follows:

"OMB Approval

OMB Number: 3235–0307.

Expires: 05/31/00.

Estimated average burden hours per response: 212.95".

Dated: March 23, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8035 Filed 3–26–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 93C–0248]

Listing of Color Additives Exempt from Certification; Canthaxanthin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of canthaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by BASF Corp.

DATES: Effective April 28, 1998, except as to any provisions that may be stayed by the filing of proper objections; written objections and request for a hearing by April 27, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3078.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of August 12, 1993 (58 FR 42975), FDA announced that a color additive petition (CAP 3C0240) had been filed by BASF Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054. The petitioner requested that FDA amend the color additive regulations to provide for the safe use of canthaxanthin as a color additive in the feed of salmonid fish. The petition was filed under section 721(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(d)).

II. Safety Evaluation

Canthaxanthin (β,β-carotene-4,4'-dione) and astaxanthin are two coloring substances found in wild salmonids (Refs. 1 and 2). They are responsible for imparting the pink or red coloring to these fish. Astaxanthin, found in crustaceans that constitute a significant portion of the diet of wild salmonids, is the primary coloring substances found in wild salmonids (Ref. 2). Canthaxanthin contributes less coloring to wild salmonids and is present at levels of 0.3 to 1.0 milligram per kilogram (mg/kg) (Ref. 1). Coloration of aquacultured salmonids that is comparable to that in wild salmonids may be achieved by feeding aquacultured salmonids a diet that is higher in canthaxanthin than is present in the diet of wild fish.

Based on the data and information that is before the agency, FDA has determined that the use of canthaxanthin in fish feed at a level of 80 mg/kg (72 grams (g)/ton) is safe. This level will result in 4 to 8 mg/kg of the color additive in the flesh of salmonids (Ref. 3).

As part of its safety evaluation, FDA estimated the cumulative exposure to canthaxanthin. The cumulative exposure consists of exposure from the proposed use in salmonids and the exposure from all currently listed uses. FDA used data and information contained in the petition concerning residues of canthaxanthin in salmonids to estimate the exposure to canthaxanthin from the proposed use. The agency used these data and information, in addition to data and information on the currently regulated uses of canthaxanthin, to determine the cumulative exposure to canthaxanthin.

FDA estimates that, for the petitioned use, a level of 8 mg of canthaxanthin/kg salmonid flesh will result in an exposure of no greater than 0.08 mg/person/day (mg/p/d) for an individual consuming those fish at the 90th percentile (Ref. 4). To estimate, for this final rule, the exposure to canthaxanthin from all currently regulated uses, FDA used the poundages of canthaxanthin used in food taken from the 1982 and 1987 National Academy of Sciences' (NAS) surveys of additives used in food (Ref. 5).

FDA previously estimated the exposure to canthaxanthin from currently regulated uses, when, in 1985, FDA issued a regulation that allowed the use of canthaxanthin in broiler chicken feed for coloring skin (hereinafter referred to as "the 1985 rule") (50 FR 47532, November 19, 1985). As part of its review of the BASF Corp. petition, FDA evaluated the exposure to canthaxanthin, based on currently regulated uses, and found that the calculation done for the 1985 rule was erroneous in that it overestimated

exposure to the color additive. The preamble to the 1985 rule contained a theoretical estimate of exposure to canthaxanthin based on use of the color additive in all food. This worst case estimate for exposure to canthaxanthin was determined to be 100 mg/p/d (Ref. 6). The estimated exposure to canthaxanthin from its use in chicken feed (6 mg/p/d) was then added to the 100 mg/p/d, resulting in a cumulative estimated exposure of 106 mg/p/d.

FDA has now determined that the 100 mg/p/d estimate is unreasonably exaggerated because for technologic and aesthetic reasons canthaxanthin will not be used to color all foods. FDA has also determined that it is incorrect to add the 6 mg/p/d estimate of exposure from its use in chicken feed to the 100 mg/p/d worst case estimate because the worst case estimate already included the intake of colored chicken. Furthermore, FDA has determined that the 6 mg/p/d estimate of exposure from colored chicken skin is unreasonably exaggerated because it would require a daily intake of approximately 12,000 g (approximately 264 pounds) of chicken containing canthaxanthin at 50 part per billion (ppb) to achieve this exposure to canthaxanthin. Consequently, FDA recalculated the exposure to canthaxanthin from use in chicken feed, and used the recalculated exposure level in order to determine the exposure from all currently regulated uses of the color additive. FDA then added the exposure from the proposed use of canthaxanthin in salmonids to the exposure from the currently regulated uses to estimate the cumulative exposure to canthaxanthin.

The use of canthaxanthin in feed results in a residual level of canthaxanthin of 50 ppb in chicken meat, of 150 ppb in chicken fat, and of 2 parts per million in chicken livers. Combining these data with intakes of these foods gives an exposure to canthaxanthin from its use in chicken feed of 0.007 mg/p/d (Ref. 7). FDA determined, based on the 1982 and 1987 NAS surveys, that the per capita disappearance of canthaxanthin was 0.027 mg/p/d (1982 data) and 0.008 mg/p/d (1987 data). To provide a conservative, yet reasonable estimate of exposure using these poundage data, FDA assumed that only 10 percent of the population consumes the entire output of food colored with canthaxanthin and chose the higher of the two per capita disappearances (the 1982 data) to calculate a per capita exposure of 0.27 mg/p/d (0.027 mg/p/d x 10 = 0.27 mg/p/d) from all pre-1985 uses of the color additive. Adding the recalculated exposure from use in chicken feed (0.007 mg/p/d) to the exposure from currently regulated uses based upon the 1982 estimate of 0.27 mg/p/d results in a total exposure from currently regulated uses of 0.28 mg/p/d. Therefore, the cumulative exposure to canthaxanthin from its currently regulated uses plus the petitioned use is 0.36 mg/p/d (0.28 mg/p/d current use + 0.08 mg/p/d proposed use in salmonids).

Because of the numerous conservative assumptions used in calculating exposure, the actual cumulative exposure from the current and petitioned uses of canthaxanthin is likely to be substantially less than the estimated cumulative exposure of 0.36 mg/p/d.

The acceptable daily intake (ADI) of canthaxanthin, as previously determined by FDA, is 150 mg/p/d (50 FR 47532 at 47533). FDA's estimates for the 90th percentile human exposure to canthaxanthin in aquacultured fish flesh of 0.08 mg/p/d and the cumulative exposure for canthaxanthin of 0.36 mg/p/d represent only small fractions of this amount.

In 1996, the Joint Expert Committee on Food Additives (JECFA) of the Food and Agriculture Organization and the World Health Organization (WHO) determined an ADI of 0.03 mg/kg body weight (bw) (1.8 mg/p/d) for canthaxanthin based on a no-observed-effect-level of 0.25 mg/kg bw/d in humans and a safety factor of 10 (Ref. 8). JECFA's ADI was based on consideration of recent reports of crystalline retinopathy in subjects consuming large quantities of canthaxanthin as part of tanning pills and animal studies conducted to study this retinal effect.

FDA has proceeded to make a determination on the petitioned use of canthaxanthin even though it has yet to evaluate the studies that JECFA considered in determining JECFA's 1996 ADI. FDA believes it is entirely sound to do so because the exposure from the petitioned use of canthaxanthin is well below both FDA's and JECFA's ADI (Ref. 9). Nevertheless, the agency may determine, in response to a petition for an additional use of canthaxanthin, that a reevaluation of the exposure to this color additive is warranted, including consideration of the studies that JECFA considered in arriving at its 1996 ADI.

The agency has reviewed the safety information for canthaxanthin and finds that there is no basis for concern that harm will result to consumers from the current and petitioned uses of canthaxanthin. Thus, FDA concludes that there is a reasonable certainty of no harm from the current and petitioned uses of canthaxanthin (Ref. 10).

FDA received one comment on the petition. This comment endorsed the petitioned use of canthaxanthin.

III. Stability

FDA finds that canthaxanthin is relatively unstable. Pure crystalline canthaxanthin must be stored in the absence of light, heat, and oxygen to minimize chemical changes and decomposition that would result in loss of color (Refs. 1 and 11). Thus, it is necessary to produce a stabilized form of canthaxanthin for it to be marketed for addition to salmonid feed for the purpose of coloring fish flesh. Because of this concern, the petitioner manufactures canthaxanthin in a beadlet form, which the manufacturer has shown provides increased stability to the color additive mixture. Therefore, newly added § 73.75(c)(3)(i) (21 CFR 73.75(c)(3)(i)) requires that canthaxanthin be added to fish feed only in the form of a stabilized color additive mixture.

IV. Labeling Requirements

All color additives, in accordance with § 70.25 (21 CFR 70.25), require sufficient information to assure their safe use and to allow a determination of compliance with any limitations imposed by the agency in other applicable regulations. Therefore, the labeling of the color additive, canthaxanthin, and any mixture prepared therefrom, is subject to the requirements of § 70.25.

According to § 70.25(a)(4), an expiration date for a color additive must be stated on its label if stability data require it. FDA finds that because of the instability of canthaxanthin, an expiration date must be stated on the label of sealed and open containers, in accordance with § 70.25(a)(4). FDA also finds that declaration of the expiration date constitutes a material fact that must be disclosed on the label of the color additive mixture under sections 201(n) and 403(a)(1) of the act (21 U.S.C. 321(n) and 343(a)(1)) because failure to do so would constitute a failure to reveal facts material in light of the other representations made on the label and material with respect to consequences which may result from the use of the color additive. The use of canthaxanthin requires the declaration of expiration dates because this relatively unstable color additive can decompose to products that would not be coloring agents and thus would not affect the color of salmonid flesh.

In addition to the requirements for labeling the color additive or color

additive mixture, the ingredient list on fish feed, to which canthaxanthin is added, must identify the presence of the color additive under § 501.4 (21 CFR 501.4). New § 73.75(d)(3) references § 501.4 to ensure that the presence of canthaxanthin as a color additive in the fish feed will be declared on the ingredient label.

Finally, the presence of the color additive must be declared on the label of any food, including salmonid fish, containing added canthaxanthin and food containing such salmonid fish as an ingredient. Section 101.22(b) (21 CFR 101.22(b)) requires a food that bears or contains artificial coloring, such as salmon artificially colored with canthaxanthin, to bear labeling even though such food is not in package form. Section 101.22(c) requires that label statements of artificial coloring be ''likely to be read by the ordinary person under customary conditions of purchase and use of such food.''

Furthermore, § 101.22(k)(2) requires, in the statement of ingredients for a food to which any coloring has been added, and for which the coloring is not subject to certification, a declaration that makes it clear that a color additive has been used in the food. In addition, the presence of a color additive must be declared on any bulk container of food containing a color additive that is held at a retail establishment under the provisions in § 101.100(a)(2) (21 CFR 101.100(a)(2)). The ingredient label would prevent economic fraud in salmonid fish containing added canthaxanthin because the ingredient label would notify the consumer that the fish is artificially colored. Without such ingredient labeling, food comprising salmonid fish with added canthaxanthin would be deemed to be misbranded under section 403(k) of the act which states that: ''A food shall be deemed to be misbrandeded * * * If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact * * *.''

Therefore, in accordance with §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2), labeling on any salmonid fish containing canthaxanthin is required to declare the presence of the color additive or color additive mixture. New § 73.75(d)(4) references §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2) to ensure that, at the retail level, the presence of canthaxanthin as a color additive in the fish will be declared, and that the labeling of the bulk fish container, including a list of ingredients, will be displayed on the container or on a counter card with similar information.

V. Conclusions

FDA has evaluated the data in the petition and other relevant material and concludes that canthaxanthin is safe and suitable for the intended use, and therefore, that the regulations in § 73.75 should be amended as set forth below. In addition, based upon the factors listed in 21 CFR 71.20(b), the agency concludes that certification of canthaxanthin is not necessary for the protection of the public health.

Because of the relative instability of crystalline canthaxanthin, the agency believes that the use of this color additive should be in the form of a stabilized color additive mixture for all regulated uses of canthaxanthin. In addition, the agency believes that stability data for canthaxanthin require that the labeling of this color additive for all regulated uses include an expiration date. Therefore, the agency is requiring, in new § 73.75(c) and (d), that the use of canthaxanthin in fish feed be in the form of a stabilized color additive mixture and that the labeling include an expiration date. The currently listed uses for canthaxanthin have no such requirements. Therefore, the agency plans to publish a proposed rule to amend the current regulation in § 73.75 to require, for such uses, that canthaxanthin be in the form of a stabilized color additive mixture and that the labeling include an expiration date (Ref. 12).

VI. Inspection of Documents

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VII. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Objections

Any person who will be adversely affected by this regulation may at any time on or before April 27, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

IX. References

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

1. Christophersen, A. G., P. Knuthsen, and L. H. Skibsted, ''Determination of Carotenoids in Salmonids,'' *Zeitschrift für Lebensmittel-Untersuchung Forschung*, 188:413-418, 1989.

2. Schiedt, K., F. J. Leuenberger, and M. Vecchi, ''Natural Occurrence of Enantiomeric and Meso-Astaxanthin,'' *Helvitica Chimica Acta*, 64:449–457, 1981.

3. Storebakken, T., P. Foss, K. Schiedt, E. Austreng, S. Liaaen-Jensen, and U. Mainz, ''Carotenoids in Diets for Salmonids IV. Pigmentation of Atlantic Salmon with Astaxanthin, Astaxanthin Dipalmitate and Canthaxanthin,'' *Aquaculture*, 65: 279–292, 1987.

4. Memorandum from M. DiNovi, FDA, to J. Wallwork, FDA, May 17, 1996.

5. National Academy of Sciences, ''1987 Poundage and Technical Effects Update of Substances Added to Food,'' p. 98, Washington, DC, 1989.

6. Memorandum from L. Borodinsky, FDA, to J. Taylor, FDA, April 28, 1989.

7. Memorandum from M. DiNovi, FDA, to J. Wallwork, FDA, August 29, 1996.
8. Olsen, P. ''Canthaxanthin,'' in *Toxicological Evaluation of Certain Food Additives and Contaminants in Food*. WHO Food Additive Series: 35, World Health Organization, Geneva, pp. 157–171, 1996.
9. Memorandum of April 17, 1997, FDA Meeting Regarding Canthaxanthin: JECFA's 1996 ADI.
10. Memorandum from C. Johnson, FDA, to J. Wallwork, FDA, September 10, 1996.
11. Bunnell, R. H., and B. Borenstein, ''Canthaxanthin, A Potential New Food Color,'' *Food Technology*, 21: 13A–16A, 1967.
12. Memorandum of Telephone Conversation between J. Wallwork, FDA, and S. Turujman, FDA, July 8, 1996.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 73.75 is amended in paragraph (c)(1)(i) by removing the period at the end and by adding ''; and'' in its place, by adding paragraph (c)(3), and by revising paragraph (d) to read as follows:

§ 73.75 Canthaxanthin.

* * * * *

(c) * * *

(3) Canthaxanthin may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(i) Canthaxanthin may be added to the fish feed only in the form of a stabilized color additive mixture;

(ii) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish; and

(iii) The quantity of color additive in feed shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) *Labeling requirements*. (1) The labeling of the color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(2) For purposes of coloring fish, the labeling of the color additive and any premixes prepared therefrom shall bear expiration dates (established through generally accepted stability testing methods) for the sealed and open container, other information required by § 70.25 of this chapter, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c)(3) of this section.

(3) The presence of the color additive in finished fish feed prepared according to paragraph (c)(3) of this section shall be declared in accordance with § 501.4 of this chapter.

(4) The presence of the color additive in salmonid fish that have been fed feeds containing canthaxanthin shall be declared in accordance with §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2) of this chapter.

* * * * *

Dated: March 19, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–8127 Filed 3–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 104, and 135

Foods and Drugs; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to correct certain errors that have become incorporated into the food labeling regulations. This action is being taken to improve the accuracy and clarity of the regulations.

EFFECTIVE DATE: March 27, 1998

FOR FURTHER INFORMATION CONTACT: Theresa L. Thomas, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

SUPPLEMENTARY INFORMATION: FDA has discovered that certain errors have become incorporated into the agency's codified regulations on food labeling. FDA is correcting these nonsubstantive errors.

In the **Federal Register** of June 3, 1996 (61 FR 27771), FDA published a final rule entitled ''Revocation of Certain Regulations Affecting Food.'' The final rule, among other things, revoked § 100.130 (21 CFR 100.130). However, in issuing the rule, the agency inadvertently neglected to remove the cross-reference to § 100.130 in § 101.2. Also in the **Federal Register** of January 6, 1993 (58 FR 2079), FDA published a final rule entitled ''Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label.'' The 1993 final rule, among other things, revised § 101.9 (21 CFR 101.9) in its entirety. However, in issuing the 1993 final rule, the agency inadvertently neglected to revise the reference to ''§ 101.9(e)'' that appeared in §§ 101.12 and 104.5 (21 CFR 101.12 and 104.5) to read ''§ 101.9(g).'' In this order, FDA is amending §§ 101.2, 101.12, and 104.5 to correct these inadvertent omissions.

In addition to these modifications, FDA is making a number of other minor corrections involving spelling and punctuation errors.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

Lists of Subjects

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 104

Food grades and standards, Frozen foods, Nutrition.

21 CFR Part 135

Food grades and standards, Food labeling, Frozen foods, Ice cream.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 101, 104, and 135 are amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

§ 101.2 [Amended]

2. Section 101.2 *Information panel of package form food* is amended by removing paragraph (c)(1)(ii)(B)(*3*)(*i*) and by redesignating paragraphs (c)(1)(ii)(B)(*3*)(*ii*), (c)(1)(ii)(B)(*3*)(*iii*), and (c)(1)(ii)(B)(*3*)(*iv*) as paragraphs (c)(1)(ii)(B)(*3*)(*i*), (c)(1)(ii)(B)(*3*)(*ii*), and (c)(1)(B)(*3*)(*iii*), respectively.

§ 101.12 [Amended]

3. Section 101.12 *Reference amounts customarily consumed per eating occasion* is amended in paragraph (e)(2) by removing the citation ''§ 101.9(e)'' and adding in its place ''§ 101.9(g).''

§ 101.13 [Amended]

4. Section 101.13 *Nutrient content claims—general principles* is amended in paragraph (q)(8) by revising the words ''fluoridated fluoride added'' to read ''fluoridated, fluoride added,''.

§ 101.22 [Amended]

5. Section 101.22 *Foods; labeling of spices, flavorings, colorings and chemical preservatives* is amended in the third sentence of paragraph (i)(4) by removing the phrase ''A flavor used'' and adding in its place the phrase ''A flavor user''.

PART 104—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

6. The authority citation for 21 CFR part 104 continues to read as follows:

Authority: 21 U.S.C. 321, 343, 371(a).

§ 104.5 [Amended]

7. Section 104.5 *General principles* is amended in paragraph (e) by removing the citation ''§ 101.9(e)'' and adding in its place ''§ 101.9(g)''.

PART 135—FROZEN DESSERTS

8. The authority citation for 21 CFR part 135 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

§ 135.110 [Amended]

9. Section 135.110 *Ice cream and frozen custard* is amended in paragraph (f)(3)(i) by removing the citation to paragraph ''(e)(2)(ii)'' and adding in its place ''(f)(2)(ii)''.

Dated: March 19, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–7983 Filed 3–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Tilmicosin Phosphate Injection; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of February 17, 1998 (63 FR 7701). The document amended the drug regulations to reflect approval of a supplemental new animal drug application filed by Elanco Animal Health, A Division of Eli Lilly and Co. The document was published with an error. This document corrects that error.

EFFECTIVE DATE: February 17, 1998.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 98–3897, appearing on page 7701, in the **Federal Register** of Tuesday, February 17, 1998, the following correction is made:

§ 522.2471 [Corrected]

1. On page 7701, in the third column, in amendment no. 2, in line four, ''13th and 14th'' is corrected to read ''14th and 15th''.

Dated: March 19, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–7982 Filed 3–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–013]
RIN 2115–AE46

Special Local Regulations for Marine Events; Whitbread Chesapeake, Chesapeake Bay, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the Chesapeake Bay portion of the Whitbread Round-the-World Offshore Yacht Race. Three marine events held as part of the Whitbread Round-the-World Race will take place in the waters of the Chesapeake Bay and Patapsco River. The dates for these activities are April 22 through May 3, 1998. These regulations are needed to allow Whitbread Chesapeake, Inc. to protect boaters, spectators and participants from the dangers associated with the events.

DATES: This temporary final rule is effective from 6 a.m. EDT (Eastern Daylight Time) on April 22, 1998 to 6 a.m. EDT on April 23, from 9 a.m. EDT to 12 p.m. EDT on April 30, 1998, and from 10 a.m. EDT to 2:30 p.m. EDT on May 3, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant James Driscoll, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, telephone number (410) 576–2676.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation. Following normal rulemaking procedures would have been impractical since there is not sufficient time remaining to publish a proposed rule in advance of the event or to provide for a delayed effective date. Immediate action is needed to protect vessel traffic from the potential hazards associated with congested waterways.

Background and Purpose

Whitbread Chesapeake, Inc. has submitted three marine event permit applications to the U.S. Coast Guard for events to be held as part of the Whitbread Round-the-World Offshore Yacht Race. On April 22, 1998, Whitbread Chesapeake, Inc. will sponsor the Whitbread Chesapeake Leg 7 finish. This event will consist of 10 offshore sailing vessels conducting race finish line approaches, finish line crossings and preparations for mooring on the waters of the Patapsco River and Northwest Harbor. On April 30, 1998, Whitbread Chesapeake, Inc. will sponsor the Whitbread Chesapeake parade of sail. This event will consist of 10 offshore sailing vessels conducting organized transit on the waters of the Patapsco River and Chesapeake Bay from Baltimore Inner Harbor to Annapolis Harbor. On May 3, 1998, Whitbread Chesapeake, Inc. will sponsor the Whitbread Chesapeake Leg 8 start. This event will consist of 10 offshore sailing vessels conducting race start preparations, start box maneuvering, corridor racing and gate area approaches on the waters of the Chesapeake Bay. A large fleet of spectator vessels is anticipated for each event. Due to the need for vessel control during the races and parade of sail, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of the Chesapeake Bay

and Patapsco River. Because of the nature of the events to be held as part of the Whitbread Round-the-World Offshore Yacht Race and the length of time over which the events are scheduled to run, the Coast Guard believes the most effective way to meet all safety, security and vessel control objectives is to establish three separate regulated areas. As events occur, the various regulated areas will be in effect only as the need arises. The temporary special local regulations will restrict general navigation in the regulated areas during the events. Spectator anchorage areas will also be established for spectator vessels to view the events. These regulations are needed to control vessel traffic during the marine events to enhance the safety of participants, spectators, and transiting vessels.

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 been exempted from review by the office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated areas will only be in effect for a limited amount of time, extensive advisories have been and will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimal disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities because of the event's short duration.

Collection of Information

These regulations contain no Collection of Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1b (as amended, 61 FR 13564; March 27, 1996), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, § 100.35–T05–013 is added to read as follows:

§ 100.35–T05–013 Whitbread Chesapeake, Chesapeake Bay, Maryland.

(a) *Definitions:*

(1) *Northwest Harbor Regulated Area.* The waters of the Patapsco River and Northwest Harbor enclosed by:

Latitude	*Longitude*
39°15′33.5″ North	76°34′07.5″ West, to
39°15′17.5″ North	76°33′58.0″ West, to
39°15′15.5″ North	76°34′15.5″ West, to
39°15′23.5″ North	76°34′44.0″ West, to
39°15′50.5″ North	76°34′39.5″ West, to
39°15′57.5″ North	76°34′42.0″ West, to
39°16′04.5″ North	76°34′36.5″ West, to
39°16′28.0″ North	76°34′37.0″ West, to
39°16′28.0″ North	76°34′15.0″ West

(2) *Patapsco River Regulated Area.* All waters of the Patapsco River enclosed by:

Latitude	*Longitude*
39°15′55.0″ North	76°34′32.0″ West, to
39°15′37.0″ North	76°34′40.0″ West, to
39°15′37.0″ North	76°34′18.0″ West, to
39°15′55.0″ North	76°34′32.0″ West

(3) *Chesapeake Bay Regulated Area.* The waters of the Chesapeake Bay enclosed by:

Latitude	*Longitude*
39°00′38.0″ North	76°23′06.0″ West, to
39°00′18.0″ North	76°21′37.5″ West, to
38°56′11.0″ North	76°24′10.0″ West, to
38°54′01.5″ North	76°24′22.0″ West, to
38°54′11.0″ North	76°24′29.0″ West, to
38°53′58.0″ North	76°25′44.0″ West, to
38°53′39.0″ North	76°25′53,0″ West, to
38°56′33.0″ North	76°25′41.0″ West, to
39°00′38.0″ North	76°23′06.0″ West

(4) *Fort McHenry Southwest Spectator Anchorage Area.* The waters southwest of Fort McHenry bounded by a line connecting the following points:

Latitude	*Longitude*
39°15′34.0″ North	76°34′52.5″ West, to
39°15′23.0″ North	76°34′55.5″ West, to
39°15′23.0″ North	76°35′20.5″ West, to
39°15′30.0″ North	76°35′20.5″ West, to
39°15′34.0″ North	76°34′52.5″ West

(5) *Fort McHenry South Spectator Anchorage Area.* The waters south of Fort McHenry bounded by a line connecting the following points:

Latitude	*Longitude*
39°15′33.5″ North	76°34′47.0″ West, to
39°15′23.5″ North	76°34′50.0″ West, to
39°15′23.5″ North	76°34′44.0″ West, to
39°15′33.0″ North	76°34′42.0″ West, to
39°15′33.5″ North	76°34′47.0″ West, to

(6) *Fairfield West Spectator Anchorage Area.* The waters north of Fairfield bounded by a line connecting the following points:

Latitude	*Longitude*
39°15′12.5″ North	76°34′50.0″ West, to
39°15′17.5″ North	76°34′45.0″ West, to
39°15′17.5″ North	76°34′36.0″ West, to
39°15′09.0″ North	76°34′43.0″ West, to
39°15′12.5″ North	76°34′50.0″ West

(7) *Fairfield West Spectator Anchorage Area.* The waters north of Fairfield bounded by a line connecting the following points:

Latitude	*Longitude*
39°15′17.5″ North	76°34′22.5″ West, to
39°15′17.5″ North	76°34′28.5″ West, to
39°15′09.0″ North	76°34′27.5″ West, to
39°15′09.0″ North	76°34′35.0″ West, to
39°15′17.5″ North	76°33′22.5″ West

(8) *Lazaretto Point Spectator Anchorage Area.* The waters southeast

of Lazaretto Point bounded by a line connecting the following points:

Latitude	*Longitude*
39°15′31.0″ North	76°33′58.0″ West, to
39°15′17.5″ North	76°33′58.0″ West, to
39°15′25.0″ North	76°34′02.0″ West, to
39°15′31.0″ North	76°33′58.0″ West

(9) *Chesapeake Bay Spectator Anchorage Area.* The waters of the Chesapeake Bay bounded by a line connecting the following points:

Latitude	*Longitude*
38°59′23.0″ North	76°24′12.0″ West, to
38°59′17.5″ North	76°23′57.0″ West, to
38°58′07.0″ North	76°24′42.0″ West, to
38°58′11.0″ North	76°24′53.0″ West, to
38°59′23.0″ North	76°24′12.0″ West

All coordinates referenced use Datum NAD 1983.

(10) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations:*

(1) All persons and/or vessels not authorized as participants or official patrol vessels are considered spectators. The ''official patrol'' consists of any Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated areas.

(3) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(4) Spectator vessels may enter and anchor in the special spectator anchorage areas described in paragraph (a) of this section without the permission of the Patrol Commander. They shall use caution not to enter the regulated areas. No vessel shall anchor within a tunnel, cable or pipeline area shown on a Government chart.

(c) *Effective Periods.* The regulated area described in paragraph (a)(1) of this section and the spectator anchorage areas described in paragraphs (a)(4) through (a)(8) are effective from 6 a.m. EDT (Eastern Daylight Time) on April 22, 1998 to 6 a.m. EDT on April 23. The regulated area described in paragraph (a)(2) of this section is effective from 9 a.m. EDT to 12 p.m. on April 30, 1998. The regulated area described in paragraph (a)(3) of this section and the spectator anchorage area described in paragraph (a)(9) are effective from 10 a.m. EDT to 2:30 p.m. on May 3, 1998. The Coast Guard Patrol Commander will announce by Broadcast Notice to Mariners the specific time periods during which the regulations will be enforced.

Dated: March 3, 1998.

J.S. Carmichael,

Captain, USCG, Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–8120 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 111

Extension of Group E (No-Fee) Post Office Box Service Eligibility

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Domestic Mail Manual (DMM) is amended to extend Group E (no-fee) post office box eligibility to a customer whose physical residence or business location is within the immediate vicinity of the post office, and therefore ineligible for extension of carrier delivery service as specified in postal standards concerning extension of delivery service.

EFFECTIVE DATE: April 5, 1998.

FOR FURTHER INFORMATION CONTACT: John Dorsey (202) 268–3295.

SUPPLEMENTARY INFORMATION: On June 7, 1996, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on several special service reform proposals, including a proposal to establish Group E (no-fee) post office box service for certain customers who are ineligible for carrier delivery service. The PRC designated the filing as Docket No. MC96–3, and published in the **Federal Register** (61 FR 31968–31979) a notice of the filing with a description of the Postal Service's proposals on June 21, 1996.

Pursuant to 39 U.S.C 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service on April 2, 1997. The PRC's Recommended Decision included eligibility for no-fee post office box service for customers ineligible for carrier delivery service, subject to administrative decisions regarding the customer's proximity to a post office.

The Postal Service implemented the changes resulting from Docket MC96–3, including the offering of no-fee post office box service to customers who are ineligible for any form of carrier delivery. The final rule published in the **Federal Register** (62 FR 31512–31516, June 10, 1997) eliminated post office box service fees for customers at those post offices who are ineligible for carrier delivery service (from any post office). Fees were also eliminated for box customers who are ineligible for carrier delivery service at offices which provide delivery service, except for those customers who reside in the immediate vicinity of the office. This amendment eliminates the exception for proximate customers, thus making all customers who are ineligible for carrier delivery service equally eligible for no-fee post office box service. Finally, the amendment eliminates the reference to ''Group E'' offices, since eligibility for no-fee box service is customer-specific.

Lists of Subjects in 39 CFR Part 1111

Postal Service

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual which is incorporated by reference in the Code of Federal Regulations (See 39 CFR Part III) as set forth below:

* * * * *

D Deposit, Collection, and Delivery

* * * * *

D910 Post Office Box Service

* * * * *

[Amend heading of 4.0 to read as follows:]

4.0 BASIS OF FEES, PAYMENT, AND RENEWAL

4.1 General

[Amend 4.1 to read as follows:]

Post office box service fees are based on the size of the box provided, and the fee group of the administering facility together with customer eligibility for a Group E post office box as identified in 5.0.

* * * * *

4.5 Payment

[Amend 4.5 to read as follows:]

All fees are for a semiannual (6-month) period, and must be paid in

advance for no less than one but no more than two semiannual periods, except as provided under 4.8, 4.9, and 4.12. Fees may be paid using cash, credit or debit card, or check or money order payable to the postmaster. A mailed payment must be received by the postmaster on or before the due date.

[Amend heading of 4.6 and amend text to read as follows:]

4.6 Service Period

Except under 4.9, the beginning date for a post office box service period is determined by the approval date of the application. The period begins on the first day of the same month the application is approved if approval is on or before the 15th of the month. If approved after the 15th of the month, the period begins the first day of the following month. Thereafter, fees for service renewal may be paid and Group E post office box service renewal notification may be effected any time during the last 30 days of the service period, but no later than the last day of the service period.

[Add new 4.7 to read as follows:]

4.7 Group E Renewal

Group E post office box service and renewal are for an annual (12-month) period.

[Redesignate current 4.7 as 4.8; no other changes.]

[Redesignate current 4.8 as 4.9, and amend heading and text to read as follows:]

4.9 Exception for Small Offices

Postmasters at non-city delivery and non-delivery offices with fewer than 500 post office boxes may set April 1 and October 1 as the beginning payment periods for box customers in their offices. Payment periods beginning other than April 1 or October 1 are brought into alignment with these respective dates by adjusting fees as follows:

a. New service, one-sixth of the semiannual fee is charged for each remaining month between the beginning of the new payment period and the next April 1 or October 1.

b. Existing service, one-sixth of the semiannual fee is charged for each remaining month between the end of all currently paid periods and the next April 1 or October 1.

c. Next one or two semiannual payment periods, an adjustment may be accepted in addition to fees.

[Redesignate current 4.9, 4.10, and 4.11 as 4.10, 4.11, and 4.12 respectively; no other changes:]

5.0 FEE GROUP ASSIGNMENTS

5.1 Post Offices

* * * * *

[Amend 5.1.b to read as follows:]

b. Post Office With Only Rural or Highway Contract Carrier Delivery. A post office that does not provide city carrier delivery but provides only rural carrier or highway contract carrier delivery at any of its administered facilities applies Group D fees, except as provided in 5.3. A customer whose physical residence or business location is within the geographic delivery ZIP Code boundaries administered by that non-city delivery post office, who is ineligible for any form of carrier delivery service, and who does not receive carrier delivery via an out-of-bounds delivery receptacle, may obtain one post office box service through a box of the smallest available size (i.e., the smallest box currently vacant) at the Group E fee (no-fee). Boxes at Group E fees are also available as provided under 5.1c. * * *

* * * * *

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

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–8003 Filed 3–26–98; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No

environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Duval (FEMA Docket No. 7233).	City of Jacksonville	July 8, 1997, July 15, 1997, *The Florida Times-Union*.	The Honorable John A. Delaney, Mayor of the City of Jacksonville, City Hall, 220 East Bay Street, 14th Floor, Jacksonville, Florida 32202.	July 1, 1997	120077 E
Illinois:					
Cook (FEMA Docket No. 7213).	City of Prospect Heights.	February 7, 1997, February 14, 1997, *Daily Herald*.	The Honorable Edward P. Rotchford, Mayor of the City of Prospect Heights, 1 North Elmhurst Road, Prospect Heights, Illinois 60070.	January 30, 1997	170919 B
DuPage County (FEMA Docket No. 7233).	Village of Lisle	July 25, 1997, August 1, 1997, *The Lisle Sun*.	The Honorable Ronald F. Ghilardi, Mayor of the Village of Lisle, 1040 Burlington Avenue, Lisle, Illinois 60532.	July 18, 1997	170211 B
Stephenson (FEMA Docket No. 7233).	Unincorporated Areas.	June 11, 1997, June 18, 1997, *The Journal Standard*.	Mr. Dean Danner, Chairman of the Stephenson County Board of Commissioners, 15 North Galena Avenue, Freeport, Illinois 61032.	June 6, 1997	170639 B
Winnebago (FEMA Docket No. 7233).	Unincorporated Areas.	June 11, 1997, June 18, 1997, *Rockford Register Star*.	Ms. Christine Cohn, Chairman of the Winnebago County Board of Commissioners, 404 Elm Street, Room 504, Rockford, Illinois 61101.	June 6, 1997	170720 B
Maine: York (FEMA Docket No. 7233).	Town of Kittery	June 3, 1997, June 10, 1997, *Portsmouth Herald*.	Mr. Phil McCarthy, Kittery Town Manager, P.O. Box 808, Kittery, Maine 03904.	May 23, 1997	230171 D
Maryland: Washington (FEMA Docket No. 7217).	Unincorporated Areas.	February 14, 1997, February 21, 1997, *The Morning Herald* and *The Daily Mail*.	Mr. Rodney Shoop, Washington County Administrator, 100 West Washington Street, Hagerstown, Maryland 21740.	May 22, 1997	240070 A
New Hampshire: Grafton (FEMA Docket No. 7233).	Town of Bridgewater.	June 11, 1997, June 18, 1997, *Record Enterprise*.	Mr. Terrance Murphy, Head Selectman, Town of Bridgewater, 297 Mayhew Turnpike, Bristol, New Hampshire 03222.	December 5, 1997	330046 C
Ohio: Fairfield and Franklin (FEMA Docket No. 7221).	City of Columbus ..	May 23, 1997, May 30, 1997, *The Columbus Dispatch*.	The Honorable Gregory S. Lashutka, Mayor of the City of Columbus, 90 West Broad Street, Columbus, Ohio 43215.	August 28, 1997 ...	390170 G
Pennsylvania:					
Blair (FEMA Docket No. 7233).	Township of Blair	July 8, 1997, July 15, 1997, *Altoona Mirror*.	Mr. George Harley, Secretary/Treasurer of the Township of Blair, 575 Cedarcrest Drive, Duncansville, Pennsylvania 16635.	June 30, 1997	421386 A
Cambria (FEMA Docket No. 7233).	City of Johnstown	June 13, 1997, June 20, 1997, *Tribune-Democrat*.	The Honorable Linda Weaver, Mayor of the City of Johnstown, 401 Main Street, Johnstown, Pennsylvania 15901.	June 6, 1997	420231 C
South Carolina: Horry (FEMA Docket No. 7233).	Unincorporated Areas.	July 17, 1997, July 24, 1997, *The Sun News*.	Ms. Linda Angus, Horry County Administrator, 103 Elm Street, Conway, South Carolina 29526.	October 15, 1997	450104 E
Virginia:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Independent City (FEMA Docket No. 7245).	City of Alexandria	October 23, 1997, October 30, 1997, *The Alexandria Journal* and *The Alexandria Gazette Packet*.	The Honorable Kerry J. Donley, Mayor of the City of Alexandria, 301 King Street, Suite 2300, Alexandria, Virginia 22314.	October 10, 1997	515519
(Independent City) (FEMA Docket No. 7233).	City of Harrisonburg.	August 15, 1997, August 22, 1997, *Daily News-Record*.	The Honorable Rodney L. Eagle, Mayor of the City of Harrisonburg, City Hall, Harrisonburg, Virginia 22801.	August 5, 1997	510076 B
Arlington (FEMA Docket No. 7213).	Unincorporated Areas.	February 7, 1997, February 14, 1997, *Arlington Journal*.	Ms. Ellen M. Bosman, Chairman of the Arlington County Board of Commissioners, 2100 Clarendon Boulevard, Suite 300, Arlington, Virginia 22201.	May 15, 1997	515520 B
Culpeper (FEMA Docket No. 7225).	Unincorporated Areas.	March 11, 1997, March 18, 1997, *Culpeper Star-Exponent*.	Mr. Steven Miner, Culpeper County Administrator, 135 West Cameron Street, Culpeper, Virginia 22701.	September 3, 1997	510041 B
Wisconsin: Washington (FEMA Docket No. 7233).	Village of Germantown.	June 5, 1997, June 12, 1997, *Germantown Banner-Press*.	Mr. Paul Brandenburg, 1997 Village of Germantown Administrator, P.O. Box 337, Germantown, Wisconsin 53022–0337.	September 10, 1997.	550472 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 19, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8091 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7249]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut:					
Fairfield	Town of Darien	December 16, 1997, December 23, 1997, *The Advocate*.	Mr. Robert Harrel, Town of Darien First Selectman, 2 Renshaw Road, Darien, Connecticut 06820.	December 11, 1997.	090005 D
Fairfield	City of Stamford	December 16, 1997, December 23, 1997, *The Advocate*.	The Honorable Dannel Malloy, Mayor of the City of Stamford, 888 Washington Boulevard, P.O. Box 10152, Stamford, Connecticut 06904–2152.	December 11, 1997.	090015 C
Florida:					
Charlotte	Unincorporated Areas.	November 20, 1997, November 27, 1997, *Sarasota Herald Tribune—Charlotte AM Edition*.	Mr. Matthew D. DeBoer, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Road, Room 536, Port Charlotte, Florida 33948–1094.	November 13, 1997.	120061 E
Orange	Unincorporated Areas.	December 9, 1997, December 16, 1997, *The Orlando Sentinel*.	M. Krishnamurthy, Ph.D., P.E., Manager, Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, Florida 32839.	July 17, 1997	120179 D
Seminole	Unincorporated Areas.	March 14, 1997, March 21, 1997, *The Orlando Sentinel*.	Mr. Gary Kaiser, Acting Seminole County Manager, 1101 East First Street, Sanford, Florida 32771.	June 3, 1997	120289 E
Georgia: Glynn	Unincorporated Areas.	December 19, 1997, December 26, 1997, *Brunswick News*.	Mr. Lee Gilmour, Glynn County Administrator, P.O. Box 879, Brunswick, Georgia 31521.	December 11, 1997.	130092 D
Illinois:					
Cook	Village of Orland Park.	May 29, 1997, June 6, 1997, *Daily Southtown*.	The Honorable Daniel McLaughlin, Mayor of the Village of Orland Park 14700 Ravinia Avenue, Orland Park, Illinois 60462.	September 3, 1997	170140 B
DuPage and Cook.	Village of Burr Ridge.	January 8, 1997, January 15, 1997, *The Doings*.	Mr. Emil J. Coglianese, Jr., President of the Village of Burr Ridge, 7660 South County Line Road, Burr Ridge, Illinois 60521.	April 15, 1997	170071 C
Kane & Cook	City of Elgin	November 5, 1997, November 12, 1997, *The Courier-News*.	The Honorable Kevin Kelly, Mayor of the City of Elgin, 150 Dexter Court, Elgin, Illinois 60120–5555.	October 29, 1997	170087 C
Indiana: Noble	Unincorporated Areas.	December 24, 1997, December 31, 1997, *Albion New Era*.	Mr. Harold Troyer, President of the Noble County Board of Commissioners, 3378 South 500 East, Laotto, Indiana 46763.	March 31, 1998	180183 A
Kentucky: Warren	City of Bowling Green.	October 21, 1997, October 28, 1997, *Daily News*.	The Honorable Elden Renaud, Mayor of the City of Bowling Green, P.O. Box 430, Bowling Green, Kentucky 42102–0430.	October 14, 1997	210219 D
Maine: Cumberland	Town of Harpswell	December 24, 1997, December 31, 1997, *Times Record*.	Mr. Robert E. Waddle, First Selectman for the Town of Harpswell, P.O. Box 139, South Harpswell, Maine 04079.	December 17, 1997.	230169 C
Michigan:					
Macomb	Township of Macomb.	June 25, 1997, July 2, 1997, *The Macomb Daily*.	Mr. John Brennen, Macomb Township Supervisor, 19925 Twenty-Three Mile Road, Macomb, Michigan 48042.	June 16, 1997	260445 B
Wayne	City of Grosse Pointe Park.	November 20, 1997, November 28, 1997, *Grosse Pointe News*.	The Honorable Palmer Heenan, Mayor of the City of Grosse Pointe Park, 15115 East Jefferson Avenue, Grosse Pointe Park, Michigan 48230.	May 18, 1998	260230 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Wayne & Oakland.	City of Northville ...	November 6, 1997, November 13, 1997, *Northville Record*.	The Honorable Christopher J. Johnson, Mayor of the City of Northville, City Hall, 215 West Main Street, Northville, Michigan 48167.	February 11, 1998	260235 A
Minnesota: Scott ...	City of Shakopee ..	October 30, 1997, *Shakopee Valley News*.	The Honorable Jeff Henderson, Mayor of the City of Shakopee, 129 Holmes Street South, Shakopee, Minnesota 55379.	October 23, 1997	270434 C
New Jersey:					
Morris	Township of Jefferson.	December 17, 1997, December 24, 1997, *Aim Newspapers*.	The Honorable Evelyn Brown, Mayor of the Township of Jefferson, 1033 Weldon Street, Lake Hopatcong, New Jersey 07849.	March 24, 1998	340522 B
Morris	Borough of Morris Plains.	November 27, 1997, December 4, 1997, *Morris News-Bee*.	The Honorable Frank Druetzler, Mayor of the Borough of Morris Plains, 531 Speedwell Avenue, P.O. Box 305, Morris Plains, New Jersey 07950–0305.	March 4, 1998	340351 B
New York:					
Erie	Town of Orchard Park.	December 20, 1997, December 27, 1997, *The Southtowns Citizen*.	Mr. Dennis J. Mill, Supervisor of the Town of Orchard Park, 4295 South Buffalo Street, Orchard Park, New York 14127.	March 27, 1998	360255 B
Erie	Village of Orchard Park.	December 20, 1997, December 27, 1997, *The Southtowns Citizen*.	The Honorable Patricia A. Dickman, Mayor of the Village of Orchard Park, 4295 South Buffalo Street, Orchard Park, New York 14127.	March 27, 1998	360254 B
Steuben	City of Hornell	September 19, 1997, September 26, 1997, *The Evening Tribune*.	The Honorable Shawn D. Hogan, Mayor of the City of Hornell, 108 Broadway, Hornell, New York 14843.	September 12, 1997.	360776 B
Steuben	Town of Hornellsville.	September 19, 1997, September 26, 1997, *The Evening Tribune*.	Mr. Charles Flanders, Supervisor for the Town of Hornellsville, P.O. Box 1, Ackport, New York 14807.	September 12, 1997.	360777 B
Steuben	Village of North Hornell.	September 19, 1997, September 26, 1997, *The Evening Tribune*.	The Honorable Kenneth Beckerink, Mayor of the Village of North Hornell, West Maplewood Avenue, Hornell, New York 14843.	September 12, 1997.	361477 A
Ohio:					
Greene	City of Fairborn	July 24, 1997, July 31, 1997, *Fairborn Daily Herald*.	The Honorable James Baines, Mayor of the City of Fairborn, 44 West Hebble Avenue, Fairborn, Ohio 45324.	October 29, 1997	390195 B
Greene	Unincorporated Areas.	July 24, 1997, July 31, 1997, *Xenia Daily Gazette*.	Mr. Steve Stapleton, Greene County Administrator, 35 Greene Street, Xenia, Ohio 45385.	October 29, 1997	390193 B
Lorain	City of Avon	December 16, 1997, December 23, 1997, *The Morning Journal*.	The Honorable James A. Smith, Mayor of the City of Avon, 36774 Detroit Road, Avon, Ohio 44011–1588.	December 11, 1997.	390348 C
Lucas	Unincorporated Areas.	November 5, 1997, November 12, 1997, *The Blade*.	Ms. Sandy Isenberg, President of the Lucas County Board of Commissioners, One Government Center, Suite 800, Toledo, Ohio 43604–2259.	October 29, 1997	390359 B
Warren	City of Mason	December 24, 1997, December 31, 1997, *The Western Star*.	The Honorable Dick Staten, Mayor of the City of Mason, 202 West Main Street, Mason, Ohio 45040.	December 17, 1997.	390559 C
Pennsylvania:					
Bucks	Borough of Quakertown.	October 21, 1997, October 28, 1997, *The Morning Call*.	Mr. David L. Woglom, Manager of the Borough of Quakertown, 15–35 North Second Street, P.O. Box 727, Quakertown, Pennsylvania 18951.	January 26, 1998	420200
Bucks	Township of Richland.	October 21, 1997, October 28, 1997, *The Morning Call*.	Mr. Earl Kline, Chairman of the Board of Supervisors, P.O. Box 249, Richlandtown, Pennsylvania 18955.	January 26, 1998	421095 B
South Carolina: Sumter.	City of Sumter	December 15, 1997, December 22, 1997, *The Item*.	Mr. Talmadge Tobias, City Manager for the City of Sumter, P.O. Box 1449, Sumter, South Carolina 29151.	December 9, 1997	450184 B
Tennessee:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Rutherford	City of Murfreesboro.	December 19, 1997, December 26, 1997, *The Daily News Journal*.	The Honorable Joe B. Jackson, Mayor of the City of Murfreesboro, 111 West Vine Street, P.O. Box 1139, Murfreesboro, Tennessee 37133–1139.	March 26, 1998	470168 C
Shelby	Unincorporated Areas.	October 21, 1997, October 28, 1997, *The Commercial Appeal*.	Mr. Jim Kelly, Chief Administrative Officer, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	January 28, 1998	470214 E
Shelby	Unincorporated Areas.	October 23, 1997, October 30, 1997, *The Daily News*.	Mr. Jim Kelley, Chief Administrative Officer, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	January 28, 1998	470214 E
Wisconsin:					
Barron	Unincorporated Areas.	December 18, 1997, December 25, 1997, *The Chetek Alert*.	Mr. Arnold Ellison, County Board Chairman, Barron County Courthouse, 330 East LaSalle Avenue, Barron, Wisconsin 54812.	December 9, 1997	550568 C
Wisconsin:					
Waukesha	City of Muskego ...	December 11, 1997, December 18, 1997, *Muskego Sun*.	The Honorable David DeAngelis, Mayor of the City of Muskego, W182 South 8200 Racine Avenue, Muskego, Wisconsin 53150.	December 3, 1997	550486 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 19, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8090 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Chickasaw (City), Mobile County (FEMA Docket No. 7223)	
Chickasaw Creek:	
Downstream side of U.S. Route 43	*11
Upstream side of I–65	*12
Maps available for inspection at the Chickasaw City Hall, 224 North Craft Highway, Chickasaw, Alabama.	
Dauphin Island (Town), Mobile County (FEMA Docket No. 7223)	
Gulf of Mexico:	
Approximately 570 feet due south of intersection of Audubon and Admiral Streets	*9
Approximately 660 feet due south of intersection of Audubon and Admiral Streets	*12
Approximately 700 feet due south of intersection of Audubon and Admiral Streets	*12
Maps available for inspection at the Dauphin Island Town Hall, 1011 Bienville Boulevard, Dauphin Island, Alabama.	
Mobile County (Unincorporated Areas) (FEMA Docket No. 7223)	
Chickasaw Creek:	
Approximately 1,440 feet upstream of Old Saint Stevens Road	*35
Approximately 1.04 miles downstream of confluence of Coon Branch	*42
Crooked Creek:	
Approximately 2.94 miles downstream of Wulff Road (County Highway 68)	*116
Approximately 0.94 mile upstream of Wulff Road (County Highway 68)	*180
Halls Mill Creek:	
Approximately 1,800 feet upstream of Interstate Route 10	*11
Approximately 2,100 feet upstream of Leroy Stevens Road	*90
Miller Creek:	
Approximately 0.7 mile downstream of Johnson Road	*94
Approximately 0.2 mile upstream of Snow Road	*140
Miller Creek Tributary:	
At confluence with Miller Creek	*119
Approximately 140 feet upstream of Snow Road	*157
Muddy Creek:	
Approximately 1.9 miles downstream of Laurendine Road	*8
Approximately 110 feet upstream of Swedetown Road	*63
Rabbit Creek:	
Approximately 820 feet upstream of U.S. Highway 90	*42
Approximately 0.5 mile upstream of Old Pascagoula Road	*81
Second Creek:	
Upstream side of Cody Road	*44
Approximately 50 feet downstream of the confluence of Second Creek Tributary	*66
Second Creek Tributary:	
Approximately 110 feet upstream of confluence with Second Creek	*67
Downstream side of Schillinger Road	*96
Maps available for inspection at the Mobile County Public Works Department, Mobile County Government Building, 205 Government Street, Mobile, Alabama.	
Mount Vernon (Town), Mobile County (FEMA Docket No. 7223)	
Cedar Creek:	
Approximately 3,000 feet downstream of U.S. Route 43	*17
Approximately 250 feet downstream of U.S. Route 43	*17
Maps available for inspection at the Mount Vernon Town Hall, 1565 Boyles Avenue, Mount Vernon, Alabama.	
Prichard (City), Mobile County (FEMA Docket No. 7223)	
Chickasaw Creek:	
At upstream side of Interstate Route 65	*12
Approximately 1,450 feet upstream of Old Saint Stevens Road	*35
Eightmile Creek:	
At downstream side of Bear Fork Road	*40
Approximately 100 feet upstream of Bear Fork Road	*40
Magee Creek:	
At confluence with Chickasaw Creek	*35
Approximately 1,160 feet upstream of Illinois Central Gulf Railroad	*36
Toulmins Spring Branch:	
Approximately 1,250 feet downstream of Craft Highway	*12
Approximately 400 feet downstream of Chastang Avenue	*24
Maps available for inspection at the Prichard City Hall, 216 East Prichard Avenue, Prichard, Alabama.	
Saraland (City), Mobile County (FEMA Docket No. 7223)	
Chickasaw Creek:	
Downstream corporate limits	*11
Upstream corporate limits	*11
Maps available for inspection at the Saraland City Hall, 716 Highway 43, Saraland, Alabama.	
CONNECTICUT	
Southington (Town), Hartford County (FEMA Docket No. 7199)	
Quinnipiac River:	
Downstream side of Hart Street	*150
Downstream side of Interstate 84	*162
Spring Lake Brook:	
Confluence with Quinnipiac River	*153
Approximately 360 feet upstream of Darling Drive	*158
Quinnipiac River Diversion Channel:	
Upstream side of Chapman Street	*153
At the divergence from the Quinnipiac River	*154
Maps available for inspection at the Southington Town Hall, 75 Main Street, Southington, Connecticut.	
DELAWARE	
New Castle County (Unincorporated Areas) (FEMA Docket No. 7231)	
Christina River:	
Approximately 50 feet upstream of State Route 273 (Nottingham Road)	*133
At State boundary	*160
West Branch Christina River:	
Approximately 1,500 feet upstream of confluence with Christina River	*160

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 900 feet upstream of State Route 2	*90
East Branch Christina River:	
At confluence with Christina River	*156
Approximately 100 feet upstream of the confluence with Christina River	*157
Maps available for inspection at the New Castle County Office of Special Services, 187–A Old Churchman Road, New Castle, Delaware.	
Newark (City), New Castle County (FEMA Docket No. 7231)	
Christina River:	
Approximately 100 feet downstream of State Route 273	*130
At Wedgewood Road	*158
West Branch Christina River:	
Approximately 580 feet upstream of confluence with Christina River	*87
At state boundary	*107
Persimmon Run:	
At the confluence with West Branch Christina River	*96
Approximately 380 feet upstream of confluence with West Branch Christina River	*98
Tributary to West Branch Christina River:	
At confluence with West Branch Christina River	*106
Approximately 300 feet upstream of confluence with West Branch Christina River	*107
Maps available for inspection at the Newark Planning Department, 220 Elkton Road, Newark, Delaware.	
FLORIDA	
Unincorporated Areas of Escambia County (FEMA Docket No. 7199)	
Bayou Grande:	
Approximately 2,000 feet downstream of Blue Angel Parkway	*8
Approximately 150 feet upstream of Etheridge Road	*19
Bayou Marcus:	
Approximately 800 feet downstream of Blue Angel Parkway	*11
Approximately 100 feet upstream of Interstate 10	*108
Tributary to Bayou Marcus:	
At confluence with Bayou Marcus	*14
Approximately 1 mile upstream of Lillian Highway ..	*22
Bridge Creek:	
Approximately 1,800 feet upstream of U.S. Highway 98	*7
Approximately 200 feet upstream of Blue Angel Parkway	*33
Tributary to Bridge Creek:	
At confluence with Bridge Creek	*7
Approximately 0.7 mile upstream of Little Bridge Creek Drive	*19
Eightmile Creek:	
At confluence with Elevenmile Creek	*19
At Fowler Avenue	*104
Escambia River:	
Approximately 0.7 mile upstream Quintette Road	*26
Approximately 400 feet upstream of State Road 4	*59
Elevenmile Creek:	
Approximately 1.1 miles downstream of confluence with Hurst Branch	*9
At Kingsfield Road	*68
Garcon Swamp:	
Approximately 400 feet upstream of Sorrento Road ...	*6
At Blue Angel Parkway	*21
Jones Creek:	
At Navy Boulevard	*6
Approximately 1.6 miles upstream of Fairfield Drive	*25
Pine Barren Creek:	
At the confluence with Escambia River	*30
Approximately 50 feet upstream of Wiggins Bridge ..	*55
Weekly Bayou:	
Approximately 650 feet downstream of Bauer Road	*5
Approximately 1.7 miles upstream of Bauer Road	*22
Tributary to Weekly Bayou:	
At confluence with Weekly Bayou	*11
Approximately 1.1 miles upstream of confluence with Weekly Bayou	*22
Old River:	
Approximately 1.5 miles southwest from the intersection of Perdido Key Drive and Sharp Reef Road	*14
Shallow Flooding:	
Upstream of Bayou Grande:	
Between Etheridge and Bauer Roads	*19
Upstream of Jones Creek:	
Between a point approximately 1.6 miles upstream of State Route 289A to approximately 1,600 feet upstream	*24
Upstream of Bridge Creek:	
Between approximately 200 feet upstream of Blue Angel Parkway and State Route 289A	*33
Upstream of Tributary to Bayou Marcus:	
From a point approximately 1.1 miles upstream of Lillian Highway to Blue Angel Parkway	*22
Maps available for inspection at the Escambia County Public Works Department, 1190 West Leonard, Pensacola, Florida.	
Keystone Heights (City), Clay County (FEMA Docket No. 7231)	
Lake Geneva:	
Entire shoreline within community	*108
Brooklyn Lake:	
Entire shoreline within community	*118
Maps available for inspection at the Keystone Heights City Hall, 555 South Lawrence Boulevard, Keystone Heights, Florida.	
Lee County (Unincorporated Areas) (FEMA Docket No. 7231)	
Imperial River:	
Approximately 2,225 feet upstream of Matheson Avenue	*12
Just upstream of Bonita Grande Road	*17
Maps available for inspection at the Lee County Public Works Community Development Building, 1500 Monroe Street, Ft. Myers, Florida.	
Stuart (City), Martin County (FEMA Docket No. 7227)	
St. Lucie River:	
Approximately 200 feet east of the intersection of U.S. 1 and Fern Avenue	*10
Approximately 1500 feet east of the intersection of East Ocean Boulevard and Flamingo Drive	*7
North Fork St. Lucie River:	
Entire reach within community	*9
Approximately 550 feet west of intersection of River Drive and Treasure Road ..	*8
St. Lucie River:	
Approximately 300 feet east of the intersection of East Ocean Boulevard and Flamingo Drive	*7
South Fork St. Lucie River:.	
Approximately 300 feet west of the intersection of West 1st Street and Atlanta Avenue	*9
Approximately 500 feet southwest of the intersection of South Carolina Drive and Palm City Avenue	*7
Krueger Creek:	
Approximately 250 feet east of the intersection of East Ocean Boulevard and Krueger Parkway	*7
Fraizer Creek:	
Approximately 50 feet south of the intersection of 7th Street and Colorado Avenue	*7
Poppolton Creek:	
Approximately 300 feet south of the intersection of Federal Highway and Riverview Avenue	*7
Approximately 0.4 mile east along Central Parkway from intersection with State Route 76	*7

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Stuart City Hall, Building and Zoning Department, 121 S.W. Flagler Avenue, Stuart, Florida.	
GEORGIA	
Alpharetta (City), Fulton County (FEMA Docket No. 7223 and 7231)	
Lake Windward:	
Upstream of Lake Windward at city limit	*1,028
Approximately 100 feet upstream of Lake Windward Drive	*1,028
Foe Killer Creek:	
Confluence with Big Creek	*965
Approximately 2,600 feet upstream of Mayfield Road	*1085
Tributary No. 5 to Big Creek:	
Confluence with Big Creek	*984
Approximately 2,500 feet upstream of confluence with Big Creek	*984
Tributary No. 2 to Big Creek:	
Confluence with Big Creek	*969
Approximately 1,600 feet upstream of Morrison Parkway	*1,035
Long Indian Creek:	
At its confluence with Big Creek	*973
Approximately 1,400 feet upstream of confluence with Big Creek	*973
Camp Creek No. 1:	
Confluence with Big Creek	*993
Approximately 950 feet upstream of confluence with Tributary 9	*994
Big Creek:	
Approximately 6,000 feet upstream of Old Holcomb Bridge Road	*964
At McGinnis Ferry Road	*997
Tributary No. 3 to Big Creek:	
Approximately 1,700 feet upstream of confluence with Big Creek	*974
At Norcross Street	*1,090
Caney Creek:	
At confluence with Big Creek	*994
Approximately 0.19 mile upstream of Lake Windward Drive	*994
Maps available for inspection at the City Hall, 2 South Main Street, Alpharetta, Georgia.	
Atlanta (City), Fulton County (FEMA Docket No. 7223)	
Caldwell Branch:	
Approximately 0.34 mile downstream of Melvin Road	*826
Approximately 0.32 mile downstream of Melvin Road	*826
South Utoy Creek:	
Approximately 800 feet upstream of Interstate Route 285	*817
Approximately 0.4 mile upstream of Interstate Route 285	*821
Long Island Creek:	
At its confluence with Chattahoochee River	*778
Approximately 750 feet upstream of the confluence with Chattahoochee River	*778
North Fork Camp Creek:	
At confluence with South Fork Camp Creek	*819
Approximately 100 feet upstream of the confluence with South Fork Camp Creek	*819
Maps available for inspection at the Atlanta City Hall, Bureau of Planning, 55 Trinity Avenue, S.W., Suite 3350, Atlanta, Georgia.	
College Park (City), Fulton County (FEMA Docket No. 7223)	
Fur Creek:	
Approximately 400 feet upstream of Pelot Road at the downstream corporate limits	*879
Approximately 1,000 feet upstream of Pelot Road	*879
Sun Valley Creek:	
Approximately 594 feet downstream of Janice Drive	*918
Approximately 50 feet upstream of Janice Drive	*934
Unnamed Tributary to Flint River West Fork:	
At confluence with Flint River West Fork (Approximately 400 feet downstream of Myrtle Street)	*986
Approximately 100 feet upstream of Jackson Street	*1,001
Maps available for inspection at the City Engineer's Office, 3667 Main Street, College Park, Georgia.	
Duluth (City), Gwinnett County (FEMA Docket No. 7199)	
Swilling Creek:	
Approximately 1,600 feet upstream of the confluence with the Chattahoochee River	*900
Approximately 0.64 mile upstream of Howell Ferry Road	*944
Swilling Creek Tributary:	
At the confluence with Swilling Creek	*928
Approximately 1,450 feet upstream of footbridge	*967
Rogers Creek:	
Approximately 1,950 feet upstream of the confluence with Chattahoochee River	*903
Approximately 1,420 feet upstream of Bridlewood Drive	*985
Maps available for inspection at City of Duluth Planning and Development Department, 3578 West Lawrenceville Street, Duluth, Georgia.	
East Point (City), Fulton County (FEMA Docket No. 7223)	
Smith Creek:	
Approximately 600 feet upstream of confluence with North Fork Camp Creek	*828
Approximately 0.22 mile upstream of confluence with North Fork Camp Creek	*828
Headland Branch:	
At confluence with South Utoy Creek	*855
Approximately 600 feet upstream of the confluence with South Utoy Creek	*857
Farley Branch:	
At confluence with Headland Branch	*855
Approximately 400 feet upstream of the confluence with Headland Branch	*857
North Fork Camp Creek:	
Approximately 0.39 mile downstream of Dogwood Drive	*856
Approximately 500 feet downstream of Dogwood Drive	*861
Maps available for inspection at the City Engineer's Office, 2777 East Point Street, East Point, Georgia.	
Fairburn (City), Fulton County (FEMA Docket No. 7223)	
Whitewater Creek:	
Approximately 0.4 mile upstream of Fayetteville Road	*922
Approximately 0.5 mile upstream of Fayetteville Road	*925
Line Creek:	
Approximately 1.3 miles downstream of Rivertown Road	*909
Approximately 1.2 miles downstream of Rivertown Road	*911
Maps available for inspection at the Fairburn City Hall, 56 Malone Street, Fairburn, Georgia.	
Fulton County (Unincorporated Areas) (FEMA Docket No. 7223)	
Deep Creek:	
Approximately 650 feet upstream of Cascade Palmetto Highway	*750
Approximately 0.5 mile upstream of Koweta Road	*833
Camp Creek:	
Approximately 350 downstream of Cascade Palmetto Highway	*750
Approximately 750 feet upstream of Welcome All Road	*819
South Fork Camp Creek:	
Approximately 750 feet upstream of Welcome All Road	*819

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.93 mile upstream of Welcome All Road	*828
Line Creek:	
At confluence with Deep Creek	*759
Approximately 0.38 mile upstream of White Mill Road	*909
Little River:	
Approximately 1,250 feet downstream of county boundary	*888
Approximately 1,700 feet upstream of county boundary	*891
Rocky Creek:	
Approximately 1,650 feet upstream of Mountain Park Road	*915
Approximately 2,800 feet upstream of Mountain Park Road	*917
Foe Killer Creek:	
Approximately 2,000 feet upstream of Alpharetta Road	*1,019
Approximately 1,950 feet upstream of Mayfield Road	*1,078
Big Creek:	
Approximately 2,750 feet upstream of Mansell Road	*969
Approximately 2,000 feet upstream of Webb Road Bridge	*991
Johns Creek:	
Approximately 2,050 feet upstream of confluence with Chattahoochee River	*892
At McGinnis Ferry Road	*1,024
South Fork Marsh Creek:	
At confluence with Marsh Creek	*920
Approximately 75 feet upstream of confluence with Marsh Creek	*920
Marsh Creek:	
Approximately 550 feet downstream of Riverside Drive	*811
At Turner McDonald Parkway (Route 400)	*948
Tributary to Camp Creek:	
At its confluence with Camp Creek	*781
Approximately 0.5 mile upstream of Erin Road	*830
Red Mill Creek:	
At its confluence with Deep Creek	*793
Approximately 0.5 mile upstream of South Fulton Parkway	*805
Long Island Creek:	
Approximately 1,400 feet upstream of confluence with Chattahoochee River	*779
Approximately 1,150 feet upstream of Kingsport Drive	*898
Cowart Lake Tributary:	
At confluence of Camp Creek	*794
Approximately 1.2 miles upstream of Cowart Lake Dam at the upstream corporate limits	*830
North Fork Camp Creek:	
At confluence with Camp Creek	*819
Approximately 0.1 mile upstream of confluence with Camp Creek	*822
Wolf Creek:	
At confluence with Camp Creek	*789
Approximately 1,300 feet upstream of confluence with Camp Creek	*789
Niskey Creek:	
At confluence with Utoy Creek	*776
Approximately 1,750 feet upstream of Danforth Road	*808
Long Indian Creek:	
Approximately 2,000 feet upstream of the confluence of Big Creek	*974
Approximately 800 feet upstream of State Bridge Road (State Route 120)	*1,081
Tributary No. 2 to Big Creek:	
Approximately 250 feet upstream of State Route 400	*990
Enon Creek:	
At confluence with Camp Creek	*768
Approximately 0.5 mile upstream of the confluence with Camp Creek	*769
Morning Creek:	
Approximately 1,000 feet downstream of Jonesboro Road	*842
Approximately 50 feet downstream of Jonesboro Road	*842
Valley Brook Creek:	
At confluence with Camp Creek	*818
Approximately 0.2 mile downstream of Ben Hill Road	*819
Maps available for inspection at the Fulton County Government Building, 141 Pryor Street, S.W., 10th Floor, Atlanta, Georgia.	
Gwinnett County (Unincorporated Areas) (FEMA Docket No. 7199)	
Rogers Creek:	
Approximately 1,650 feet downstream of Peachtree Industrial Boulevard	*910
Approximately 1,160 feet upstream of State Route 120	*959
Maps available for inspection at the Gwinnett County Department of Transportation, 75 Langley Drive, Lawrenceville, Georgia.	
Roswell (City), Fulton County (FEMA Docket No. 7223)	
Foe Killer Creek:	
Approximately 200 feet upstream of Old Roswell Road	*977
Approximately 1,100 feet upstream of Upper Hembree Road	*1,027
Crossville Creek:	
Approximately 500 feet upstream of confluence with Hog Wallow Creek	*1,018
Approximately 3,300 feet upstream of Wavetree Drive	*1,077
Strickland Creek:	
Confluence with Foe Killer Creek	*1,017
Approximately 1,250 feet upstream of confluence with Foe Killer Creek	*1,017
Crossville Branch:	
Confluence with Crossville Creek	*1,062
Approximately 450 feet upstream of confluence with Crossville Creek	*1,062
Riverside Creek:	
Approximately 100 feet downstream of Azalea Drive	*864
Approximately 600 feet upstream of Corinth Road	*987
Seven Branches:	
Approximately 50 feet upstream of Martins Lake Dam	*887
Approximately 2,000 feet upstream of Calibree Creek Parkway	*966
Big Creek:	
Approximately 400 feet upstream of Riverside Drive	*867
Approximately 1,000 feet upstream of Mansell Road	*968
Tributary No. 2 to Big Creek:	
Approximately 1,000 feet upstream of Morrison Parkway	*1,032
At Maxwell Street	*1,054
Hughes Creek:	
Confluence with Foe Killer Creek	*1,026
Approximately 750 feet upstream of confluence with Foe Killer Creek	*1,026
Maps available for inspection at the Fulton County City Hall, Suite G–50, 38 Hill Street, Roswell, Georgia.	
Towns County (Unincorporated Areas) (FEMA Docket No. 7227)	
Kirby Branch:	
At confluence with Fodder Creek	*2,009
Approximately 3,700 feet upstream of Fodder Creek Road	*2,089
Rocky Branch:	
At confluence with Fodder Creek	*2,066
Approximately 2,150 feet upstream of Fodder Creek Road	*2,129
Hiawassee River:	
At Streakhill Road	*1,936
Approximately 1,000 feet upstream of confluence of Brown Branch	*2,061
Cynth Creek:	
At confluence with Hiawassee River	*1,945
Approximately 1.1 miles upstream of confluence with Hiawassee River	*2,038
Wilson Cove Creek:	
At confluence with Hog Creek	*1,952
Approximately 2,900 feet upstream of Willshook Road	*2,067
Upper Bell Creek:	
At State Route 75	*1,935
At upstream county boundary	*2,003
Fodder Creek:	*1,951

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At Fodder Creek Road.	
Approximately 40 feet downstream of Ruby Lake Drive	*2,076
Hooper Branch:	
At confluence with Fodder Creek	*1,986
Approximately 2,600 feet upstream of confluence with Fodder Creek	*2,015
Brasstown Creek:	
At downstream county boundary	*1,714
Approximately 300 feet downstream of Plott Town Road	*1,967
Crooked Creek:	
At confluence with Brasstown Creek	*1,751
Approximately 1,300 feet upstream of Private Road	*1,830
Byers Creek:	
At confluence with Brasstown Creek	*1,824
Approximately 1.06 miles upstream side of Townsend Mill Road	*2,039
Hog Creek:	
Approximately 1,200 feet downstream of confluence with Wilson Cove Creek	*1,943
Approximately 0.98 mile upstream of Barrett Road	*2,024
Owl Creek:	
At confluence with Hiawassee River	*1,993
Approximately 2,150 feet upstream side of Owl Creek Road	*2,059
Mill Creek:	
At confluence with Hiawassee River	*2,005
Approximately 0.95 mile upstream side of State Routes 17 and 75	*2,096
Tallulah River:	
Approximately 2.22 miles downstream of county boundary	*2,324
At upstream county boundary	*2,507
Maps available for inspection at the Towns County Office Building, 48 River Street, Suite I, Hiawassee, Georgia.	
Union City (City), Fulton County (FEMA Docket No. 7223)	
Deep Creek:	
Approximately 500 feet upstream of Koweta Road	*826
Approximately 0.9 mile upstream of Koweta Road	*839
Maps available for inspection at the Union City Hall Map Room, 5047 Union Street, Union City, Georgia.	
Young Harris (City), Towns County (FEMA Docket No. 7227)	
Tributary to Brasstown Creek:	
200 feet downstream of confluence with Brasstown Creek	*1,827
Approximately 625 feet downstream of Reed Street bridge	*1,836
Maps available for inspection at the Young Harris City Hall, 5187 Maple Street, Young Harris, Georgia.	
ILLINOIS	
Dixon (City), Lee County (FEMA Docket No. 7227)	
Plum Creek:	
Approximately 550 feet downstream of Willett Avenue	*654
Approximately 525 feet upstream of Galena Avenue	*718
Unnamed Tributary 1 to Plum Creek:	
Approximately 1,400 feet downstream of Galena Avenue	*703
Approximately 150 feet upstream of Lowell Park Road	*728
Maps available for inspection at the City Hall Building/Zoning Office, 121 West 2nd Street, Dixon, Illinois.	
Lee County (Unincorporated Areas) (FEMA Docket No. 7227)	
Unnamed Tributary 1 to Plum Creek:	
At confluence with Plum Creek	*683
Approximately 160 feet upstream of Lowell Park Road	*728
Unnamed Tributary 2 to Plum Creek:	
At confluence with Plum Creek	*719
Approximately 120 feet upstream of Country Club Drive	*743
Plum Creek:	
Approximately 40 feet upstream of Palmyra Street	*653
Approximately 100 feet upstream of Timber Creek Road	*740
Maps available for inspection at the Lee County Zoning Office, 112 East 2nd Street, Dixon, Illinois.	
MAINE	
Dresden (Town), Lincoln County (FEMA Docket No. 7199)	
Kennebec River:	
At downstream corporate limits	*11
At upstream corporate limits	*20
Eastern River:	
At the confluence with Kennebec River	*11
Approximately 2.1 miles upstream of State Route 27	*12
Maps available for inspection at the Dresden Town Office, Route 27, Dresden, Maine.	
Sanford (Town), York County (FEMA Docket No. 7231)	
Mousam River (Lower Reach):	
At the downstream corporate limits	*154
At downstream side of Estes Lake Dam	*184
Maps available for inspection at the Town of Sanford Code Enforcement Office, 267 Main Street, Sanford, Maine.	
MICHIGAN	
Bay De Noc (Township), Delta County (FEMA Docket No. 7227)	
Green Bay:	
Entire shoreline within community	*585
Big Bay De Noc:	
Entire shoreline within community	*585
Little Bay De Noc:	
Entire shoreline within community	*585
Maps available for inspection at the Bay De Noc Township Supervisor's Home Office, 5765 Olson V Point Five Lane, Rapid River, Michigan.	
Cherry Grove (Township), Wexford County (FEMA Docket No. 7223)	
Lake Mitchell:	
Entire shoreline within the community	*1,291
Maps available for inspection at the Cherry Grove Township Hall, South 33 Mile Road, Cadillac, Michigan	
Clam Lake (Township), Wexford County (FEMA Docket No. 7223)	
Lake Cadillac:	
Entire shoreline within the community	*1,291
Lake Mitchell:	
Entire shoreline within the community	*1,291
Maps available for inspection at the Clam Lake Township Hall, South 43 Road, Cadillac, Michigan.	
Ensign (Township), Delta County (FEMA Docket No. 7227)	
Little Bay De Noc:	
Entire shoreline within community	*585
Big Bay De Noc:	
Entire shoreline within community	*585
Maps available for inspection at the Ensign Township Office, 9332 County 511, W.5 Road, Rapid River, Michigan.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Escanaba (City), Delta County (FEMA Docket No. 7190)	
Little Bay De Noc:	
Entire shoreline within community	*585
Green Bay:	
Entire shoreline within community	*585
Portage Creek:	
Approximately 2,785 feet downstream of confluence with Willow Creek	*589
Approximately 75 feet downstream of confluence with Willow Creek	*595
Willow Creek:	
Approximately 3,300 feet downstream of 8th Avenue	*596
Approximately 100 feet upstream of New Danforth Road	*627
Maps available for inspection at the City of Escanaba Protective Department, 410 Ludington Street, Escanaba, Michigan.	
Escanaba (Township), Delta County (FEMA Docket No. 7219)	
Little Bay De Noc:	
Entire shoreline within community	*585
Maps available for inspection at the Escanaba Township Hall, County 416, 20th Road, Gladstone, Michigan.	
Fairbanks (Township), Delta County (FEMA Docket No. 7219)	
Big Bay De Noc:	
Approximately 200 feet west and south of the intersection of 11 Road and 11 Drive	*584
At approximately 1,550 feet west of the intersection of HH Road and 8th Road	*585
Green Bay:	
In the vicinity of Sac Bay	*585
At the southernmost tip of Garden Peninsula	*584
Lake Michigan:	
Entire shoreline within community	*584
Maps available for inspection at the Fairbanks Township Hall, 4314 11 Road, Garden, Michigan.	
Ford River (Township), Delta County (FEMA Docket No. 7190)	
Green Bay:	
Entire shoreline within community	*585
Ford River:	
Approximately 1,000 feet upstream of State Route 35	*585
At 10.75 Road	*585
Maps available for inspection at the Ford River Township Building, 3845 K Road, Bark River, Michigan.	
Garden (Township), Delta County (FEMA Docket No. 7219)	
Big Bay De Noc:	
Entire shoreline within community	*585
Lake Michigan:	
Entire shoreline within community	*584
Maps available for inspection at the Garden Supervisor's Office, State Road, Garden, Michigan.	
Garden (Village), Delta County (FEMA Docket No. 7190)	
Big Bay De Noc/Garden Bay:	
Entire shoreline within community	*585
Maps available for inspection at the Garden Village Hall, Garden Avenue, Garden, Michigan.	
Haring (Charter Township), Wexford County (FEMA Docket No. 7223)	
Clam River:	
At Seeley Road (Road No. 49)	*1,265
At 13th Street (Road No. 36)	*1,287
Maps available for inspection at the Haring Township Hall, 505 Bell Avenue, Cadillac, Michigan.	
Nahma (Township), Delta County (FEMA Docket No. 7190)	
Big Bay De Noc:	
Entire shoreline within community	*585
Maps available for inspection at the Township Supervisor's Home Office, 9484 EE.25 Road, Rapid River, Michigan.	
Wells (Township), Delta County (FEMA Docket No. 7190)	
Little Bay De Noc:	
Entire shoreline within community	*585
Portage Creek:	
Approximately 75 feet downstream of confluence with Willow Creek (downstream corporate limits)	*595
At confluence with Willow Creek	*595
Willow Creek:	
At confluence with Portage Creek	*595
Approximately 700 feet upstream of confluence with Portage Creek	*596
Escanaba River:	
From confluence with Little Bay De Noc	*585
Approximately 500 feet upstream of U.S. Routes 2 and 41	*585
Maps available for inspection at the Wells Township Building, 6436 North Eight Road, Wells, Michigan.	
MINNESOTA	
Olmsted County (Unincorporated Areas) (FEMA Docket No. 7231)	
North Run of the North Fork of Cascade Creek:	
At U.S. Highway 14	*1,006
Approximately 550 feet downstream of KR–6 Dam	*1,037
South Run of the North Fork of Cascade Creek:	
Approximately 100 feet upstream of the confluence with Cascade Creek	*1,006
Approximately 1.31 miles upstream of Chicago and Northwestern Railroad	*1,040
South Fork Zumbro River:	
Approximately 600 feet downstream of 55th Street NW	*968
Approximately 700 feet downstream of Mayowood Road	*1,027
Bear Creek:	
Approximately 520 feet upstream of the confluence of Willow Creek	*1,012
Approximately 220 feet upstream of the confluence of Badger Creek	*1,016
Cascade Creek:	
Approximately 0.4 mile upstream of the confluence of North Run of the North Fork of Cascade Creek	*1,012
Approximately 250 feet downstream of County Road 34	*1,016
Shallow Flooding Area:	
Between the Chicago and Northwestern Railroad and North Run of the North Fork of Cascade Creek	#1
Maps available for inspection at the City of Rochester-Olmsted Planning Department, 2122 Campus Drive, S.E., Rochester, Minnesota.	
Rochester (City), Olmsted County (FEMA Docket No. 7231)	
North Run of the North Fork of Cascade Creek:	
At confluence with Cascade Creek	*1,004
Approximately 1,000 feet upstream of 19th Street NW	*1,027
South Run of the North Fork of Cascade Creek:	
At confluence with Cascade Creek	*1,006
Approximately 0.5 mile upstream of Chicago and North Western	*1,026

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Bear Creek:	
Approximately 300 feet downstream of 4th Street SE	*986
Approximately 50 feet downstream of confluence of Willow Creek	*1,011
South Fork Zumbro River:	
At 55th Street NW	*986
Approximately 1,500 feet downstream of Mayowood Road	*1,026
Cascade Creek:	
At confluence with South Fork Zumbro River	*978
Approximately 250 feet downstream of County Road 34	*1,015
Willow Creek:	
Approximately 660 feet upstream of the confluence with Bear Creek	*1,013
Approximately 265 feet downstream of 11th Avenue SE	*1,015
Shallow Flooding Area:	
Between U.S. Highway 14 and the Chicago and Northwestern Railroad, approximately 850 feet northwest of the intersection of 7th Street NW and U.S. Highway 14	#2
Between the Chicago and Northwestern Railroad and the North Run of the North Fork of Cascade Creek	#1
Between U.S. Highway 14 and the Chicago and Northwestern Railroad, approximately 400 feet northwest of the intersection of 7th Street NW and U.S. Highway 14	#3
Maps available for inspection at the City of Rochester-Olmsted Planning Department, 2122 Campus Drive, S.E., Rochester, Minnesota.	
NEW HAMPSHIRE	
Alexandria (Town), Grafton County (FEMA Docket No. 7231)	
Newfound Lake:	
Entire shoreline within community	*591
Maps available for inspection at the Alexandria Town Hall, Plummer Hill, Alexandria, New Hampshire.	
Hebron (Town), Grafton County (FEMA Docket No. 7235)	
Newfound Lake:	
Entire shoreline within community	*591
Maps available for inspection at the Hebron Town Hall, Church Lane, Hebron, New Hampshire.	
NEW JERSEY	
Brick (Township), Ocean County (FEMA Docket No. 7231)	
Atlantic Ocean:	
Approximately 250 feet east of the intersection of Ocean Avenue and Bay Avenue South	*15
Entire shoreline within community	*15
Shallow Flooding:	
Approximately 50 feet west of the intersection of Ocean Avenue and Grandview Avenue	#1
Just east of the intersection of southbound lane of State Route 35 and 9th Avenue	#2
Barnegat Bay:	
Approximately 1,200 feet west of the intersection of southbound lane of State Route 35 and Brigantine Lane	*7
Approximately 100 feet southwest of the intersection of the northbound and southbound lanes of State Route 35	*7
Maps available for inspection at the Township of Brick Engineering Department, Brick Town Hall, 401 Chambers Bridge Road, Brick, New Jersey.	
NEW YORK	
Elma (Town), Erie County (FEMA Docket No. 7223)	
Little Buffalo Creek:	
Just upstream of Hall Road	*745
At upstream corporate limits	*782
Pond Creek:	
Approximately 500 feet upstream of confluence with Buffalo Creek	*716
Just downstream of Rice Road	*809
South Branch Slate Bottom Creek:	
Approximately 0.7 mile downstream of Aurora Road	*674
Approximately 840 feet upstream of Aurora Road	*684
Cazenovia Creek:	
At downstream corporate limits	*687
At upstream corporate limits	*773
Maps available for inspection at the Elma Town Hall, 1910 Bowen Road, Elma, New York.	
Henrietta (Town), Monroe County (FEMA Docket No. 7227)	
East Branch Tributary Red Creek:	
Approximately 1,050 feet upstream of confluence with East Branch Red Creek	*530
Approximately 190 feet upstream of State Route 15A	*575
South Stem East Branch Tributary Red Creek:	
At confluence with East Branch Tributary Red Creek	*554
Downstream side of State Route 15A	*576
Maps available for inspection at the Henrietta Town Hall, 475 Calkins Road, Henrietta, New York.	
Lee (Town), Oneida County (FEMA Docket No. 7243)	
Canada Creek:	
At downstream corporate limits	*478
Approximately 1,200 feet upstream of Point Rock Road	*697
Tributary to Canada Creek:	
At confluence with Canada Creek	*591
Approximately 915 feet upstream of Lee Center Taberg Road	*652
Mohawk River:	
At corporate limits	*920
Approximately 1,050 feet upstream of corporate limits	*931
West Branch Mohawk River:	
At confluence with East Branch Mohawk River and Mohawk River	*931
Approximately 510 feet upstream of State Route 26	*1,001
Sash Factory Creek:	
At downstream corporate limits	*430
On downstream side of Kiwanis Road	*557
Tributary to Delta Lake:	
At confluence with Delta Lake	*542
Approximately 0.39 mile upstream of Lee Center Taberg Road	*678
Maps available for inspection at the Lee Town Hall, 5808 Stokes-Lee Center Road, Lee Center, New York.	
NORTH CAROLINA	
Alexander County (Unincorporated Areas) (FEMA Docket No. 7231)	
Catawba River (Lake Hickory):	
At upstream side of Oxford Dam	*935
At downstream side of State Highway 127	*936
Catawba River (Lookout Shoals Lake):	
At downstream county boundary	*847
Approximately 1.9 miles upstream of downstream county boundary	*849
Maps available for inspection at the Alexander County Planning and Inspection Emergency Management Office, 322 1st Avenue, S.W., Taylorsville, North Carolina.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Burke County (Unincorporated Areas) (FEMA Docket No. 7231)	
Rhodhiss Lake:	
At Lake Rhodhiss Dam	*1,003
At State Route 1001	*1,005
Maps available for inspection at the Avery Avenue Government Building, 200 Avery Avenue, Morganton, North Carolina.	
Caldwell County (Unincorporated Areas) (FEMA Docket No. 7231)	
Catawba River:	
At Lake Rhodhiss Dam	*1,003
At State Route 1001	*1,005
Maps available for inspection at the Caldwell County Planning Department, Caldwell County Offices, 905 West Avenue, Lenoir, North Carolina.	
Gaston County (Unincorporated Areas) (FEMA Docket No. 7227)	
Mountain Island Lake:	
Upstream side of Mountain Island Dam	*655
Approximately 6.3 miles upstream of Mountain Island Dam	*657
Maps available for inspection at the Gaston County Planning/Code Enforcement Office, 212 West Main Avenue, Gastonia, North Carolina.	
Goldsboro (City), Wayne County (FEMA Docket No. 7231)	
Mills Creek:	
Approximately 600 feet upstream of confluence with West Bear Creek	*95
Approximately 1,075 feet upstream of State Route 13	*116
Maps available for inspection at the Goldsboro City Hall Annex, 222 North Center Street, Goldsboro, North Carolina.	
Indian Beach (Town), Carteret County (FEMA Docket No. 7227)	
Atlantic Ocean:	
Approximately 150 feet south of the intersection of Salter Path Road (State Route 58) and State Route 1192	*13
Approximately 700 feet south of the intersection of Salter Path Road (State Route 58) and State Route 1192	*19
Bogue Sound:	
Approximately 0.4 mile west/northwest of the intersection of Salter Path Road (State Route 58) and easternmost corporate limits	*6
Approximately 0.6 mile north of the intersection of Salter Path Road (State Route 58) and State Route 1192	*7
Maps available for inspection at the Indian Beach Town Hall, 1400 Salterpath Road, Indian Beach, North Carolina.	
Iredell County (Unincorporated Areas) (FEMA Docket No. 7231)	
Catawba River (Lake Norman):	
At downstream county boundary	*761
Approximately 1 mile downstream of State Route 1004	*763
Catawba River (Lookout Shoals Lake):	
At Lookout Shoals Dam	*847
At upstream county boundary	*847
Maps available for inspection at the Iredell County Planning Department, 227 South Center Street, Statesville, North Carolina.	
Lincoln County (Unincorporated Areas) (FEMA Docket No. 7231)	
Lake Norman:	
Entire shoreline within community	*761
Maps available for inspection at the Lincoln County Building and Land Development Department, 302 North Academy Street, Lincolnton, North Carolina.	
Mecklenburg County (Unincorporated Areas) (FEMA Docket No. 7231)	
Lake Norman:	
Entire shoreline within county	*761
Mountain Island Lake:	
At Mountain Island Dam	*655
Approximately 4.8 miles upstream of State Route 16	*657
Lake Wylie:	
At downstream county boundary	*571
Approximately 2.4 miles downstream of State Route 49	*572
Maps available for inspection at the Mecklenburg County Engineering and Building Standards, 700 North Tryon Street, Charlotte, North Carolina.	
Transylvania County (Unincorporated Areas) (FEMA Docket Nos. 7223 and 7231)	
Davidson River:	
Confluence with French Broad River	*2,103
Approximately 5,200 feet upstream of U.S. Highway 64/276	*2,142
East Fork of French Broad River:	
Confluence with French Broad River	*2,177
Approximately 4.44 miles upstream of confluence with French Broad River	*2,291
Cathey's Creek:	
Confluence with French Broad River	*2,147
Approximately 1,250 feet upstream of U.S. Highway 64	*2,193
Patterson Creek:	
At confluence with French Broad River	*2,150
Approximately 1,500 feet upstream of Cathey's Creek Church Road	*2,203
Carson Creek:	
Confluence with French Broad River	*2,136
Approximately 1,225 feet upstream of confluence with French Broad River	*2,139
Little River:	
Confluence with French Broad River	*2,093
Approximately 1,795 feet downstream of confluence of Crab Creek	*2,094
Lamb Creek:	
Approximately 1,675 feet upstream of Lambs Creek Road	*2,252
Approximately 0.4 mile upstream of Lambs Creek Road	*2,261
French Broad River:	
Upstream side of Crab Creek Road	*2,093
Approximately 1 mile upstream of Turnpike Road	*2,206
North Fork French Broad River:	
At confluence with French Broad River	*2,206
Upstream side of U.S. Highway 64	*2,208
West Fork French Broad River:	
At confluence with French Broad River	*2,206
Approximately 475 feet upstream from confluence with French Broad River	*2,208
Middle Fork French Broad River:	
At confluence with French Broad River	*2,177
Approximately 26 feet downstream of East Fork Road	*2,181
Lake Toxaway:	
Entire shoreline within community	*3,012
Cardinal Lake:	
Entire shoreline within community	*3,044
Maps available for inspection at the Transylvania County Community Services Building, 203 East Morgan Street, Brevard, North Carolina.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Whiteville (City), Columbus County (FEMA Docket No. 7231)	
Soules Swamp:	
Approximately 0.6 mile south of intersection of Canal Street and Mill Street	*53
Approximately 0.5 mile south of the intersection of State Roads 1437 and 1438	*58
Maps available for inspection at the Whiteville City Hall, 317 South Madison, Whiteville, North Carolina.	
OHIO 1	
Champaign County (Unincorporated Areas) (FEMA Docket No. 7231)	
Anderson Creek:	
At confluence with Mad River	*978
Approximately 3,050 feet upstream of Stickley Road	*1,013
Mad River:	
At upstream side of County Line Road	*954
Approximately 1.7 miles upstream of U.S. Route 36	*1,009
Moore Run:	
At upstream side of County Line Road	*963
Approximately 5,000 feet upstream of Woodburn Road	*1,000
Maps available for inspection at the Champaign County Engineer's Office, 428 Beech Street, Urbana, Ohio.	
West Milton (Village), Miami County (FEMA Docket No. 7190)	
Jones Run:	
Approximately 400 feet southeast of intersection of State Route 48 and Cedar Drive	*905
Approximately 400 feet southeast of Highway 48	*916
Hatfield Ditch:	
At downstream side of State Route 48	*896
Approximately 0.49 mile upstream of State Route 48	*931
Maps available for inspection at the West Milton Village Hall, 701 South Miami Street, West Milton, Ohio.	
PENNSYLVANIA	
Allison (Township), Clinton County (FEMA Docket No. 7227)	
West Branch Susquehanna River:	
At confluence of Sugar Run	*572
At the upstream corporate limits	*577
Sugar Run:	
At confluence with West Branch Susquehanna River	*572
Approximately 130 feet upstream of Township Route 398	*572
Maps available for inspection at the home of the Allison Township Chairman, Glen Road, Mill Hall, Pennsylvania.	
Conewago (Township), Adams County (FEMA Docket No. 7168)	
Plum Creek:	
Approximately 1 mile upstream of confluence with South Branch Conewago Creek	*519
At county boundary	*559
Slagle Run:	
Approximately 150 feet upstream of downstream corporate limits	*522
At county boundary	*539
Maps available for inspection at the Conewago Township Building, 350 Third Street, Hanover, Pennsylvania.	
McSherrystown (Borough), Adams County (FEMA Docket No. 7155)	
Plum Creek:	
At downstream corporate limits (approximately 1,250 feet downstream of State Route 116)	*526
At upstream corporate limits (approximately 1,175 feet upstream of State Route 116)	*534
Maps available for inspection at the Borough Building, 338 Main Street, McSherrystown, Pennsylvania.	
St. Marys (City), Elk County (FEMA Docket No. 7227)	
Brewery Run:	
Approximately 25 feet upstream of confluence with Elk Creek	*1,643
Approximately 150 feet upstream of Hagerty Road	*1,715
Maps available for inspection at the City Hall, 808 South Michael Road, St. Marys, Pennsylvania.	
SOUTH CAROLINA	
Mullins (City), Marion County (FEMA Docket No. 7211)	
Fowler Branch:	
At corporate limits	*86
At State Route 41	*92
White Oak Creek:	
Approximately 0.47 mile downstream of Cleveland Street (at downstream corporate limits)	*71
Approximately 350 feet upstream of U.S. Route 76 (at upstream corporate limits)	*87
Unnamed Tributary to White Oak Creek:	
At confluence of White Oak Creek	*85
At downstream side of Yarboro Street	*94
Maps available for inspection at the Mullins City Hall, 151 Northeast Front Street, Mullins, South Carolina.	
TENNESSEE	
Oak Ridge (City), Anderson and Roane Counties (FEMA Docket No. 7227)	
Emory Valley Creek:	
Approximately 845 feet downstream of Bay Path Drive	*799
Approximately .48 mile upstream of Columbia Drive	*837
Brushy Fork Poplar Creek:	
Approximately 1,848 feet downstream of County Road	*795
Approximately 650 feet upstream of County Road	*798
Maps available for inspection at the Oak Ridge Municipal Building Implementation Development Department, 200 South Tulane Avenue, Oak Ridge, Tenneseee.	
VIRGINIA	
Rappahannock County (Unincorporated Areas) (FEMA Docket No. 7231)	
Thornton River:	
At State Route 620	*593
Approximately 1.7 miles upstream of State Route 667	*960
North Fork Thornton River:	
At confluence with Thornton River	*635
Approximately 1,500 feet upstream of State Route 600	*755
Maps available for inspection at the Rappahannock County Administration and Zoning Office, 290 Gay Street, Washington, Virginia.	
Richmond (Independent City) (FEMA Docket No. 7227)	
James River:	
At downstream corporate limits	*27
At downstream side of Hollywood Dam	*58
Broad Rock Creek:	
At confluence with James River	*32
Approximately 150 feet downstream of Interstate 95	*32
Maps available for inspection at the Richmond Community Development Department, 900 East Broad Street, Room 110, Richmond, Virginia.	
WISCONSIN	
Oconto County (Unincorporated Areas) (FEMA Docket No. 7231)	
Pensaukee River:	
At U.S. Route 41	*596

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.96 mile downstream of confluence of Spring Creek	*635
Brookside Creek:	
At the confluence with Pensaukee River	*607
Approximately 750 feet downstream of Moody Road	*607
Maps available for inspection at the Oconto County Land and Water Resources—Zoning Division, 301 Washington Street, Oconto, Wisconsin.	
Washburn County (Unincorporated Areas) (FEMA Docket Nos. 7138 and 7227)	
Middle McKenzie Lake:	
Entire shoreline within county	*989
McKenzie Lake:	
Entire shoreline within county	*990
Long Lake:	
Entire shoreline within county	*1,227
Mud Lake:	
Entire shoreline within county	*1,227
Red Cedar Lake:	
Entire shoreline within county	*1,189
Bear Lake:	
Entire shoreline within county	*1,222
Trego Lake:	
Entire shoreline within county	*1,036
Matthews Lake:	
Entire shoreline within county	*995
Spooner Lake:	
Entire shoreline within county	*1,093
Maps available for inspection at the Washburn County Zoning Administration, 10 West 4th Avenue, Shell Lake, Wisconsin.	
Westfield (Village), Marquette County (FEMA Docket No. 7231)	
Westfield Creek:	
Approximately 400 feet downstream of U.S. Route 51	*840
Approximately 75 feet downstream of Spring Street Branch/Dam	*843
Maps available for inspection at the Westfield Village Hall, 124 East Third Street, Westfield, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: March 19, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8089 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF DEFENSE

48 CFR Parts 209 and 252

[DFARS Case 97–D325]

Defense Federal Acquisition Regulation Supplement; List of Firms Not Eligible for Defense Contracts

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 843 of the National Defense Authorization Act for Fiscal Year 1998. Section 843 requires that the Secretary of Defense maintain a list of all firms that the Secretary has identified as being subject to a prohibition on contract award due to ownership or control of the firm by the government of a terrorist country; and that DoD contractors be prohibited from entering into subcontracts with firms on the list unless there is a compelling reason to do so.

DATES: Effective date: March 27, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 11, 1998, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulation Council, Attn: Mr. Michael Pelkey, 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–D325 in all corresponding related to this issue. E-mail comments should cite DFARS Case 97–D325 in the subject line.

FOR FURTHER INFORMATION CONTACT: Michael Pelkey, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2327 contains a prohibition on contracting with a firm or a subsidiary of a firm that is owned or controlled by the government of a country that has repeatedly provided support for acts of international terrorism. Section 843 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85) amended 10 U.S.C. 2327 to require that the Secretary of Defense maintain a list of all firms that the Secretary has identified as being subject to the prohibition, and that DoD contractors be prohibited from entering into subcontracts with firms on the list unless there is a compelling reason to do so. This DFARS rule provides procedures to facilitate maintenance of the list and a contract clause that requires DoD approval of a proposed subcontract with a firm on the list.

B. Regulatory Flexibility Act

The 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 few small entities are believed to subcontract with firms that are owned or controlled by the government of a terrority country. An initial regulatory flexibility analysis has therefore not been performed. 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–D325 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the interim rule does not impose any information collection requirements that require Office of Management and Budget approval 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 843 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85). Section 843 requires that the Secretary of Defense maintain a list of all firms that the Secretary has identified as being subject to the prohibition at 10 U.S.C. 2327 due to ownership or control of the firm by the government of a terrorist country, and that DoD contractors be prohibited from entering into subcontracts with firms on the list unless there is a compelling reason to do so. Section 843 was effective upon enactment on November 18, 1997. Immediate implementation is necessary to prevent the award of contracts and subcontracts that are prohibited by Section 843. Commments 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 209 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 209 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 209 and 252 continues to read as follows:

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

PART 209—CONTRACTOR QUALIFICATIONS

2. Section 209.104–1 is amended by revising paragraph (g)(i)(A) introductory text and paragraph (g)(i)(A)(*1*) to read as follows:

209.104–1 General standards.

* * * * *

(g)(i) * * *

(A) Under 10 U.S.C. 2327(b), a contracting officer shall not award a contract of $100,000 or more to a firm or to a subsidiary of a firm when a foreign government—

(1) Either directly or indirectly, has a significant interest—

(i) In the firm; or

(ii) In the subsidiary or the firm that owns the subsidiary; and

* * * * *

3. Section 209.104–70 is amended by revising paragraph (a) to read as follows:

209.104–70 Solicitation provisions.

(a) Use the provision at 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, in all solicitations expected to result in contracts of $100,000 or more. Any disclosure that the government of a terrorist country has a significant interest in an offeror or a subsidiary of an offeror shall be forwarded through the head of the agency to the Director, Defense Procurement, ATTN: OUSD(A&T)DP/FC, 3060 Defense Pentagon, Washington, DC 20101–3060.

* * * * *

4. Section 209.405–2 is added to read as follows:

209.405–2 Restrictions on subcontracting.

(a) The contracting officer shall not consent to any subcontract with a firm, or a subsidiary of a firm, that is identified by the Secretary of Defense as being owned or controlled by the government of a terrorist country unless the agency head states in writing the compelling reasons for the subcontract.

5. Section 209.409 is added to read as follows:

209.409 Solicitation provision and contract clause.

Use the clause at 252.209–7004, Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country, in solicitations and contracts with a value of $100,000 or more.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 252.209–7001 is amended by revising the clause date and paragraph (b) to read as follows:

252.209–7001 Disclosure of Ownership or Control by the Government of a Terrorist Country.

* * * * *

Disclosure of Ownership or Control by the Government of a Terrorist Country (Mar 1998)

* * * * *

(b) *Prohibition on award.* In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

* * * * *

7. Section 252.209–7004 is added to read as follows:

252.209–7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country.

As prescribed in 209.409, use the following clause:

Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist County (Mar 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of $25,000 with a firm, or a subsidiary of a firm, that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(End of clause)

[FR Doc. 98–7707 Filed 3–26–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 032098A]

Atlantic Shark Fisheries; Large Coastal Shark Species

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

ACTION: Closure.

SUMMARY: NMFS is closing the commercial fishery for large coastal sharks conducted by persons aboard vessels issued a Federal Atlantic shark permit in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea. This action is necessary to ensure that the semiannual quota of 642 metric tons (mt) for the period January 1 through June 30, 1998, is not exceeded.

DATES: The closure is effective from 11:30 p.m. local time March 31, 1998, through June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Sharks of the Atlantic Ocean and its implementing regulations found at 50 CFR part 678 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Section 678.24(b) of the regulations provides for two semiannual quotas of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishers. The first semiannual quota of 642 mt is available for harvest from January 1 through June 30, 1998.

The Assistant Administrator for Fisheries, NOAA (AA), is required under § 678.25 to monitor the catch and landing statistics and, on the basis of these statistics, to determine when the catch of Atlantic, Caribbean, and Gulf of Mexico sharks will equal any quota under § 678.24(b). When shark harvests reach, or are projected to reach, a quota established under § 678.24(b), the AA is further required under § 678.25 to close the fishery.

The AA has determined, based on the reported catch and other relevant factors, that the semiannual quota for the period January 1 through June 30, 1998, for large coastal sharks in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of March 31, 1998. During the closure, retention of large coastal sharks is prohibited for persons fishing aboard vessels issued a permit under § 678.4, unless the vessel is operating as a charter vessel or headboat, in which case the vessel may retain up to two large coastal sharks per trip subject to the provisions of § 678.25(a)(2). The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of carcasses and/or fins of large coastal sharks harvested by a person aboard a vessel that has been issued a permit under § 678.4, is prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure, and were held in storage by a dealer or processor.

Persons fishing aboard vessels issued a Federal Atlantic shark permit under § 678.4 are reminded that, as a condition of permit issuance, the vessel may not retain a large coastal shark during the closure, except as provided by § 678.24(a). Fishing for pelagic and small coastal sharks may continue. The recreational fishery is not affected by this closure.

Classification

This action is taken under 50 CFR part 678 and is exempt from review under E.O. 12866.

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

Dated: March 23, 1998.

Gary C. Matlock,

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

[FR Doc. 98–8113 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 59
Friday, March 27, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN–98–004]

Revision of User Fees for 1998 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to reduce user fees for cotton producers for 1998 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1997 user fee for this classification service was $1.40 per bale. This proposal would reduce the fee for the 1998 crop to $1.30 per bale. The proposed reduction in fees resulted from increased efficiency in classing operations. The fee is sufficient to recover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Comments and inquiries should be addressed to, Cotton Programs, AMS, USDA, Room 2641–S, P.O. Box 96456, Washington, DC 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641—South Building, 14th & Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202–720–2145.

SUPPLEMENTARY INFORMATION:

This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and it has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this proposal on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). It has been determined that the implementation of this proposed rule would not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are an estimated 40,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the RFA because:

(1) The fee reduction reflects a decrease in the cost-per-unit currently borne by those entities utilizing the services (the 1997 user fee for classification services was $1.40 per bale; the fee for the 1998 crop would be reduced to $1.30 per bale; the 1998 crop is estimated at 15,684,900 bales);

(2) The cost reduction will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 1997 crop, 17,949,575 bales were classed out of 18,346,450 bales produced.

(4) Based on the average price paid to growers for cotton from the 1996 crop of 69.3 cents per pound, 500 pound bales of cotton are worth an average of $346.50 each. The proposed user fee for classification services, $1.30 per bale, is less than one percent of the value of an average bale of cotton.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581–0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 1998, as provided by the Cotton Statistics and Estimates Act.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.40 per bale during the 1997 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Pub. L. 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, supervision, and development and maintenance of cotton standards.

This proposed rule establishes the user fee charged to producers for HVI classification at $1.30 per bale during the 1998 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 1997. Therefore, the 1998 producer's user fee for classification service is based on the 1997 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Pub. L. 102–237. The 1997 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.08 per bale. A two percent, or four cents per bale increase due to the implicit price deflator of the gross domestic product added to the $2.08 would result in a 1998 base fee of $2.12 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed

for the most recent 12-month period for which statistics are available). However, this has been replaced by the gross domestic product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 1998 crop is estimated at 15,684,900 bales. The 1998 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 32 cents per bale reduction and was subtracted from the 1998 base fee of $2.12 per bale, resulting in a fee of $1.80 per bale.

With a fee of $1.80 per bale, the projected operating reserve would be 46.806 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $1.80 must be reduced by 50 cents per bale, to $1.30 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 1998 season fee at $1.30 per bale.

Accordingly, § 28.909, paragraph (b) would be revised to reflect the reduction in the HVI classification fees.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (c).

Growers or their designated agents requesting classification data provided on computer punched cards will be charged a fee of 10 cents per card to reflect the costs of providing this service. Requests for punch card classification data represents only 2.6 percent of the total bales classed. This change would be reflected in § 28.910 (a). Growers or their designated agents receiving classification data by methods other than computer punched cards would continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at five cents per bale, and it would be applicable even if the same method was requested. However, if computer punched cards were requested, a fee of ten cents per card would be charged. The fee in § 28.910 (b) for an owner receiving classification data from the central database would remain at five cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 would be reduced from $1.40 per bale to $1.30 per bale.

The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

Finally, the authority citation for Subpart D of Part 28 was revised at 61 FR 19512. This action would correct that revision by specifying Subpart D rather than a reference to Part 28 in its entirety.

A thirty-day comment period is provided for public comments. This period is appropriate because it is anticipated that the proposed changes, if adopted, would be made effective July 1, 1998, as provided by the Cotton Statistics and Estimates Act.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is proposed to be amended as follows:

PART 28—[AMENDED]

1. The authority citation for Part 28, Subpart D, would be revised to read as follows:

Authority: 7 U.S.C. 471—476.

2. In § 28.909, paragraph (b) would be revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.30 per bale.

* * * * *

3. In § 28.910, paragraph (a) would be revised to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

(a) (1) The samples submitted as provided in the subpart shall be classified by employees of the Division and classification memoranda showing the official quality determination of each sample according to the official cotton standards of the United States shall be issued by any one of the following methods at no additional charge:

(i) Computer diskettes,

(ii) Computer tapes, or

(iii) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

(2) When an additional copy of the classification memorandum is issued by any method listed in (a)(1), there will be a charge of five cents per bale. If provided as an additional method of data transfer, the minimum fee for each tape or diskette issued shall be $10.00.

(3) Upon request, computer punch cards may be issued. The fee for this service shall be 10 cents per card.

* * * * *

4. In § 28.911, the last sentence of paragraph (a) would be revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.30 per bale.

* * * * *

Dated: March 24, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–8177 Filed 3–26–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 05800–AA59

Fees for Official Inspection and Official Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing an approximate 2.9 percent increase in certain service fees for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The proposed increase covers hourly rates and certain unit rates on tests performed at other than an applicant's facility. The proposed increase is designed to generate additional revenue required to recover operational costs created by cost-of-living increases to Federal salaries in fiscal year 1998.

DATES: Written comments must be submitted on or before May 26, 1998.

ADDRESSES: Written comments must be submitted to George Wollam, USDA,

GIPSA, ART, Stop 3649, Washington, D.C. 20250–3649, or FAX them to (202) 720–4628. All comments received will be made available for public inspection during regular business hours in Room 0623, South Building, USDA, 1400 Independence Avenue, SW, Washington, D.C. 20250–3649 (7 CFR 1.27(b)). Comments may also be sent by electronic mail or Internet to: gwollam@fgisdc.usda.gov.

FOR FURTHER INFORMATION CONTACT: George Wollam at above address or telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this proposed rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this proposed rule.

Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Most users of GIPSA inspection and weighing services do not meet the requirements for small entities. GIPSA is required by statute to make services available and to recover costs of providing such services, as nearly as practicable.

The proposed fee revision is primarily applicable to entities engaged in the export of grain. Under provisions of the USGSA, most grain exported from U.S. export port locations must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 37 export facilities. All of the export facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities as defined under the Regulatory Flexibility Act and the regulations issued thereunder. Some users of the service who request non-mandatory official inspection and weighing services (most of which represent appeals) at other than export locations could be considered small entities. However, this fee increase merely reflects the cost-of-living increases in Federal salaries for hourly and certain unit fees.

In fiscal year 1997, GIPSA's obligations were $22,972,026 with revenue of $21,527,695, resulting in a loss of $1,444,331 and retained earnings of negative $419,417. In fiscal year 1998, as of January 31, GIPSA's obligations were $8,116,935 with revenue of $8,170,327 and retained earnings of negative $374,608. GIPSA cannot absorb the 2.9 percent increase in salary costs with the existing deficit in retained earnings. Additionally, GIPSA will continue to monitor its costs to improve operating efficiencies, and adopt cost saving measures, where possible and practicable.

The approximate 2.9 percent proposed increase in fees would not have a significant impact on either small or large entities. GIPSA estimates an annual increase of $509,000 in revenue based on a work volume of 74,045,472 metric tons, the equivalent to fiscal year 1997.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 800 have been previously approved by the Office of Management and Budget under control number 0580–0013.

Background

The USGSA requires GIPSA to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory costs.

The proposed 2.9 percent fee increase generates additional revenue required to recover operational costs created by a January 1998 cost-of-living increase to Federal salaries. The average salary increase for GIPSA employees in calendar year 1998 is approximately 2.9 percent. This proposed action is being taken to ensure that the service fees charged by GIPSA generate adequate revenue to cover the additional cost created by the January 1998 Federal salary increase.

The current USGSA fees covering hourly rates and certain unit rates on tests performed at other than an applicant's facility were published in the **Federal Register** on June 11, 1997 (62 FR 31701), and became effective on June 15, 1997. They will appear in the 1998 edition of 7 CFR 800.71, Schedule A, Fees for Official Inspection and Weighing Services Performed in the United States. The hourly fees covered by this proposal generate revenue to cover the basic salary, benefits, and leave for those employees providing direct service delivery. GIPSA has also identified certain unit fees, for services not performed at an applicant's facility, that contain direct labor costs. This proposal increases those unit fees based on a 2.9 percent increase to the labor cost of each unit. Other associated costs, including overhead, are collected through additional fees contained in the published fee schedule and are not included under this proposal.

The amount of revenue collected as a result of this proposal is a direct function of the work volume. GIPSA estimates an annual increase of $509,000 in revenue based on a work volume of 74,045,472 metric tons, the equivalent to fiscal year 1997. If GIPSA foregoes this adjustment, GIPSA will incur a net loss equivalent to 2.9 percent for every hour worked by an employee providing direct service delivery.

In fiscal year 1997, GIPSA's obligations were $22,972,026 with revenue of $21,527,695, resulting in a loss of $1,444,331 and retained earnings of negative $419,417. In fiscal year 1998, as of January 31, GIPSA's obligations were $8,116,935 with revenue of $8,170,327 and retained earnings of negative $374,608. GIPSA cannot afford to absorb an additional $509,000 loss due to the 2.9 percent increase in salary costs with the existing deficit in retained earnings. Additionally, GIPSA will continue to monitor its costs to improve operating efficiencies and adopt cost saving measures, where possible and practicable.

Proposed Action

GIPSA proposes to apply an approximate 2.9 percent increase to those hourly and certain unit rates in 7 CFR 800.71, Table 1—Fees for Official Services Performed at an Applicant's Facility in an Onsite GIPSA Laboratory; Table 2—Services Performed at Other Than an Applicant's Facility in a GIPSA Laboratory; and Table 3, Miscellaneous Services.

In reviewing the fee schedule to identify fees that would require an approximate 2.9 percent increase, GIPSA has identified several fees that

under the current fee schedule are at levels that would not require any change. Accordingly, these fees would remain the same at this time.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grains.

For the reasons set out in the preamble, 7 CFR Part 800 is proposed to be revised as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

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

2. In § 800.71 Paragraph(s), Schedule A is revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

	Monday to Friday (6 a.m to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Overtime [2]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative)				
1-year contract	$24.40	$26.40	$34.40	$41.40
6-month contract	26.80	28.60	36.60	47.80
3-month contract	30.60	31.60	39.80	49.40
Noncontract	35.40	37.40	45.40	55.80

(2) Additional Tests (cost per test, assessed in addition to the hourly rate) [3]	
(i) Aflatoxin (other than Thin Layer Chromatography)	$8.50
(ii) Aflatoxin (Thin Layer Chromatography method)	20.00
(iii) Soybean protein and oil (one or both)	1.50
(iv) Wheat protein (per test)	1.50
(v) Sunflower oil (per test)	1.50
(vi) Vomitoxin (qualitative)	7.50
(vii) Vomitoxin (quantitative)	12.50
(viii) Waxy corn (per test)	1.50
(ix) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.	
(x) Other services	
(a) Class Y Weighing (per carrier)	
(1) Truck/container	.30
(2) Railcar	1.25
(3) Barge	2.50

(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier).	
(i) All outbound carriers (per-metric-ton) [4]	
(a) 1–1,000,000	$0.1013
(b) 1,000,001—1,500,000	.0923
(c) 1,500,001—2,000,000	.0473
(d) 2,000,001—5,000,000	.0360
(e) 5,000,001—7,000,000	.0192
(f) 7,000,000+	.0023

[1] Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[3] Appeal and reinspection services will be assessed the same fee as the original inspection service.

[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

TABLE 2.— SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading)	
(a) Truck/trailer/container (per carrier)	$18.00
(b) Railcar (per carrier)	27.50
(c) Barge (per carrier)	174.25
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	9.75
(b) Railcar (per carrier)	19.00
(c) Barge (per carrier)	108.00

TABLE 2.— SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]—Continued

(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	10.50
(b) Warehouseman inspection (per sample)	17.50
(c) Factor only (per factor—maximum 2 factors)	4.50
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.02
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above)	11.50
(f) Class X Weighing (per hour per service representative)	46.40
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method)	25.50
(b) Aflatoxin (per test—TLC method)	101.50
(c) Soybean protein and oil (one or both)	8.00
(d) Wheat protein (per test)	8.00
(e) Sunflower oil (per test)	8.00
(f) Vomitoxin (qualitative)	26.00
(g) Vomitoxin (quantitative)	31.00
(h) Waxy corn (per test)	9.25
(i) Canola (per test—00 dip test)	9.25
(j) Pesticide Residue Testing [3]	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[4]	
(i) Board Appeals and Appeals (grade and factor)	75.25
(a) Factor only (per factor—max 2 factors)	39.00
(b) Sampling service for Appeals additional (hourly rates from Table 1)	.....
(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC)	25.75
(b) Aflatoxin (TLC)	111.00
(c) Soybean protein and oil (one or both)	15.75
(d) Wheat protein (per test)	15.75
(e) Sunflower oil (per test)	15.75
(f) Vomitoxin (per test—qualitative)	36.00
(g) Vomitoxin (per test—quantitative)	41.00
(h) Vomitoxin (per test—HPLC Board Appeal)	128.00
(i) Pesticide Residue Testing [3].	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(j) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	67.40
(3) Stowage examination (service-on-request) [3]	
(i) Ship (per stowage space) (minimum $250 per ship)	50.00
(ii) Subsequent ship examinations (same as original) (minimum $150 per ship)	.....
(iii) Barge (per examination)	40.00
(iv) All other carriers (per examination)	15.00

[1] Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72 (b).

[3] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[4] If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service.

TABLE 3.—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$46.40
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	46.40
(3) Special weighing services (per hour per service representative) [2].	
(i) Scale testing and certification	46.40
(ii) Evaluation of weighing and material handling systems	46.40
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	46.40
(iv) NTEP Prototype evaluation of Railroad Track	46.40
Scales (plus usage fee per day for test car)	100.00
(v) Mass standards calibration and reverification	46.40
(vi) Special projects	46.40
(4) Foreign travel (per day per service representative)	430.00
(5) Online customized data EGIS service.	
(i) One data file per week for 1 year	500.00
(ii) One data file per month for 1 year	300.00
(6) Samples provided to interested parties (per sample)	2.50

TABLE 3.—MISCELLANEOUS SERVICES [1]—Continued

(7) Divided-lot certificates (per certificate)	1.50
(8) Extra copies of certificates (per certificate)	1.50
(9) Faxing (per page)	1.50
(10) Special mailing (actual cost).	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $46.40 per hour.
[2] Regular business hours-Monday thru Friday-service provided at other than regular hours charged at the applicable overtime hourly rate.

* * * * *

Dated: March 20, 1998.

James R. Baker,

Administrator.

[FR Doc. 98–7939 Filed 3–26–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563f and 574

[No. 98–28]

RIN 1550–AB10

Agency Disapproval of Directors and Senior Executive Officers of Savings Associations and Savings and Loan Holding Companies

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) proposes to amend its regulations implementing section 32 of the Federal Deposit Insurance Act (FDIA). This statute requires certain savings associations and savings and loan holding companies to provide prior notice of the appointment or employment of directors and senior executive officers. The proposed changes eliminate unnecessary regulatory burden, implement changes enacted in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), and more closely conform OTS regulations to those of the other banking agencies as required under section 303 of the Community Development and Regulatory Improvement Act of 1994 (CDRIA).

DATES: Comments must be received on or before May 26, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 98–28. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; sent by facsimile transmission to FAX number (202) 906–7755; or sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Frances C. Augello, Senior Counsel, Business Transactions Division, Chief Counsel's Office (202) 906–6151; Scott Ciardi, Financial Analyst, Corporate Activities Division, (202) 906–6960; or Mary Jo Johnson, Project Manager, Supervision Policy (202) 906–5739, Office of Thrift Supervision, 1700 G Street, NW., Washington D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Section 32 of FDIA [1] requires certain savings associations and savings and loan holding companies to notify the OTS at least 30 days before adding any individual to the board of directors or employing an individual as a senior executive officer. Section 2209 of the EGRPRA [2] amended section 32 of the FDIA by changing the circumstances under which a notice must be filed. Section 2209 also provided that the OTS may have as long as 90 days to issue a notice of disapproval of the proposed addition of a director or employment of a senior executive officer.

The OTS proposes to amend its regulations implementing section 32 of FDIA to reflect the EGRPRA amendments and to eliminate unnecessary burden. In accordance with section 303 of the CDRIA,[3] the OTS has coordinated with other federal banking agencies to streamline and clarify the regulations implementing section 32 of FDIA. The proposed OTS rule conforms generally to regulations that have been promulgated by the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB), and proposed by the Federal Deposit Insurance Corporation (FDIC).[4]

The proposed rule is discussed in detail below. This proposal restates the provisions of the existing rule at § 574.9 with the revisions noted in the discussion. In addition, the OTS has rewritten the rule using plain language drafting techniques promoted by the Vice President's National Performance Review Initiative and new guidance in the **Federal Register** Document Drafting Handbook (January 1997 edition). The primary goal of plain language drafting is to make regulations easier to understand. Plain language drafting emphasizes the use of informative headings (often written as a question), non-technical language (including the use of ''you'') and sentences in the active voice.

The use of the plain language format has not altered the substance of the regulation. The OTS welcomes comments on the plain language format, and suggestions on how to improve it. The OTS is committed to converting more of its regulations to the plain language format to reduce regulatory burden.

II. Proposed Amendments

Proposed Section 574.10—What does this subpart do?

Proposed § 574.10 states that the new regulations implement section 32 of the FDIA.

Proposed Section 574.11—What definitions apply to this subpart?

Proposed § 574.11 sets forth the definitions that apply to the notice requirement under section 32. The proposed provision retains the substance of the existing definitions, except as noted below.

The proposed regulation revises the definition of ''director'' to clarify the circumstances under which an advisory director would not be considered a director. Those circumstances would be if the individual (1) is not elected by the shareholders; (2) is not authorized to vote on any matters before the board, *or any committee* of the board; (3) provides

[1] 12 U.S.C. 1831i.
[2] Pub.L. 104–208, 110 Stat. 3009 (Sept. 30, 1996).
[3] Pub. L. 103–325, 108 Stat. 2215 (Sept. 23, 1994).
[4] (OCC) 61 FR 60341 (November 27, 1996); (FRB) 62 FR 9290 (February 28, 1997); (FDIC) 61 FR 52809 (October 9, 1997).

only general policy advice to the board *or any committee* of the board; and (4) has not been identified by the OTS in writing as an individual who performs the functions of a director, or who exercises a significant influence over, or participates in, major policymaking decisions of the board.

The current definition of ''senior executive officer'' would also be clarified. The proposed rule states explicitly that the president of a savings association or savings and loan holding company is a senior executive officer.

Finally, the existing definitions of ''complete notice'' and ''complete notice date'' are eliminated as unnecessary.

Proposed Section 574.12—Who must give prior notice?

Proposed § 574.12(a) sets forth the circumstances under which notice is required, and implements certain changes made in EGRPRA.

Prior to EGRPRA, section 32 of the FDIA required a savings association or savings and loan holding company to file prior notice where: (1) the savings association was chartered less than two years, (2) the savings association or savings and loan holding company had undergone a change of control within the preceding two years, or (3) the savings association or savings and loan holding company was not in compliance with minimum capital requirements or was otherwise in a troubled condition.

Section 2209 of the EGRPRA eliminated the notice requirement for savings associations chartered for less than two years, and for savings associations and savings and loan holding companies that had undergone a change in control within the previous two years. Section 2209 also added a new provision requiring prior notice where an agency determines, in connection with its review of a capital restoration plan required under section 38 of the FDIA or otherwise, that prior notice is appropriate.

The proposed regulation makes those changes and also makes minor clarifications to existing filing requirements. For example, the proposed regulation clarifies that filings are required when an existing senior executive officer changes responsibilities.

Proposed § 574.12(b) permits an individual seeking election to a board of directors to file a notice, if the individual has not been nominated by management. The current regulation includes a similar provision. See existing § 574.9(d)(l)(ii).

The current regulation includes a special rule for multi-tiered savings and loan holding companies. The special rule limits the circumstances under which filings are required with respect to changes in directors or senior executive officers of savings and loan holding companies. *See* existing § 574.9(d)(5). The OTS originally promulgated this special rule to reduce the number of unnecessary filings by multi-tiered savings and loan holding companies within two years of a change of control. Because EGRPRA eliminated the filing requirement relating to changes of control, the proposed regulation eliminates the special rule for multi-tiered savings and loan holding companies.

The proposed regulations require filings only from entities described in proposed § 574.12. For example, a savings and loan holding company is required to file if it is in troubled condition. A savings association is required to file if it is undercapitalized or in troubled condition or if OTS requires, as part of prompt corrective action, the filing of a notice.

Proposed Section 574.13—What procedures govern the filing of my notice?

The proposed regulation at § 574.13 sets forth the procedures governing the filing of notices. This proposed section retains the existing requirement that the notice must be filed in accordance with the procedures in 12 CFR 516.1.

Proposed Section 574.14—What information must I include in my notice?

The proposed regulation eliminates specific notice content requirements currently set forth at existing § 574.9(d)(2)(i)-(iii). Instead, the proposed rule requires that the notice contain the information required under paragraph 6(A) of the Change in Bank Control Act,[5] and information prescribed in appropriate interagency forms. Currently, these forms include the Interagency Notice of Change in Director or Senior Executive Officer,[6] and the Interagency Biographical and Financial Report (Notice Forms).[7]

In addition, the proposed regulation retains the current requirement that a proposed director or senior executive officer provide legible fingerprints. Fingerprints may be omitted, if the individual previously submitted fingerprints as part of a notice filed with the OTS under section 32 of the FDIA within the previous three years.

Finally, the proposed regulation requires the submission of such other information required by the OTS. The proposed regulation further states explicitly that the OTS may require or accept other information in lieu of the specific requirements of § 574.14.

The OTS proposes to eliminate the current regulatory provision requiring certain certifications. *See* existing § 574.9(d)(l)(ii). The cited OTS Notice Forms already require similar certifications. Moreover, the signature requirement on the Notice Forms adequately ensures the accuracy of the information provided in the form.[8]

Proposed Section 574.15—What procedures govern OTS review of my notice for completeness?

Proposed § 574.15 sets forth the procedures governing OTS review of the notice, and consolidates several provisions in the current regulations.[9] The revised regulation provides that the OTS will review the notice to determine if it is complete. If the notice is complete, the OTS will notify the filer in writing of the date that the OTS received the complete notice. If the OTS determines that the notice is incomplete, the OTS will notify the filer in writing why it is incomplete, and will request the filer to submit additional information within a specified time period.

If the OTS requests additional information, the filer must provide the information or request the OTS to suspend processing of the notice within the time period prescribed by the OTS. If the filer does not act within the specified period, the OTS may treat the notice as withdrawn or review the notice based on the provided information. In its review, the OTS may draw reasonable inferences from the filer's failure to provide the requested information.

The proposed regulation eliminates the current provision permitting the OTS to suspend processing for up to 60 days upon the request of the filer. *See* existing § 574.9(d)(4)(i). This provision is unnecessary in light of the EGRPRA amendments permitting OTS to extend the 30-day notice period for an additional 60 days. In any event, OTS may suspend processing at the filer's request for a specified period of time.

[5] 12 U.S.C. 1817(j)(6)(A).

[6] OTS Form 1624.

[7] OTS Form 1623.

[8] *See also* 12 CFR 563.180(b) which provides that no person filing or seeking approval of any application shall knowingly make any written or oral statement to the OTS that is false or misleading with respect to any material fact or omits to state any material fact concerning any matter within the jurisdiction of the OTS.

[9] *See* 12 CFR 574.9(d)(1), (d)(3), and (d)(4).

In addition, the proposal streamlines the regulation by eliminating the current provision which permits the OTS to suspend processing for 60 days if the OTS does not receive a report requested from another agency. *See* existing § 574.9(d)(4)(ii). This provision is no longer necessary because the statute now permits the agency to extend the review period up to an additional 60 days and the OTS may always request the filer to suspend the time periods voluntarily.

Proposed Section 574.16—What standards and procedures will govern OTS review of the substance of my notice?

Proposed § 574.16 sets forth the review standard for notices submitted under section 32 of the FDIA. The proposed review standard is unchanged, except that it eliminates the reference to the best interests of the savings and loan holding company. This change conforms the rule more closely to section 32 of FDIA. *See* existing § 574.9(d)(6).

Proposed Section 574.17—When may a proposed director or senior executive officer begin service?

Proposed § 574.17 sets forth the circumstances under which a proposed director or senior executive officer may begin service. The proposed regulation incorporates the current regulations at §§ 574.9(b)(2), (d)(7) and (d)(9). Consistent with the EGRPRA amendments, the OTS may extend the 30-day review period for an additional period not to exceed 60 days. The OTS expects to continue to process most section 32 notices within 30 days. In special circumstances, such as where the administrative record is incomplete, however, extensions may be necessary.

Proposed Section 574.18—When will the OTS waive the prior notice requirement?

Proposed § 574.18(a) addresses waiver of the prior notice requirement. The current regulation permits the OTS to waive the notice if the OTS ''finds that waiver would be in the best interest of the savings association or the savings and loan holding company, would be in the public interest, or that other extraordinary circumstances justify waiving the prior notice requirement of this provision.'' *See* existing § 574.9(d)(8).

The proposed regulation revises the standard. The OTS may waive the prior notice requirement if it finds that delay in the individual's assumption of the position would threaten the safety or soundness of the savings association, or would not be in the public interest, or other extraordinary circumstances exist. The proposed regulation conforms more closely to section 32 of the FDIA, which states that the OTS may prescribe by regulation conditions under which prior notice may be waived in the event of extraordinary circumstances.

The proposed regulation includes the current requirement that if a waiver is granted, the notice must be filed within the time period specified in the waiver.

Proposed § 574.18(b) waives the prior notice requirement with respect to certain individuals elected to the board of directors. An individual will qualify for this waiver if he or she was not nominated by management and provides the required notice within seven calendar days after being elected. This provision is based on existing § 574.9(d)(8)(ii).

Finally, the proposed regulation, in conformity with the statute, provides that a waiver shall not affect the authority of the OTS to disapprove a notice within 30 days after a waiver is granted. For the individual who is serving pursuant to proposed § 574.18(b), the 30 day period would commence with the individual's election. The OTS notes that the waiver section of the statute does not specifically provide for any extension of this 30 day period.[10]

III. Disposition of Existing Regulations

The following chart gives an overview of the changes made to Part 574.

Revised provision	Former provision	Comments
§ 574.10		Added.
574.11	574.9(a)	Modified.
574.12	§ 574.9(b), (c)(3) and (d)(1)(ii)	Significantly modified.
	574.9(c)(1) and (2)	Deleted.
§ 574.13	§ 574.9(d)(1)	Modified.
§ 574.14	§ 574.9(d)(1) and (2)	Modified and added.
§ 574.15	§ 574.9(d)(3) and (4)	Significantly modified.
	§ 574.9(d)(5)	Deleted.
§ 574.16	§ 574.9(d)(6)	Modified.
§ 574.17	§ 574.9(b)(2), (d)(7) and (d)(9)	Significantly modified.
§ 574.18	§ 574.9(d)(8)	Modified.

IV. Executive Order 12866

The Director of the OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule does not impose any additional burdens or requirements upon small entities and reduces several paperwork and other burdens on all savings associations and savings and loan holding companies.

VI. Paperwork Reduction Act

There are no new information collection requirements contained in this proposal. The information collection requirements contained in this proposal are the same as those required in the form Interagency Notice of Change in Director and Senior Executive Officer,[11] which has been previously submitted to and approved by the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control No. 1550–0047.

VII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires

[10] Compare 12 U.S.C. 1831i(a).

[11] OTS Form 1624.

an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OTS has determined that the proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 563f

Antitrust, Holding companies, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision proposes to amend chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

1. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

2. Existing §§ 574.1 through 574.8 are designated as subpart A, and the subpart heading is added to read as follows:

Subpart A—Acquisition of Control

* * * * *

§ 574.9 [Removed and Reserved]

3. Section 574.9 is removed and reserved.

4. Subpart B, consisting of §§ 574.10 through 574.18, is added to read as follows:

Subpart B—Notice of Change of Director or Senior Executive Officer

Sec.
574.10 What does this subpart do?
574.11 What definitions apply to this subpart?
574.12 Who must give prior notice?
574.13 What procedures govern the filing of my notice?
574.14 What information must I include in my notice?
574.15 What procedures govern OTS review of my notice for completeness?
574.16 What standards and procedures will govern OTS review of the substance of my notice?
574.17 When may a proposed director or senior executive officer begin service?
574.18 When will the OTS waive the prior notice requirement?

Subpart B—Notice of Change of Director or Senior Executive Officer

§ 574.10 What does this subpart do?

This subpart implements 12 U.S.C. 1831i, which requires certain savings associations and savings and loan holding companies to notify the OTS before appointing or employing directors and senior executive officers.

§ 574.11 What definitions apply to this subpart?

The following definitions apply to this subpart:

Director means an individual who serves on the board of directors of a savings association or savings and loan holding company. This term does not include an advisory director who:

(1) Is not elected by the shareholders;

(2) Is not authorized to vote on any matters before the board of directors or any committee of the board of directors;

(3) Provides only general policy advice to the board of directors or any committee of the board of directors; and

(4) Has not been identified by the OTS in writing as an individual who performs the functions of a director, or who exercises significant influence over, or participates in, major policymaking decisions of the board of directors.

Senior executive officer means an individual who holds the title or performs the function of one or more of the following positions (without regard to title, salary, or compensation): president, chief executive officer, chief operating officer, chief financial officer, chief lending officer, or chief investment officer. *Senior executive officer* also includes any other person identified by the OTS in writing as an individual who exercises significant influence over, or participates in, major policymaking decisions, whether or not hired as an employee.

Troubled condition means:

(1) A savings association that has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

(2) A savings and loan holding company that has an unsatisfactory rating under the OTS's holding company rating system, or that is informed in writing by the OTS that it has an adverse effect on its subsidiary savings association;

(3) A savings association or savings and loan holding company that is subject to a capital directive, a cease-and-desist order, a consent order, a formal written agreement, or a prompt corrective action directive relating to the safety and soundness or financial viability of the savings association, unless otherwise informed in writing by the OTS; or

(4) A savings association or savings and loan holding company that is informed in writing by the OTS that it is in troubled condition based on information available to the OTS.

§ 574.12 Who must give prior notice?

(a) *Savings association or savings and loan holding company.* Except as provided under § 574.18, you must notify the OTS at least 30 days before adding or replacing any member of your board of directors, employing any person as a senior executive officer, or changing the responsibilities of any senior executive officer so that the person would assume a different senior executive position if:

(1) You are a savings association and at least one of the following circumstances apply:

(i) You do not comply with all minimum capital requirements under part 567 of this chapter;

(ii) You are in troubled condition; or

(iii) The OTS has notified you, in connection with its review of a capital restoration plan required under section 38 of the Federal Deposit Insurance Act or part 565 of this chapter or otherwise, that a notice is required under this subpart; or

(2) You are a savings and loan holding company and you are in troubled condition.

(b) *Notice by individual.* If you are an individual seeking election to the board of directors of a savings association or savings and loan holding company, and have not been nominated by management, you may provide the prior notice required under paragraph (a) of this section or you may follow the process under § 574.18.

§ 574.13 What procedures govern the filing of my notice?

The procedures found in § 516.1 of this chapter govern the filing of your notice under § 574.12.

§ 574.14 What information must I include in my notice?

(a) *Content requirements.* Your notice must include:

(1) The information required under 12 U.S.C. 1817(j)(6)(A), and the information prescribed in the Interagency Notice of Change in Director or Senior Executive Officer and the Interagency Biographical and Financial Report;

(2) Legible fingerprints of the proposed director or senior executive officer. You are not required to file fingerprints if, within three years prior to the date of submission of the notice, the proposed director or senior executive officer provided legible

fingerprints as part of a notice filed with the OTS under 12 U.S.C. 1831i; and

(3) Such other information required by the OTS.

(b) *Modification of content requirements.* The OTS may require or accept other information in place of the content requirements in paragraph (a) of this section.

§ 574.15 What procedures govern OTS review of my notice for completeness?

The OTS will first review your notice to determine whether it is complete.

(a) If your notice is complete, the OTS will notify you in writing of the date that the OTS received the complete notice.

(b) If your notice is not complete, the OTS will notify you in writing what additional information you need to submit, why we need the information, and when you must submit it. You must, within the specified time period, provide additional information or request that the OTS suspend processing of the notice. If you fail to act within the specified time period, the OTS may treat the notice as withdrawn or may review the application based on the information provided.

§ 574.16 What standards and procedures will govern OTS review of the substance of my notice?

The OTS will disapprove a notice if the OTS finds that the competence, experience, character, or integrity of the proposed director or senior executive officer indicates that it would not be in the best interests of the depositors of the savings association or of the public to permit the individual to be employed by, or associated with, the savings association or savings and loan holding company. If the OTS disapproves a notice, it will issue a written notice that explains why the OTS disapproved the notice. The OTS will send the notice to the savings association or savings and loan holding company and the individual.

§ 574.17 When may a proposed director or senior executive officer begin service?

(a) A proposed director or senior executive officer may begin service 30 days after the date the OTS receives all required information, unless:

(1) The OTS notifies you that it has disapproved the notice; or

(2) The OTS extends the 30-day period for an additional period not to exceed 60 days. If the OTS extends the 30-day period, it will notify you in writing that the period has been extended, and will state the reason for the extension. The proposed director or senior executive officer may begin service upon expiration of the extended period, unless the OTS notifies you that it has disapproved the notice during the extended period.

(b) Notwithstanding paragraph (a) of this section, a proposed director or senior executive officer may begin service after OTS notifies you, in writing, of its intention not to disapprove the notice.

§ 574.18 When will the OTS waive the prior notice requirement?

(a) *Waiver request.* (1) An individual may serve as a director or senior executive officer before filing a notice under this subpart if OTS issues a written finding that:

(i) Delay would threaten the safety or soundness of the savings association;

(ii) Delay would not be in the public interest; or

(iii) Other extraordinary circumstances exist that justify waiver of prior notice.

(2) If the OTS grants a waiver, you must file a notice under this subpart within the time period specified by the OTS.

(b) *Automatic waiver.* An individual may serve as a director before filing a notice under this subpart, if the individual was not nominated by management and the individual submits a notice under this subpart within seven days after election as a director.

(c) *Subsequent OTS action.* The OTS may disapprove a notice within 30 days after OTS issues a waiver under paragraph (a) of this section or within 30 days after the election of an individual who has filed a notice and is serving pursuant to an automatic waiver under paragraph (b) of this section.

5. Existing § 574.100 is designated as subpart C, and the subpart heading is added to read as follows:

Subpart C—Rebuttal of Control Agreement

* * * * *

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

6. The authority citation for part 563f continues to read as follows:

Authority: 12 U.S.C. 3201–3208.

7. Section 563f.2 is amended by revising paragraph (l)(1)(iii) to read as follows:

§ 563f.2 Definitions.

* * * * *

(l) Management official. (1) * * *

(iii) A senior executive officer as that term is defined in § 574.11 of this chapter;

* * * * *

8. Section 563f.5 is amended by revising paragraphs (b)(2)(i) and (b)(2)(ii) to read as follows:

§ 563f.5 Regulatory Standards exemption.

* * * * *

(b) * * *

(2) * * *

(i) That official is approved by the OTS to serve as a director or senior executive officer of that institution pursuant to § 547.17 of this chapter; and

(ii) The institution had operated for less than two years, was not in compliance with minimum capital requirements, or otherwise was in a ''troubled condition'' as defined in § 574.11 of this chapter at the time the service under that section was approved.

* * * * *

9. Section 563f.6 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 563f.6 Management Consignment exemption.

* * * * *

(b) * * *

(1) A proposed management official is capable of strengthening the management of a depository institution described in paragraph (a)(3) of this section if that official is approved by the OTS to serve as a director or senior executive officer of that institution pursuant to § 574.17 of this chapter and the institution had operated for less than two years at the time the service under § 574.17 of this chapter was approved; and

(2) A proposed management official is capable of strengthening the management of a depository institution described in paragraph (a)(4) of this section if that official is approved by the OTS to serve as a director or senior executive officer of that institution pursuant to § 574.17 of this chapter and the institution was not in compliance with minimum capital requirements or otherwise was in a ''troubled condition'' as defined under § 574.11 of this chapter at the time service under § 574.11 of this chapter was approved.

* * * * *

Dated: March 18, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–7883 Filed 3–26–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–13–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes. This proposal would require replacement of the non-return valves located in the engine fuel feed lines on the outer fuel tank with new return valves; and, for certain airplanes, replacement of the inner tank booster pump canisters with modified canisters. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent sticking of non-return valves located in the fuel system, which could result in an internal fuel transfer from the center tank to the inner or outer tank. Such a transfer of fuel could lead to fuel spillage overboard through the vent system, and consequent insufficient fuel for the airplane to reach its flight destination.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–13–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300, A310, and A300–600 series airplanes. The DGAC advises that it has received reports of sticking of the non-return valves located in the engine fuel feed line on the outer wing fuel tank. A report also has been received of a similar failure of the non-return valve located in the inner tank fuel pump canister. The cause of the sticking of the non-return valves has been attributed to excessive free play in the shutter of the valves. This condition, if not corrected, could result in an internal fuel transfer from the center tank to the inner or outer tank, which could lead to fuel spillage overboard through the vent system, and consequent insufficient fuel to reach the flight destination.

Explanation of Relevant Service Information

Airbus has issued the following service bulletins, which describe procedures for replacement of the non-return valves located in the engine fuel feed lines on the outer fuel tank with new non-return valves:

- A300–28–0063, Revision 1, dated January 15, 1997 (for Model A300 series airplanes)
- A310–28–2053, Revision 1, dated January 15, 1997 (for Model A310 series airplanes)
- A300–28–6031, Revision 1, dated January 15, 1997 (for Model A300–600 series airplanes)

For certain airplanes, Airbus also has issued the following service bulletins, which describe procedures for replacement of the inner fuel tank booster pump canisters with modified canisters:

- A300–28–0071, dated January 15, 1997 (for Model A300 series airplanes)
- A310–28–2124, dated January 15, 1997 (for Model A310 series airplanes)
- A300–28–6054, dated January 15, 1997 (for Model A300–600 series airplanes)

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 97–082–215(B), dated March 12, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 103 Model A300, A310, and A300–600 series airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that the proposed replacement of the non-return valves would take approximately 66 work hours per airplane to accomplish, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed action on U.S. operators is estimated to be $407,880, or $3,960 per airplane.

The FAA estimates that replacement of the inner fuel tank booster pump canisters would take approximately 12 work hours per airplane to accomplish, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed action on U.S. operators is estimated to be $74,160, or $720 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 98–NM–13–AD.

Applicability: Model A300, A310, and A300–600 series airplanes; on which Airbus Modification 8928 or 6094 has not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent sticking of non-return valves located in the fuel system, which could result in fuel spillage overboard and consequent insufficient fuel for the airplane to reach its flight destination, accomplish the following:

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Modification 8928 has not been installed: Replace the non-return valves located in the engine fuel feed lines on the outer fuel tank with new non-return valves, in accordance with Airbus Service Bulletin A300–28–0063, Revision 1 (for Model A300 series airplanes); Airbus Service Bulletin A310–28–2053, Revision 1 (for Model A310 series airplanes); or Airbus Service Bulletin A300–28–6031, Revision 1 (for Model A300–600 series airplanes); all dated January 15, 1997; as applicable.

(2) For extended range twin-engine operations (ETOPS) airplanes, or airplanes equipped with auxiliary tanks; on which Airbus Modification 6094 has not been installed: Replace the inner tank booster pump canisters with modified canisters, in accordance with Airbus Service Bulletin A300–28–0071 (for Model A300 series airplanes); A310–28–2124 (for Model A310 series airplanes); or A300–28–6054 (for Model A300–600 series airplanes); all dated January 15, 1997; as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in French airworthiness directive 97–082–215(B), dated March 12, 1997.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8096 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–272–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, –300, –SP, and –SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM, applicable to

all Boeing Model 747–100, –200, –300, –SP, and –SR series airplanes. That NPRM invites comments concerning the proposed requirement for installation of components for the suppression of electrical transients and/or the installation of shielding and separation of the electrical wiring of the fuel quantity indication system (FQIS). This reopening of the comment period is necessary to afford all interested persons an opportunity to present their views on the proposed requirements of that NPRM.

DATES: Comments must be received by May 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–272–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information concerning this NPRM may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2864; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 747–100, –200, and –300 series airplanes was published in the **Federal Register** on December 1, 1997 (62 FR 63624). That action proposed to require installation of components for the suppression of electrical transients and/or the installation of shielding and separation of the electrical wiring of the fuel quantity indication system (FQIS). That action invites comments on regulatory, economic, environmental, and energy aspects of the proposal.

That action was prompted by testing results, which revealed that excessive energy levels in the electrical wiring and probes of the fuel system could be induced by electrical transients. The actions specified by the proposed AD are intended to prevent electrical transients induced by electromagnetic interference (EMI) or electrical short circuit conditions from causing arcing of the FQIS electrical wiring or probes in the fuel tank, which could result in a source of ignition in the fuel tank.

Since the issuance of that proposal, several commenters have raised issues regarding the ability to implement corrective action in a timely manner, particularly because the manufacturer has yet to issue a service bulletin. Based on these and other comments, the FAA has determined that further discussion and input may be beneficial prior to the adoption of a final rule. As a result, the FAA has decided to reopen the comment period for 60 days to receive additional comments.

In addition, the applicability of the proposed rule addresses ''All Model 747–100, –200, and –300 series airplanes.'' However, the FAA's intent was that the proposal also apply to Model 747–SP and –SR series airplanes. Those airplanes are generally considered to be either Model 747–100 or –200 series airplanes. Therefore, the applicability of the proposed rule is clarified as follows:

''All Model 747–100, –200, –300, –SP, and –SR series airplanes; certificated in any category.''

The comment period for Rules Docket No. 97–NM–272–AD closes May 26, 1998.

Because only the applicability statement and no other portion of the proposal or other regulatory information has been changed, the entire proposal is not being republished.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8094 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–55–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 and MD–11 Series Airplanes, and KC–10 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10 (military) series airplanes. This proposal would require a one-time inspection for blockage of the lubrication holes on the forward trunnion spacer assembly, and a one-time inspection of the forward trunnion bolt on the left and right main landing gear (MLG) to detect discrepancies; and repair, if necessary. This proposal is prompted by reports of blockage by opposing bushings of the lubrication holes on the forward trunnion spacer assembly, and reports of flaking, galling, and corrosion of the forward trunnion bolt. The actions specified by the proposed AD are intended to detect and correct such flaking, galling, and corrosion of the forward trunnion bolt, which could result in premature failure of the forward trunnion bolt and could lead to separation of the MLG from the wing during takeoff and landing.

DATES: Comments must be received by May 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–55–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and

be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–55–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–55–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports from two operators indicating that, in five instances on McDonnell Douglas Model MD–11 in-service airplanes, the lubrication holes on the forward trunnion spacer assembly on the left and right main landing gear (MLG) were blocked by opposing bushings, and that the forward trunnion bolt on the left and right MLG was flaking, galling, and corroding. Investigations have revealed that the forward trunnion spacer assemblies were manufactured in a way that could block the lubrication holes. If the lubrication holes are blocked, lubricant cannot migrate to the forward trunnion bolt. Without lubrication, the chrome surface of the forward trunnion bolt may flake and gall and the grooves of the bolt may corrode. This condition, if not corrected, could result in premature failure of the forward trunnion bolt, which could lead to separation of the MLG from the wing during takeoff and landing.

Although the forward trunnion spacer assemblies were installed during production on Model MD–11 series airplanes, the spacer assemblies may have been used as spare parts on Model DC–10 series airplanes and KC–10 (military) series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11–32–074, dated December 15, 1997, and McDonnell Douglas Service Bulletin DC10–32–248, dated December 17, 1997, which describe procedures for a one-time visual inspection of the lubrication holes on the forward trunnion spacer assembly on the left and right MLG for blockage by opposing bushings; a one-time visual inspection of the forward trunnion bolt on the left and right MLG for chrome flaking, galling, and corrosion in the grooves; and repair, if necessary. Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between the Proposed Rule and the Relevant Service Information

Operators should note that, although the service bulletins recommend accomplishing the visual inspections at the earliest practical maintenance period or within 24 months, the FAA has determined that an interval of 24 months would not address the identified unsafe condition in a timely manner. In developing appropriate compliance times for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspections (less than one work hour). In light of all of these factors, the FAA finds an 18-month compliance time for Model DC–10 series airplanes and Model KC–10 (military) series airplanes, and a 15-month compliance time for Model MD–11 series airplanes for initiating the required actions to be warranted. These compliance times represent appropriate intervals of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 522 airplanes of the affected design in the worldwide fleet. The FAA estimates that 326 McDonnell Douglas Model DC–10 and MD–11 series airplanes and KC–10 (military) series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the proposed AD on U.S. operators is estimated to be $19,560, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 98–NM–55–AD.

Applicability: Model DC–10 and MD–11 series airplanes, and KC–10 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC10–32–248, dated December 17, 1997, and in McDonnell Douglas Service Bulletin MD11–32–074, dated December 15, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct flaking, galling, and corrosion of the forward trunnion bolt as a result of installation of a suspected unapproved part (SUP), and consequent premature failure of the forward trunnion bolt and separation of the main landing gear (MLG) from the wing during takeoff and landing, accomplish the following:

(a) For airplanes listed in McDonnell Douglas Service Bulletin MD11–32–074, dated December 15, 1997: Within 15 months after the effective date of this AD, perform a one-time visual inspection of the lubrication holes on the forward trunnion spacer assembly on the MLG for blockage by opposing bushings, and perform a one-time visual inspection of the forward trunnion bolt on the left and right MLG for chrome flaking, galling, and corrosion in the grooves; in accordance with the service bulletin.

(1) Condition 1. If the lubrication holes on the forward trunnion spacer assembly are not blocked by opposing bushings, and the forward trunnion bolt does not reveal chrome flaking or galling, and exhibits no corrosion in the grooves, no further work is required by this AD.

(2) Condition 2. If the lubrication holes on the forward trunnion spacer assembly are blocked by opposing bushings, and the forward trunnion bolt does not reveal chrome flaking or galling, and exhibits no corrosion in the grooves: Prior to further flight, replace the forward trunnion spacer assembly with a new part in accordance with the service bulletin.

(3) Condition 3. If the lubrication holes on the forward trunnion spacer assembly are blocked by opposing bushings, and the forward trunnion bolt reveals chrome flaking, galling, or corrosion in the grooves, accomplish either paragraph (a)(3)(i) or (a)(3)(ii) of this AD:

(i) Option 1. Prior to further flight, replace the forward trunnion spacer assembly with a new part, and replace the forward trunnion bolt with a new part in accordance with the service bulletin. Or

(ii) Option 2. Prior to further flight, replace the forward trunnion spacer assembly with a new part, and rework the forward trunnion bolt in accordance with the service bulletin.

(b) For airplanes listed in McDonnell Douglas Service Bulletin DC10–32–248, dated December 17, 1997: Within 18 months after the effective date of this AD, perform a one-time visual inspection of the lubrication holes on the forward trunnion spacer assembly on the MLG for blockage by opposing bushings, and perform a one-time visual inspection of the forward trunnion bolt on the left and right MLG for chrome flaking, galling, and corrosion in the grooves; in accordance with the service bulletin.

(1) Condition 1. If the lubrication holes on the forward trunnion spacer assembly are not blocked by opposing bushings, and the forward trunnion bolt does not reveal chrome flaking, or galling, and exhibits no corrosion in the grooves, no further work is required by this AD.

(2) Condition 2. If the lubrication holes on the forward trunnion spacer assembly are blocked by opposing bushings, and the forward trunnion bolt does not reveal chrome flaking or galling, and exhibits no corrosion in the grooves: Prior to further flight, replace the forward trunnion spacer assembly with a new part in accordance with the service bulletin.

(3) Condition 3. If the lubrication holes on the forward trunnion spacer assembly are blocked by opposing bushings, and the forward trunnion bolt reveals chrome flaking, galling, or corrosion in the grooves, accomplish either paragraph (b)(3)(i) or (b)(3)(ii) of this AD:

(i) Option 1. Prior to further flight, replace the forward trunnion spacer assembly with a new part, and replace the forward trunnion bolt with a new part in accordance with the service bulletin. Or

(ii) Option 2. Prior to further flight, replace the forward trunnion spacer assembly with a new part, and rework the forward trunnion bolt in accordance with the service bulletin.

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

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

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8099 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–34–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes. This proposal would require a one-time visual inspection of the pilot valve harness tubes for bulges and cracks, cleaning the tubes, applying sealant at the tube end opening, and replacing any discrepant tubes with serviceable tubes. This proposal also would require replacement of the pilot valve harness tubes and vent valve tubes with new tubes having improved anti-corrosion protection. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent cracking of the pilot valve harness tubes, which could allow fuel to enter the conduit and leak overboard; this condition could result in increased risk of a fuel tank explosion and fire.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this

location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Rob Capezzuto, Aerospace Engineer, ACE–115A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–34–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–145 series airplanes. The DAC advises that cracks have been detected in the pilot valve harness tube (conduit) inside the wing, close to rib 15. The cracking is the result of water entering the tube at the end opening in the rear spar, then freezing and expanding. Such cracking can allow fuel to enter the tube, wet the harness, and drain overboard. This condition, if not corrected, could result in increased risk of a fuel tank explosion and fire.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–28–0005, dated May 23, 1997, which describes procedures for a one-time visual inspection of the pilot valve harness tubes (conduit) at its lower segment for bulges and cracks, cleaning the tubes to remove any water, applying sealant at the tube opening at wing spar II around the harness, and replacing any discrepant tubes with new or serviceable tubes.

EMBRAER has also issued Service Bulletin 145–28–0006, dated October 22, 1997, which describes procedures for replacement of the existing pilot valve harness tubes and vent valve tubes with new tubes having improved anti-corrosion protection. Accomplishment of the actions specified in this service bulletin is intended to adequately address the identified unsafe condition.

The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 97–07–02R1, dated January 15, 1998, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 15 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

It would take approximately 8 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be $7,200, or $480 per airplane.

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

Regulatory Impact

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

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

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 98–NM–34–AD.

Applicability: Model EMB–145 series airplanes; as listed in EMBRAER Service Bulletin 145–28–0005, dated May 23, 1997, and EMBRAER Service Bulletin 145–28–0006, dated October 22, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the pilot valve harness tubes, which could allow fuel to enter the conduit and leak overboard, and result in increased risk of a fuel tank explosion and fire, accomplish the following:

(a) Within 30 calendar days or 200 hours time-in-service after the effective date of this AD, whichever occurs later, perform a one-time visual inspection of the pilot valve harness tubes (conduit) for bulges and cracks, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0005, dated May 23, 1997.

(1) If no discrepancy is found in the harness tube, prior to further flight, clean the tube and apply sealant at the tube end opening in accordance with the service bulletin.

(2) If any crack or bulge is found in the harness tube, prior to further flight, replace the tube with a new or serviceable tube, clean the tube, and apply sealant at the tube end opening in accordance with the service bulletin.

(b) Within 4,000 hours time-in-service after the effective date of this AD, replace the existing pilot valve harness tubes and vent valve tubes with new tubes, in accordance with EMBRAER Service Bulletin 145–28–0006, dated October 22, 1997.

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

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

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 97–07–02R1, dated January 15, 1998.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8098 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–33–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–120 series airplanes. This proposal would require a one-time inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, and follow-on corrective actions. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent delamination of the wing and empennage leading edge due to improper installation of the wing de-ice boot, which could result in reduced controllability of the airplane.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–33–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Rob Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–33–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–33–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on all EMBRAER Model EMB–120 series airplanes. The DAC advises that it received one report of an in-flight incident involving roll control difficulties. Results of an inspection of the leading edge of the wing revealed that the top layer of the composite material just behind the upper edge of the de-ice boot had delaminated and was lifted up by the slipstream (airflow). Further investigation indicated that the replacement de-ice boot was installed improperly. The gaps between the upper edge of the de-ice boot and recess step were not filled with sealant at the time of installation. In addition, the delamination may have occurred during the original installation of the wing deicing system. This condition, if not corrected, could result in delamination of the wing and empennage leading edge, which could lead to reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin 120–51–A004, Revision 01, dated November 10, 1997, which describes procedures for a one-time visual inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, and follow-on corrective actions. [The corrective actions include restoration of the conductive edge sealer (if erosion within specified limits is found), and application of a coat of conductive edge sealer over the anti-static paint at the recess step between the de-ice boot and the leading edge.] The DAC classified this alert service bulletin as mandatory and issued Brazilian airworthiness directive 97–09–07 (undated) in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain corrective actions, this proposal would require correction of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 240 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $28,800, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (Embraer): Docket 98–NM–33–AD.

Applicability: All Model EMB–120 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent delamination of the wing and empennage leading edge due to improper installation of the wing de-ice boot, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 75 flight hours or 120 days after the effective date of this AD, whichever occurs later: Perform a one-time visual inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, in accordance with EMBRAER Alert Service Bulletin 120–51–A004, Revision 01, dated November 10, 1997. Except as provided by paragraph (b) of this AD, prior to further flight, accomplish follow-on corrective actions in accordance with the alert service bulletin.

(b) If any discrepancy is found during accomplishment of paragraph (a) of this AD, and the alert service bulletin specifies to contact EMBRAER: Prior to further flight, repair the affected structure in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

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

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

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 97–09–07 (undated).

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8097 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–179–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A300–600, A310, A319, A320, A321, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300, A300–600, and A310 series airplanes, and certain Airbus Model A319, A320, A321, A330, and A340 series airplanes. This proposal would require repetitive visual inspections of the striker and guide valve of the passenger door actuators and certain emergency door actuators for corrosion, and corrective action, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–179–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300, A300–600, and A310 series airplanes, and on certain Airbus Model A319, A320, A321, A330, and A340 series airplanes. The DGAC advises that a failure of the emergency power assist feature on a passenger door has occurred on one Model A320 series airplane. The failure of the emergency actuator, which provides the power assist feature, was attributed to corrosion found in the guide valve bore, on the striker end, and in the striker hole. The same emergency actuator striker mechanism part is installed on

all of the previously mentioned models; therefore, such corrosion may exist or develop on these airplanes as well. This condition, if not detected and corrected in a timely manner, could result in difficulty in opening the passenger or emergency doors during an emergency evacuation.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–52–0168, dated December 4, 1996 (for Model A300 series airplanes); A300–52–6052, dated December 4, 1996 (for Model A300–600 series airplanes); A310–52–2058, dated December 4, 1996 (for Model A310 series airplanes); All Operator Telex (AOT) 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); A330–52–3038, Revision 1, dated December 2, 1996 (for Model A330 series airplanes); and A340–52–4048, Revision 3, dated June 10, 1997 (for Model A340 series airplanes), which describe procedures for the following:

- visually inspecting the striker and guide valve of the passenger door actuators (for all airplanes) and emergency door actuators (for Model A321, A330, A340 series airplanes) for corrosion;
- cleaning and reinstalling the emergency actuator striker mechanism; and
- replacing the emergency actuator striker mechanism with a serviceable part.

The DGAC classified this service information as mandatory and issued French airworthiness directives 97–062–213(B), dated February 26, 1997; 96–093–080(B)R2, dated October 22, 1997; and 96–195–037(B)R1, and 96–196–048(B)R1, both dated December 3, 1997; in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between This Proposed AD and the Related Foreign AD

Operators should note that, unlike the procedures described in the previously cited French airworthiness directives; this proposed AD would not permit dispatch with a door actuator striker mechanism inoperative. The FAA has determined that, because of the safety implications and consequences associated with such inoperative equipment, any inoperative striker mechanism that is found to be corroded must be either replaced or cleaned such that proper function is restored prior to further flight.

Cost Impact: Model A300 and A300–600 Series Airplanes

The FAA estimates that 85 Model A300 and A300–600 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $45,900, or $540 per airplane, per inspection cycle.

Cost Impact: Model A310 Series Airplanes

The FAA estimates that 41 Model A310 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $14,760, or $360 per airplane, per inspection cycle.

Cost Impact: Model A319 and A320 Series Airplanes

The FAA estimates that 128 Model A319 and A320 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators of these airplanes is estimated to be $30,720, or $240 per airplane, per inspection cycle.

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

Cost Impact: Model A321, A330, and A340 Series Airplanes

There are currently no Model A321, A330, or A340 series airplanes on the U.S. Register. All of these airplanes included in the applicability of this proposed rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers it necessary to include these airplanes in the applicability of this proposed rule in order to ensure that the unsafe condition is addressed in the event that any of the subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected Model A321 series airplane be imported and placed on the U.S. Register in the future, it would take approximately 8 work hours per airplane to accomplish the proposed inspections. Based on an average labor rate of $60 per work hour, the cost impact of the proposed inspections would be $480 per airplane, per inspection cycle.

Should an affected Model A330 or A340 series airplane be imported and placed on the U.S. Register in the future, it would take approximately 32 work hours per airplane to accomplish the proposed inspections. Based on an average labor rate of $60 per work hour, the cost impact of the proposed inspections would be $1,920 per airplane, per inspection cycle.

Regulatory Impact

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

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 96–NM–179–AD.

Applicability: All Model A300, A300–600, and A310 series airplanes; and Model A319, A320, A321, A330 and A340 series airplanes, excluding Model A319 and A320 series airplanes on which Airbus Modification 26015 has been accomplished, and excluding Model A321 series airplanes on which both Airbus Modifications 26015 and 26211 have been accomplished, and excluding Model A330 and A340 series airplanes on which both Airbus Modifications 45090 and 45155 have been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion of the emergency actuator mechanism, which could cause failure of the emergency actuator striker mechanism on the passenger or emergency doors, and lead to difficulty in opening the passenger or emergency doors during an emergency evacuation, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, or within 36 months after date of manufacture, whichever occurs later, and thereafter at intervals not to exceed 3 years: Perform the actions required by paragraphs (a)(1) and/or (a)(2) of this AD, as applicable, in accordance with Airbus Service Bulletin A300–52–0168, dated December 4, 1996 (for Model A300 series airplanes); A300–52–6052, dated December 4, 1996 (for Model A300–600 series airplanes); A310–52–2058, dated December 4, 1996 (for Model A310 series airplanes); A330–52–3038, Revision 1, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 3, dated June 10, 1997 (for Model A340 series airplanes); or Airbus All Operator Telex (AOT) 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable.

(1) For Model A321, A330, and A340 series airplanes: Visually inspect the striker and guide valve of the emergency door actuators for corrosion.

(2) For all airplanes: Visually inspect the striker and guide valve of the passenger door actuators for corrosion.

Note 2: Additional service information regarding the required inspections on Airbus Model A300, A300–600, and A310 series airplanes is provided in RATIER–FIGEAC Service Bulletin 701–5000–52–9, Revision 1, dated October 10, 1996.

(b) If corrosion is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with Airbus Service Bulletin A300–52–0168, dated December 4, 1996 (for Model A300 series airplanes); A300–52–6052, dated December 4, 1996 (for Model A300–600 series airplanes); A310–52–2058, dated December 4, 1996 (for Model A310 series airplanes); A330–52–3038, Revision 1, dated December 2, 1996 (for Model A330 series airplanes); A340–52–4048, Revision 3, dated June 10, 1997 (for Model A340 series airplanes), or Airbus AOT 52–12, Revision 1, dated May 9, 1996 (for Model A319, A320, and A321 series airplanes); as applicable.

(1) Clean the corroded areas of the emergency actuator striker mechanism to restore proper function, and re-install the mechanism; and, within 18 months after the corrosion is found, replace the mechanism with a serviceable part. Or

(2) Replace the emergency actuator striker mechanism with a serviceable part.

(c) As of the effective date of this AD, no person shall install a passenger door or emergency door actuator on any airplane without first inspecting that actuator in accordance with paragraph (a) of this AD, and repairing, if necessary, in accordance with paragraph (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 4: The subject of this AD is addressed in French airworthiness directives 97–062–213(B), dated February 26, 1997; 96–093–080(B)R2, dated October 22, 1997; and 96–195–037(B)R1 and 96–196–048(B)R1, both dated December 3, 1997.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8128 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–102–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This proposal is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability caused by

the power levers being positioned below the flight idle stop while the airplane is in flight.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–102–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2145; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–102–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–102–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the ground beta range during flight on airplanes equipped with turboprop engines. (For the purposes of this proposal, beta is defined as the range of propeller operation intended for use during taxi, ground idle, or reverse operations as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred during flight. Operation of the propellers in the beta range during flight, if not prevented, could result in loss of airplane controllability.

Communication between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of the information on in-flight beta operation contained in the FAA-approved airplane flight manual (AFM) for airplanes that are not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

U.S. Type Certification of the Airplane

These airplane models are manufactured in the Netherlands and are type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. The FAA has reviewed all available information and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

FAA's Determinations

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop. Since Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes meet these criteria, the FAA finds that the AFM for these airplanes must be revised to include the limitation and statement of consequences described previously.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to modify the limitation that prohibits the positioning of the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 148 Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,880, or $60 per airplane.

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

Regulatory Impact

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

proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Short Brothers PLC: Docket 97–NM–102–AD.

Applicability: All SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

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

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

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

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8129 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–331–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model CN–235 series airplanes. This proposal would require modification of the passenger and crew doors and repetitive visual inspections, adjustments, and tests of the passenger and crew door latching and locking systems to ensure correct operation. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent inadvertent opening of a door during flight of the airplane, which could result in rapid decompression of the passenger cabin.

DATES: Comments must be received by April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–331–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–331–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–331–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, notified the FAA that an unsafe condition may exist on all CASA Model CN–235 series airplanes. The DGAC advises that it received a report indicating that the main passenger door opened during flight on a CASA Model CN–235–200 series airplane. Investigation revealed that the closing mechanism of the door was distorted and some elements of the locking device also were deformed and broken. These conditions resulted in failure of the door to latch properly, and allowed inadvertent opening of the passenger door. This condition, if not corrected, could result in rapid decompression of the passenger cabin.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–235–52–54, Revision 1, dated October 24, 1995, which describes procedures for modification of the passenger and crew doors by relocating the window, replacing the attachment bolt in the step, adding a notch in the upper closing locking lever, and reaming the door latch housings.

CASA also has issued Communication COM 235–098, Revision 02, dated October 19, 1995, which describes procedures for repetitive visual inspections to detect discrepancies of the latching and locking systems and the microswitch system of the passenger and crew doors; and adjustments and tests to ensure these systems operate correctly.

The DGAC classified these service documents as mandatory and issued Spanish airworthiness directive 3/95, Revision 1, dated October 1, 1995, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Foreign AD

Operators should note that, although the parallel Spanish airworthiness directive does not mandate accomplishment of the specified actions for the CASA Model CN–235 series airplane having serial number C–011, the applicability of this proposed AD would include that airplane. Although that airplane was not certificated for civilian operation by the DGAC, the FAA has certificated it as such. The FAA has determined that the unsafe condition addressed in this AD also may exist or develop on that airplane; therefore, the applicability of this proposed AD includes that serial number.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 4 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $480, or $240 per airplane, per inspection cycle.

It would take approximately 60 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $406 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $8,012, or $4,006 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Construcciones Aeronauticas, S.A. (CASA): Docket 97–NM–331–AD.

Applicability: All Model CN–235 series airplanes, including serial number (S/N) C–011, 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent opening of a door during flight, which could result in rapid decompression of the passenger cabin, accomplish the following:

(a) Within 3 months or 300 flight hours after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the passenger and crew doors in accordance with CASA Service Bulletin SB–235–52–54, Revision 1, dated October 24, 1995; and

(2) Perform follow-on actions (i.e., inspections for discrepancies, adjustments, and tests) in accordance with CASA COM 235–098, Revision 02, dated October 19, 1995. If any discrepancy is found, prior to further flight, accomplish the applicable corrective action in accordance with the COM. Thereafter accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Repeat the visual inspection for discrepancies of the passenger door and crew door latching and locking systems, in accordance with paragraph 1. of CASA COM 235–098, Revision 02, dated October 19, 1995, at intervals not to exceed 300 flight hours. If any discrepancy is found, prior to further flight, accomplish the applicable corrective action in accordance with the COM.

(ii) Repeat adjustments and tests of the door latching and locking systems, in accordance with paragraph 2., 3., and paragraph V) of Annex II of CASA COM 235–098, Revision 02, dated October 19, 1995, at intervals not to exceed 1,200 flight hours. If any discrepancy is found during any adjustment or test, prior to further flight, accomplish the applicable corrective action in accordance with the COM.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in Spanish airworthiness directive 3/95, Revision 1, dated October 1, 1995.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8134 Filed 3–26–98; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–309–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive detailed visual inspections to detect corrosion on the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241; and corrective action, if necessary. This proposal is prompted by reports of corrosion found on the rear spar web and bulkhead fitting. The actions specified by the proposed AD are intended to detect and correct such corrosion, which could cause cracking of the rear spar web, and result in a fuel leak and consequent fire/explosion in the wheel well of the main landing gear.

DATES: Comments must be received by May 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 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.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–309–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of corrosion found on Boeing Model 747 series airplanes. The corrosion was found on the rear spar web and the bulkhead fitting of body station 1241; corrosion thicknesses ranged from 0.030 to 0.250 inch. Investigation revealed that moisture trapped between the rear

spar web and the bulkhead fitting resulted in the corrosion. Such corrosion, if not detected and corrected in a timely manner, could cause cracking of the rear spar web, and result in a fuel leak and consequent fire/explosion in the wheel well of the main landing gear.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–57–2263, Revision 1, dated December 21, 1995, which describes procedures for repetitive detailed visual inspections to detect corrosion of the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241; and corrective action, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed in the following section.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, while the service bulletin specifies that the application of corrosion inhibitor following an inspection eliminates the necessity for further inspections, this proposed AD would require that the inspection be repeated at regular intervals. The FAA has determined that repetitive inspections and corrective action are necessary in order to detect and correct corrosion in a timely manner and to adequately address the identified unsafe condition.

Additionally, operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require that the repair of those conditions be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 816 airplanes of the affected design in the worldwide fleet. The FAA estimates that 236 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $28,320, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 97–NM–309–AD.

Applicability: Model 747 series airplanes, line positions 1 through 816 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion and consequent cracking of the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241, which could result in a fuel leak and subsequent fire/explosion in the wheel well of the main landing gear, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform a detailed visual inspection to detect corrosion of the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241, in accordance with Boeing Service Bulletin 747–57–2263, Revision 1, dated December 21, 1995. Thereafter, repeat the inspection at intervals not to exceed 2 years.

(1) If no corrosion is detected during the inspection: Prior to further flight, apply corrosion inhibitor in accordance with the service bulletin.

(2) If any corrosion is detected during the inspection, and the corrosion is within the limits specified by the service bulletin: Prior to further flight, accomplish the actions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii).

(i) Remove the corrosion in accordance with the service bulletin. And

(ii) Perform a high frequency eddy current inspection to detect cracking in the area of removed corrosion in accordance with the service bulletin. If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. And

(iii) Apply corrosion inhibitor in accordance with the service bulletin.

(3) If any corrosion is detected during the inspection, and the corrosion exceeds the limits specified by the service bulletin: Prior to further flight, repair the corroded area in accordance with a method approved by the Manager, Seattle ACO.

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

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

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

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8133 Filed 3–25–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 243

Guides for the Decorative Wall Paneling Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (''Commission'') is requesting public comments on its Guides for the Decorative Wall Paneling Industry (''Decorative Wall Paneling Guides'' or ''the Guides''). The Commission is also requesting comments about the overall costs and benefits of its Guides and their overall economic impact, as part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until May 26, 1998.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Ave., N.W., Washington, D.C. 20580. Mailed comments about the Guides for the Decorative Wall Paneling Industry should be identified as ''CFR Part 243—Comment.'' E-mail comments will be accepted at [paneling@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: Eric Nickerson, Investigator, Federal Trade Commission, Denver Regional Office, 1961 Stout Street, Suite 1523, Denver, CO 80294, telephone number (303) 844–3584, E-mail [enickerson@ftc.gov].

SUPPLEMENTARY INFORMATION:

I. Decorative Wall Paneling Guides

The Commission promulgated the Guides for the Decorative Wall Paneling Industry on December 15, 1971, 36 FR 23796 (1971), under section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45.[1] The Guides became effective on December 15, 1972.

These Guides, like the other industry guides issued by the Commission, ''are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements.'' 16 CFR 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

The Decorative Wall Paneling Guides provide guidance to manufacturers, retail distributors, and other suppliers (''sellers'') of decorative wall panels in labeling, advertising, and promoting their products in a manner consistent with Section 5 of the FTC Act. The guides are designed to protect purchasers from being misled by the appearance of a product, or by deceptive descriptions, depictions, designations, or representations in advertisements, labels, or other promotional materials.

The Guides provide examples of non-deceptive references and representations with respect to the construction, composition, or appearance of industry products. The Guides also point out that sellers bear the affirmative responsibility of providing detailed disclosures regarding the composition of the products being offered.

II. Regulatory Review Program

The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. The Commission solicits comments on, among other things, the economic impact of and the continuing need for the Guides; possible conflict between the Guides and state, local, or other federal laws; and the effect on the Guide of any technological, economic, or other industry changes.

[1] Section 5 of the FTC Act declares unfair methods of competition and unfair or deceptive acts or practices to be unlawful.

III. Request For Comment

The Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Decorative Wall Paneling Guides?

(a) What benefits have the Guides provided to purchasers of the products affected by the Guides?

(b) Have the Guides imposed costs on purchasers?

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers?

(a) How would these changes affect the costs the Guides impose on firms adhering to their advice? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, have the Guides imposed on firms subject to their advice?

(a) Have the Guides provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms subject to their advice?

(a) How would these changes affect the benefits provided by the Guides?

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guides were issued, what effects, if any, have changes in the global marketplace, relevant technology or economic conditions had on the Guides? For example, do example, do sellers use E-mail, the Internet or CD ROM to advertise or sell decorative wall panels? If so, in what manner? Does use of this new technology affect consumers' rights or sellers' responsibilities under the Guides?

(7) Are there problems today in the labeling, advertising, or selling of decorative wall panels? If yes, what are the nature of these problems? Do the Guides adequately address any problems that may exist?

(8) Are any portions of the Guides outdated or otherwise no longer relevant in this industry?

(9) Are there industry standards covering any of the issues addressed by the Guides? If yes, what are they?

List of Subjects in 16 CFR Part 243

Advertising, Forests and forest products, Labeling, Trade practices, Wall paneling industry.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–8073 Filed 3–26–98; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Requests for Exemptive, No-Action and Interpretative Letters

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On January 22, 1998, the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') published in the **Federal Register** a request for public comment on proposed regulations to establish procedures for the filing of requests for the issuance of exemptive, no-action and interperative letters from the Commission's staff. The original comment period expires March 23, 1998. 63 FR 3285 (January 22 1998). By letters dated March 19 and 20, 1998 respectively, the Securities Industry Association and the Futures Industry Association Inc., requested an extension of the comment period. In order to insure that an adequate opportunity is provided for submission of meaningful comments, the Commission has determined to extend the comment period for an additional thirty days for all interested parties.

DATES: Written comments must be received on or before April 22, 1998.

ADDRESSES: Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581. Comments may be sent by facsimile transmission to (202) 418–5528, or by e-mail to secretary@cftc.gov. Reference should be made to ''Rule Proposal Re: Requests for Exemptive, No-Action, and Interpretative Letters.''

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, or Helene Schroeder, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone Number: (202) 418–5450. Facsimile Number: (202) 418–5547. Electronic Mail; tm@cftc.gov.

Issued in Washington, DC on March 23, 1998 by the Commission.

Jean W. Webb,

Secretary of the Commission.

[FR Doc. 98–8121 Filed 3–26–98; 8:45 am]

BILLING CODE 6351–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42199A; FRL–5764–9]

RIN 2070–AC76

Testing Consent Order and Export Notification Requirements for Maleic Anhydride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 26, 1996, EPA proposed a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. Included as one of these chemical substances was maleic anhydride (CAS No. 108–31–6). EPA invited the submission of proposals for enforceable consent agreements (ECAs) for pharmacokinetics (PK) testing of the HAPs chemicals and received a proposal for testing maleic anhydride from the Chemical Manufacturers Association, Maleic Anhydride Panel (CMA MA Panel). In a previous document, EPA solicited interested parties to monitor or participate in negotiations on an ECA for maleic anhydride. EPA is proposing that if an ECA is successfully concluded for maleic anhydride, then the subsequent publication of the TSCA section 4 testing consent order (Order) in the **Federal Register** would add maleic anhydride to the table of testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers. As a result of the proposed addition of maleic anhydride, all exporters of maleic anhydride, including persons who do not sign the ECA, would be subject to export notification requirements under section 12(b) of TSCA.

DATES: Written comments on this proposed rule must be received by EPA on or before May 26, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42199A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–99, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov following the instructions under Unit IV. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

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

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Information and Testing Branch (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents 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/EPA-TOX/1998/).

II. Development of Enforceable Consent Agreement for Maleic Anhydride

Maleic anhydride is one of the chemicals proposed for health effects testing in a proposed HAPs test rule under section 4(a) of TSCA in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1). The proposed HAPs test rule was amended on December 24, 1997 (62 FR 67466) (FRL–5742–2). In the proposed HAPs test rule, EPA invited the submission of proposals for PK testing for the chemicals included in the proposed HAPs test rule. These proposals could provide the

basis for negotiation of ECAs, which, if successfully concluded, would be incorporated into Orders. The PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. A proposal for PK testing for maleic anhydride was submitted by the CMA MA Panel to EPA on November 8, 1996. The Agency reviewed this alternative testing proposal and prepared a preliminary technical analysis of the proposal which it sent to the CMA MA Panel on July 10, 1997. The CMA MA Panel responded on September 3, 1997, that it has a continued interest in pursuing the ECA process for maleic anhydride. EPA has decided to proceed with the ECA process for maleic anhydride. EPA has published a document soliciting interested parties to monitor or participate in negotiations on an ECA for PK testing of maleic anhydride (63 FR 1464, January 9, 1998) (FRL–5765–1). The procedures for ECA negotiations are described at 40 CFR 790.22(b).

If the ECA for maleic anhydride is successfully concluded, and an Order is published in the **Federal Register**, testing to develop needed data would be required of those persons that have signed the agreement. Section 12(b) of TSCA provides that if any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 of TSCA, that person shall notify EPA of this export or intent to export. This requirement applies to data obtained from either a test rule or an ECA and Order under the authority of section 4 of TSCA. EPA intends the ECA to include the export notification requirements of section 12(b) of TSCA, codified at 40 CFR part 707, subpart D.

III. Publication of Testing Consent Order

EPA is proposing that if an ECA is successfully concluded for maleic anhydride, the publication of the Order in the **Federal Register** would add maleic anhydride to the table in 40 CFR 799.5000, Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

Exporters of chemicals listed at 40 CFR 799.5000 are required under 40 CFR 799.19, Chemical imports and exports, to comply with the export notification requirements of 40 CFR part 707, subpart D. This proposed rule, when finalized, would amend § 799.5000, and, in accordance with 40 CFR 799.19, all exporters of maleic anhydride, including persons who do not sign the ECA, would be subject to export notification requirements under 40 CFR part 707, subpart D.

Under 40 CFR 707.65(a)(2)(ii), a person who exports or intends to export for the first time to a particular foreign country a chemical subject to TSCA section 4 data requirements must submit a one-time notice to EPA identifying the chemical and country of import. A single notice can cover multiple chemicals and multiple countries. If additional importing countries are subsequently added, additional export notices must be submitted to EPA. Other procedures for submitting export notifications to EPA are described in 40 CFR 707.65.

Under 40 CFR 707.67, the contents of the export notification from the exporter or intended exporter to EPA shall include:

1. The name of the chemical (i.e., in this case, maleic anhydride).
2. The name and address of the exporter.
3. The country(ies) of import.
4. The date(s) of export or intended export.
5. The section of TSCA under which EPA has taken action (i.e., in this case, section 4 of TSCA).

Following receipt of the 12(b) notification from the exporter or intended exporter, under 40 CFR 707.70, EPA will provide notice of the export or intended export to the affected foreign government(s).

IV. Public Record and Electronic Submissions

The official record for this rulemaking (including comments and data submitted electronically as described below), including the public version, that does not include any information claimed as CBI, has been established for this rulemaking under docket control number OPPTS–42199A. The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A, the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number OPPTS–42187B, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42199A. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

V. Regulatory Assessment Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA does not believe that the impacts of this proposed rule constitute a significant economic impact on small entities.

Export regulations promulgated pursuant to section 12(b) of TSCA—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required under section 4 of TSCA. In an analysis of the economic impacts of the July 27, 1993, amendment to the rules implementing section 12(b) of TSCA (58 FR 40238), EPA estimated that the one-time cost of preparing and submitting the TSCA section 12(b) notification was $62.60. See U.S. EPA, ''Economic Analysis in Support of the Final Rule to Amend Rule Promulgated Under TSCA Section 12(b),'' OPPT/ETD/RIB, June 1992, contained in the record for this rulemaking, and referenced in the amended proposed HAPs test rule (62 FR 67466, December 24, 1997). Inflated through the last quarter of 1996 using the Consumer Price Index, the current cost is estimated to be $69.56. Although data available to EPA regarding export shipments of the HAPs chemicals are limited, a small exporter would have to have annual revenues below $6,956 per chemical/country combination in order to be impacted at a 1% or greater level. For example, a small exporter filing three notifications per year would have to have annual sales revenues below $20,868 (3 x $6,956) in order to be classified as impacted at the greater than 1% level. EPA believes that it is reasonable to assume that few, if any, small exporters would file sufficient export notifications to be impacted at or above the 1% level. Based on this, the export notification requirements triggered by the ECA for maleic anhydride would be unlikely to have a significant economic impact on small

exporters. Because EPA has concluded that there is no significant impact on small exporters, the Agency does not need to determine the number or size of the entities that would be impacted at a 1% or greater level.

Therefore, the Agency certifies that this proposed rule, if finalized, would not have a significant economic impact on small entities.

B. Executive Order 12866; Executive Order 12898; Executive Order 13045

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). It does not involve special considerations of environmental-justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), nor raise any issues regarding children's environmental-health risks under Executive Order 13045 (62 FR 1985, April 23, 1997) because the Executive Order does not apply to actions expected to have an economic impact of less than $100 million.

C. Paperwork Reduction Act

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 control number assigned by OMB. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for the collection of information is estimated to average 0.55 hour per response.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Therefore, this action is not subject to the requirements of sections 202 and 205 of UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this proposed rule because the rule would only affect the private sector, i.e., those companies that test chemicals.

E. National Technology Transfer and Advancement Act

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Exports, Hazardous substances, Health, Laboratories, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding maleic anhydride to the table in CAS number order to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS number	Substance or mixture name	Testing	FR publication date
*	* *	* *	* *
108–31–6	Maleic anhydride	Health effects	[date of final rule]
*	* *	* *	* *

[FR Doc. 98–8071 Filed 3–26–98; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42201A; FRL–5765–4]

RIN 2070–AC76

Testing Consent Order and Export Notification Requirements for Hydrogen Fluoride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 26, 1996, EPA proposed a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. Included as one of these chemical substances was hydrogen fluoride (CAS No. 7664–39–3). EPA invited the submission of proposals for enforceable consent agreements (ECAs) for pharmacokinetics (PK) testing of the HAPs chemicals and received a proposal for testing hydrogen fluoride from the Chemical Manufacturers Association, Hydrogen Fluoride Panel (CMA HF Panel). In a previous document, EPA solicited interested parties to monitor or participate in negotiations on an ECA for hydrogen fluoride. EPA is proposing that if an ECA is successfully concluded for hydrogen fluoride, then the subsequent publication of the TSCA section 4 testing consent order (Order) in the **Federal Register** would add hydrogen fluoride to the table of testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers. As a result of the proposed addition of hydrogen fluoride, all exporters of hydrogen fluoride, including persons who do not sign the ECA, would be subject to export notification requirements under section 12(b) of TSCA.

DATES: Written comments on this proposed rule must be received by EPA on or before May 26, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42201A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–99, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov following the instructions under Unit IV. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

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

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Information and Testing Branch (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents 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/EPA-TOX/1998/).

II. Development of Enforceable Consent Agreement for Hydrogen Fluoride

Hydrogen fluoride is one of the chemicals proposed for health effects testing in a proposed HAPs test rule under section 4(a) of TSCA in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1). The proposed HAPs test rule was amended on December 24, 1997 (62 FR 67466) (FRL–5742–2). In the proposed HAPs test rule, EPA invited the submission of proposals for PK testing for the chemicals included in the proposed HAPs test rule. These proposals could provide the basis for negotiation of ECAs, which, if successfully concluded, would be incorporated into Orders. The PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. A proposal for PK testing for hydrogen fluoride was submitted by the CMA HF Panel to EPA on November 27, 1996. The Agency reviewed this alternative testing proposal and prepared a preliminary technical analysis of the proposal which it sent to the CMA HF Panel on June 26, 1997. The CMA HF Panel responded on September 10, 1997, that it has a continued interest in pursuing the ECA process for hydrogen fluoride. EPA has decided to proceed with the ECA process for hydrogen fluoride. EPA has published a document soliciting interested parties to monitor or participate in negotiations on an ECA for PK testing of hydrogen fluoride (63 FR 1467, January 9, 1998) (FRL–5765–5). The procedures for ECA negotiations are described at 40 CFR 790.22(b).

If the ECA for hydrogen fluoride is successfully concluded, and an Order is published in the **Federal Register**, testing to develop needed data would be required of those persons that have signed the agreement. Section 12(b) of TSCA provides that if any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 of TSCA, that person shall notify EPA of this export or intent to export. This requirement applies to data obtained from either a test rule or an ECA and Order under the authority of section 4 of TSCA. EPA intends the ECA to include the export notification requirements of section 12(b) of TSCA, codified at 40 CFR part 707, subpart D.

III. Publication of Testing Consent Order

EPA is proposing that if an ECA is successfully concluded for hydrogen fluoride, the publication of the Order in the **Federal Register** would add hydrogen fluoride to the table in 40 CFR 799.5000, Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

Exporters of chemicals listed at 40 CFR 799.5000 are required under 40 CFR 799.19, Chemical imports and

exports, to comply with the export notification requirements of 40 CFR part 707, subpart D. This proposed rule, when finalized, would amend § 799.5000, and, in accordance with 40 CFR 799.19, all exporters of hydrogen fluoride, including persons who do not sign the ECA, would be subject to export notification requirements under 40 CFR part 707, subpart D.

Under 40 CFR 707.65(a)(2)(ii), a person who exports or intends to export for the first time to a particular foreign country a chemical subject to TSCA section 4 data requirements must submit a one-time notice to EPA identifying the chemical and country of import. A single notice can cover multiple chemicals and multiple countries. If additional importing countries are subsequently added, additional export notices must be submitted to EPA. Other procedures for submitting export notifications to EPA are described in 40 CFR 707.65.

Under 40 CFR 707.67, the contents of the export notification from the exporter or intended exporter to EPA shall include:

1. The name of the chemical (i.e., in this case, hydrogen fluoride).
2. The name and address of the exporter.
3. The country(ies) of import.
4. The date(s) of export or intended export.
5. The section of TSCA under which EPA has taken action (i.e., in this case, section 4 of TSCA).

Following receipt of the 12(b) notification from the exporter or intended exporter, under 40 CFR 707.70, EPA will provide notice of the export or intended export to the affected foreign government(s).

IV. Public Record and Electronic Submissions

The official record for this rulemaking (including comments and data submitted electronically as described below), including the public version, that does not include any information claimed as CBI, has been established for this rulemaking under docket control number OPPTS–42201A. The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A, the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number OPPTS–42187B, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42201A. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

V. Regulatory Assessment Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA does not believe that the impacts of this proposed rule constitute a significant economic impact on small entities.

Export regulations promulgated pursuant to section 12(b) of TSCA—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required under section 4 of TSCA. In an analysis of the economic impacts of the July 27, 1993, amendment to the rules implementing section 12(b) of TSCA (58 FR 40238), EPA estimated that the one-time cost of preparing and submitting the TSCA section 12(b) notification was $62.60. See U.S. EPA, ''Economic Analysis in Support of the Final Rule to Amend Rule Promulgated Under TSCA Section 12(b),'' OPPT/ETD/RIB, June 1992, contained in the record for this rulemaking, and referenced in the amended proposed HAPs test rule (62 FR 67466, December 24, 1997). Inflated through the last quarter of 1996 using the Consumer Price Index, the current cost is estimated to be $69.56. Although data available to EPA regarding export shipments of the HAPs chemicals are limited, a small exporter would have to have annual revenues below $6,956 per chemical/country combination in order to be impacted at a 1% or greater level. For example, a small exporter filing three notifications per year would have to have annual sales revenues below $20,868 (3 x $6,956) in order to be classified as impacted at the greater than 1% level. EPA believes that it is reasonable to assume that few, if any, small exporters would file sufficient export notifications to be impacted at or above the 1% level. Based on this, the export notification requirements triggered by the ECA for hydrogen fluoride would be unlikely to have a significant economic impact on small exporters. Because EPA has concluded that there is no significant impact on small exporters, the Agency does not need to determine the number or size of the entities that would be impacted at a 1% or greater level.

Therefore, the Agency certifies that this proposed rule, if finalized, would not have a significant economic impact on small entities.

B. Executive Order 12866; Executive Order 12898; Executive Order 13045

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). It does not involve special considerations of environmental-justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), nor raise any issues regarding children's environmental-health risks under Executive Order 13045 (62 FR 1985, April 23, 1997) because the Executive Order does not apply to actions expected to have an economic impact of less than $100 million.

C. Paperwork Reduction Act

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 control number assigned by OMB. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for the collection of information is estimated to average 0.55 hour per response.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Therefore, this action is not subject to the

requirements of sections 202 and 205 of UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this proposed rule because the rule would only affect the private sector, i.e., those companies that test chemicals.

E. National Technology Transfer and Advancement Act

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Exports, Hazardous substances, Health, Laboratories, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding hydrogen fluoride to the table in CAS number order to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS number	Substance or mixture name	Testing	FR publication date
*	* *	* *	* *
7664–39–3	Hydrogen fluoride	Health effects	[date of final rule]
*	* *	* *	* *

[FR Doc. 98–8070 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42200A; FRL–5765–2]

RIN 2070–AC76

Testing Consent Order and Export Notification Requirements for Phthalic Anhydride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 26, 1996, EPA proposed a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. Included as one of these chemical substances was phthalic anhydride (CAS No. 85–44–9). EPA invited the submission of proposals for enforceable consent agreements (ECAs) for pharmacokinetics (PK) testing of the HAPs chemicals and received a proposal for testing phthalic anhydride from the Chemical Manufacturers Association, Phthalic Anhydride Panel (CMA PA Panel). In a previous document EPA solicited interested parties to monitor or participate in negotiations on an ECA for phthalic anhydride. EPA is proposing that if an ECA is successfully concluded for phthalic anhydride, then the subsequent publication of the TSCA section 4 testing consent order (Order) in the **Federal Register** would add phthalic anhydride to the table of testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers. As a result of the proposed addition of phthalic anhydride, all exporters of phthalic anhydride, including persons who do not sign the ECA, would be subject to export notification requirements under section 12(b) of TSCA.

DATES: Written comments on this proposed rule must be received by EPA on or before May 26, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42200A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–99, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov following the instructions under Unit IV. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance

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

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Information and Testing Branch (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents 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/EPA-TOX/1998/).

II. Development of Enforceable Consent Agreement for Phthalic Anhydride

Phthalic anhydride is one of the chemicals proposed for health effects testing in a proposed HAPs test rule under section 4(a) of TSCA in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1). The proposed HAPs test rule was amended on December 24, 1997 (62 FR 67466) (FRL–5742–2). In the proposed HAPs test rule, EPA invited the submission of proposals for PK testing for the chemicals included in the proposed HAPs test rule. These proposals could provide the basis for negotiation of ECAs, which, if successfully concluded, would be incorporated into Orders. The PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. A proposal for PK testing for phthalic anhydride was submitted by the CMA PA Panel to EPA on November 22, 1996. The Agency reviewed this alternative testing proposal and prepared a preliminary technical analysis of the proposal which it sent to the CMA PA Panel on July 10, 1997. The CMA PA Panel responded on Septembr 3, 1997, that it has a continued interest in pursuing the ECA process for phthalic anhydride. EPA has decided to proceed with the ECA process for phthalic anhydride. EPA has published a document soliciting interested parties to monitor or participate in negotiations on an ECA for PK testing of phthalic anhydride (63 FR 1469, January 9, 1998) (FRL–5765–3). The procedures for ECA negotiations are described at 40 CFR 790.22(b).

If the ECA for phthalic anhydride is successfully concluded, and an Order is published in the **Federal Register**, testing to develop needed data would be required of those persons that have signed the agreement. Section 12(b) of TSCA provides that if any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 of TSCA, that person shall notify EPA of this export or intent to export. This requirement applies to data obtained from either a test rule or an ECA and Order under the authority of section 4 of TSCA. EPA intends the ECA to include the export notification requirements of section 12(b) of TSCA, codified at 40 CFR part 707, subpart D.

III. Publication of Testing Consent Order

EPA is proposing that if an ECA is successfully concluded for phthalic anhydride, the publication of the Order in the **Federal Register** would add phthalic anhydride to the table in 40 CFR 799.5000, Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

Exporters of chemicals listed at 40 CFR 799.5000 are required under 40 CFR 799.19, Chemical imports and exports, to comply with the export notification requirements of 40 CFR part 707, subpart D. This proposed rule, when finalized, would amend § 799.5000, and, in accordance with 40 CFR 799.19, all exporters of phthalic anhydride, including persons who do not sign the ECA, would be subject to export notification requirements under 40 CFR part 707, subpart D.

Under 40 CFR 707.65(a)(2)(ii), a person who exports or intends to export for the first time to a particular foreign country a chemical subject to TSCA section 4 data requirements must submit a one-time notice to EPA identifying the chemical and country of import. A single notice can cover multiple chemicals and multiple countries. If additional importing countries are subsequently added, additional export notices must be submitted to EPA. Other procedures for submitting export notifications to EPA are described in 40 CFR 707.65.

Under 40 CFR 707.67, the contents of the export notification from the exporter or intended exporter to EPA shall include:

1. The name of the chemical (i.e., in this case, phthalic anhydride).
2. The name and address of the exporter.
3. The country(ies) of import.
4. The date(s) of export or intended export.
5. The section of TSCA under which EPA has taken action (i.e., in this case, section 4 of TSCA).

Following receipt of the 12(b) notification from the exporter or intended exporter, under 40 CFR 707.70, EPA will provide notice of the export or intended export to the affected foreign government(s).

IV. Public Record and Electronic Submissions

The official record for this rulemaking (including comments and data submitted electronically as described below), including the public version, that does not include any information claimed as CBI, has been established for this rulemaking under docket control number OPPTS–42200A. The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A, the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number OPPTS–42187B, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42200A. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

V. Regulatory Assessment Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA does not believe that the impacts of this proposed rule constitute a significant economic impact on small entities.

Export regulations promulgated pursuant to section 12(b) of TSCA—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required under section 4 of TSCA. In an analysis of the economic impacts of the July 27, 1993, amendment to the rules implementing section 12(b) of TSCA (58 FR 40238), EPA estimated that the one-time cost of preparing and submitting the TSCA section 12(b) notification was $62.60. See U.S. EPA, ''Economic Analysis in Support of the Final Rule to Amend Rule Promulgated Under TSCA Section 12(b),'' OPPT/ETD/RIB, June 1992, contained in the record for this rulemaking, and referenced in the amended proposed HAPs test rule (62 FR 67466, December 24, 1997). Inflated through the last quarter of 1996 using the Consumer Price Index, the current cost is estimated to be $69.56. Although data available to EPA regarding export shipments of the HAPs chemicals are limited, a small exporter would have to have annual revenues below $6,956 per chemical/country combination in order to be impacted at a 1% or greater level. For example, a small exporter filing three notifications per year would have to have annual sales revenues below $20,868 (3 x $6,956) in order to be classified as impacted at the greater than 1% level. EPA believes that it is reasonable to assume that few, if any, small exporters would file sufficient export notifications to be impacted at or above the 1% level. Based on this, the export notification requirements triggered by the ECA for phthalic anhydride would be unlikely to have a significant economic impact on small exporters. Because EPA has concluded that there is no significant impact on small exporters, the Agency does not need to determine the number or size of the entities that would be impacted at a 1% or greater level.

Therefore, the Agency certifies that this proposed rule, if finalized, would not have a significant economic impact on small entities.

B. Executive Order 12866; Executive Order 12898; Executive Order 13045

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). It does not involve special considerations of environmental-justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), nor raise any issues regarding children's environmental-health risks under Executive Order 13045 (62 FR 1985, April 23, 1997) because the Executive Order does not apply to actions expected to have an economic impact of less than $100 million.

C. Paperwork Reduction Act

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 control number assigned by OMB. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for the collection of information is estimated to average 0.55 hour per response.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Therefore, this action is not subject to the requirements of sections 202 and 205 of UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this proposed rule because the rule would only affect the private sector, i.e., those companies that test chemicals.

E. National Technology Transfer and Advancement Act

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Exports, Hazardous substances, Health, Laboratories, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding phthalic anhydride to the table in CAS number order to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS number	Substance or mixture name	Testing	FR publication date
*	* *	* *	* *
85–44–9	Phthalic anhydride	Health effects	[date of final rule]

CAS number	Substance or mixture name	Testing	FR publication date
*	* *	* *	* *

[FR Doc. 98–8069 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2620

RIN 1004–AC71

State Grants, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Bureau of Land Management (BLM) is withdrawing a proposed rule published in the November 15, 1996, **Federal Register**, that proposed removing subpart 2627 of 43 CFR part 2620. This subpart spells out the applicaton process involved in the State of Alaska's selection of lands under the Alaska Statehood Act and the Act of January 21, 1929 (University of Alaska land grant). BLM had proposed removing the regulations because we thought they were repetitive of statutory language, outdated, and not necessary for program implementation.

FOR FURTHER INFORMATION CONTACT: Frances Watson, Regulatory Affairs Group (WO–630), Bureau of Land Management, Mail Stop 401LS, 1849 C Street, N.W., Washington, D.C. 20240; telephone (202) 452–5006 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: BLM published the proposed rule on November 15, 1996, at 61 FR 58500–58501. We received one comment from a State agency during the public comment period that ended on January 14, 1997. The agency opposed the proposed rule as being premature since all State selections have not been made under the Alaska Statehood Act and the Act of January 21, 1929 (University of Alaska land grants). After consideration of that comment, BLM has decided to withdraw the proposed rule and will take no further action on the proposal.

Dated: March 5, 1998.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 98–7827 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7247]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Connecticut	Fairfield (Town), Fairfield County.	Londons Brook	Approximately 430 feet downstream of State Route 59.	None	*107
			Approximately 1,100 feet upstream of Casmir Drive.	None	*173
		Londons Brook Divided Flow.	At confluence with Londons Brook	None	*118
			At Bond Street	None	*129
Maps available for inspection at the Town of Fairfield Planning and Zoning Department, 725 Old Post Road, Fairfield, Connecticut. Send comments to Mr. Kenneth Flatto, First Selectman for the Town of Fairfield, 725 Old Post Road, Fairfield, Connecticut 06430.					
Connecticut	Windham (Town), Windham County.	Willimantic River	Approximately 1,370 feet upstream from confluence with Shetucket River.	*159	*160
			At upstream corporate limits	*254	*255
Maps available for inspection at the Windham Town Clerk's Office, 979 Main Street, Willimantic, Connecticut. Send comments to Walter Pawelkiewicz, Ph.D., First Selectman for the Town of Windham, 979 Main Street, Willimantic, Connecticut 06226.					
Florida	Belleair (Town), Pinellas County.	Gulf of Mexico	Approximately 1,100 feet northwest of the intersection of Corbett Street and Druid Road.	*13	*16
			Approximately 300 feet south of the intersection of Bellevue Boulevard and Druid Road.	*9	*12
Maps available for inspection at the Belleair Town Hall, 901 Ponce De Leon Boulevard, Belleair, Florida. Send comments to Mr. Stephen Cottrell, Belleair Town Manager, 901 Ponce De Leon Boulevard, Belleair, Florida 33756.					
Florida	Belleair Beach (City), Pinellas County.	Gulf of Mexico	At the intersection of Donato Drive and Altea Drive.	*9	*11
			Approximately 300 feet west of the intersection of Harrison Avenue and Gulf Boulevard.	*14	*16
Maps available for inspection at the Belleair Beach City Hall, 444 Causeway Boulevard, Belleair Beach, Florida. Send comments to The Honorable William L. Atteberry, Mayor of the City of Belleair Beach, 444 Causeway Boulevard, Belleair Beach, Florida 33786.					
Florida	Belleair Bluffs (City), Pinellas County.	Gulf of Mexico	Approximately 300 feet west of the intersection of Renatta Drive and Bluff View Drive.	*10	*12
			Approximately 1,700 feet west of the intersection of Lentz Road and Los Gatos Drive.	*12	*14
Maps available for inspection at the Belleair Bluffs City Hall, 115 Florence Drive, Belleair Bluffs, Florida. Send comments to The Honorable David Coyner, Mayor of the City of Belleair Bluffs, 115 Florence Drive, Belleair Bluffs, Florida 33770–1978.					
Florida	Belleair Shore (Town), Pinellas County.	Gulf of Mexico	Approximately 300 feet west of the intersection of 13th Street and Gulf Boulevard.	*12	*15
			Approximately 50 feet west of the intersection of 1st Street and Gulf Boulevard.	*9	*12
Maps available for inspection at the Belleair Shore Town Hall, 1200 Gulf Boulevard, Belleair Shore, Florida. Send comments to The Honorable George Jirotka, Mayor of the Town of Belleair Shore, 1200 Gulf Boulevard, Belleair Shore, Florida 33786.					
Florida	Clearwater (City), Pinellas County.	Gulf of Mexico	At the intersection of Fulton Avenue and Harbor Drive.	*10	*11
			Approximately 0.4 mile northwest of intersection of Bay Esplanade and Eldorado Avenue.	*15	*16
		Joe's Creek	Approximately 500 feet downstream of 49th Street North.	None	*24
			Downstream side of 49th Street North	None	*25

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City of Clearwater Central Permitting Department, 100 South Myrtle Avenue, Clearwater, Florida. Send comments to Mr. Michael Roberto, Clearwater City Manager, P.O. Box 4748, Clearwater, Florida 33758–4748.					
Florida	Dunedin (City), Pinellas County.	Curlew Creek	At confluence with Intracoastal Waterway	*14	*17
			Approximately 0.34 mile upstream of County Road 1.	None	*25
		Jerry Branch	At confluence with Curlew Creek	None	*25
			Approximately 0.4 mile upstream of Main Street.	None	*47
		Gulf of Mexico	Approximately 1.0 mile northwest of the intersection of Edinburgh Drive and Causeway Boulevard.	*15	*17
			Approximately 300 feet west of the intersection of Douglas Avenue and Lyndhurst Street.	*10	*11
Maps available for inspection at the City of Dunedin Engineering Department, 737 Louden Street, Dunedin, Florida. Send comments to Mr. John Lawrence, Dunedin City Manager, P.O. Box 1348, Dunedin, Florida 34697–1348.					
Florida	Gulfport (City), Pinellas County.	Gulf of Mexico/Boca Ciega Bay.	Approximately 1,500 feet southeast of the intersection of Seabreeze Point Boulevard and Seabird Road.	*12	*6
			Approximately 300 feet east of the intersection of Pompano Place and Dolphin Boulevard East.	*10	*12
Maps available for inspection at the City of Gulfport Public Services Department, 5330 23rd Avenue South, Gulfport, Florida. Send comments to Mr. Robert E. Lee, Gulfport City Manager, 2401 53rd Street South, Gulfport, Florida 33707.					
Florida	Indian Rocks Beach (City), Pinellas County.	Gulf of Mexico	Approximately 200 feet west of the intersection of Gulf Boulevard and 27th Avenue.	*9	*13
			At the intersection of 20th Avenue and Bay Boulevard.	*9	*11
Maps available for inspection at the Indian Rocks Beach City Hall, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida. Send comments to The Honorable Robert Dinicola, Mayor of the City of Indian Rocks Beach, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785.					
Florida	Indian Shores (Town), Pinellas County.	Gulf of Mexico	Approximately 200 feet east of the intersection of 200th Avenue and Gulf Boulevard.	*9	*11
			Approximately 250 feet west of the intersection of 199th Avenue and Gulf Boulevard.	*12	*15
Maps available for inspection at the Indian Shores Town Hall, 19305 Gulf Boulevard, Indian Shores, Florida. Send comments to The Honorable Robert G. McEwen, Mayor of the Town of Indian Shores, 19305 Gulf Boulevard, Indian Shores, Florida 33785.					
Florida	Kenneth City (Town), Pinellas County.	Joe's Creek	Upstream side of 66th Street	*16	*15
			Approximately 23 miles upstream of 58th Street.	*23	*21
Maps available for inspection at the Kenneth City Town Hall, 6000 54th Avenue North, Kenneth City, Florida. Send comments to The Honorable Maurice Knox, Mayor of the Town of Kenneth City, 6000 54th Avenue North, Kenneth City, Florida 33709.					
Florida	Largo (City), Pinellas County.	Gulf of Mexico	At the intersection of Indian Rocks Road and Dryer Avenue.	*9	*10
			Approximately 1,200 feet northwest of the intersection of Indian Rocks Road and Kent Drive.	*11	*13
Maps available for inspection at the Largo City Hall, Engineering Department, 225 1st Avenue, SW, Largo, Florida. Send comments to Mr. Steve Stanton, Largo City Manager, P.O. Box 296, Largo, Florida 33779–0296.					
Florida	Madeira Beach (City), Pinellas County.	Gulf of Mexico	Approximately 100 feet east of the intersection of 154th Avenue and Second Street East.	*9	*11

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 600 feet southwest of the intersection of 132nd Avenue and Gulf Boulevard.	*15	*16
Maps available for inspection at the Madeira Beach Building Department, 300 Municipal Drive, Madeira Beach, Florida.					
Send comments to Mr. Kim Leinbach, Madeira Beach City Manager, 300 Municipal Drive, Madeira Beach, Florida 33708.					
Florida	North Redington Beach (Town), Pinellas County.	Gulf of Mexico	At the intersection of Rosa Lee Way and 173rd Avenue.	*9	*11
			Approximately 450 feet west of the intersection of 173rd Avenue and Gulf Boulevard.	*12	*16
Maps available for inspection at the North Redington Beach Town Hall, 190 173rd Avenue, North Redington Beach, Florida.					
Send comments to The Honorable Harold Radcliffe, Mayor of the Town of North Redington Beach, 190 173rd Avenue, North Redington Beach, Florida 33708.					
Florida	Pinellas County (Unincorporated Areas).	Brooker Creek, Tributary A.	At East Lake Road	None	*6
			Approximately 0.42 mile upstream of Ridgemoor Boulevard.	None	*16
		Brooker Creek, Tributary B.	At confluence with Brooker Creek Tributary A.	None	*8
			At Eastlake Woodlands Parkway	None	*9
		Joe's Creek, Tributary No. 4.	At confluence with Joe's Creek	*12	*10
			Approximately 0.25 mile upstream of 53rd Street.	*18	*17
		Joe's Creek Tributary No. 5.	At 74th Avenue (Park Boulevard)	None	*10
			Approximately 0.26 mile upstream of Park Boulevard.	None	*10
		Miles Creek	At confluence with Joe's Creek	*15	*13
			Approximately 700 feet downstream of 38th Avenue.	*15	*13
		Hollin Creek Tributary A	Approximately 0.06 mile downstream of Old East Lake Road.	None	*9
			Approximately 0.29 mile upstream of Crescent Oaks Boulevard.	None	*22
		Hollin Creek Tributary A–2	At confluence with Hollin Creek Tributary A.	None	*19
			At Dirt Road	None	*19
		Hollin Creek Tributary B	At confluence with Hollin Creek Tributary A.	None	*12
			At Trinity Boulevard	None	*21
		Jerry Branch	At Brady Drive	None	*25
			At the weir on north end of Indigo Drive	None	*47
		Joe's Creek	Approximately 1,250 feet downstream of 54th Avenue North.	*11	*10
			At 28th Street North	None	*45
		Curlew Creek	Approximately 0.7 mile upstream of CSX Transportation.	*11	*12
			Approximately 750 feet upstream of County Road 1/Palm Harbor Road.	None	*21
		Gulf of Mexico/Boca Ciega Bay.	At the intersection of Gulfwinds Drive West and Crosswinds Drive.	*10	*11
			Approximately 300 feet southwest of the intersection of Curlew Place and Florida Avenue.	*16	*18
Maps available for inspection at the Pinellas County Zoning Department, 310 Court Street, Clearwater, Florida.					
Send comments to Mr. Fred E. Marquis, Pinellas County Administrator, 315 Court Street, Clearwater, Florida 33756.					
Florida	Pinellas Park (City), Pinellas County.	Joe's Creek Tributary No. 4.	At 62nd Avenue North	*11	*14
			Approximately 0.25 mile upstream of 53rd Street North.	*18	*17
		Joe's Creek Tributary No. 5.	Approximately 0.26 mile upstream of Park Boulevard.	None	*10

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.02 mile upstream of 61st Street North.	None	*16
Maps available for inspection at the City of Pinellas Park Technical Services Building, 6051—78th Avenue North, Pinellas Park, Florida.					
Send comments to Mr. Robert Bray, Jr., AICP, City of Pinellas Park Floodplain Manager/Planning Director, P.O. Box 1100, Pinellas Park, Florida 33780–1100.					
Florida	Redington Beach (Town), Pinellas County.	Gulf of Mexico	At the intersection of East 3rd Street and Redington Drive.	*9	*11
			Approximately 500 feet west of the intersection of Gulf Boulevard and 164th Avenue.	*15	*16
Maps available for inspection at the Redington Beach Town Hall, 105 164th Avenue, Redington Beach, Florida.					
Send comments to The Honorable Mark Deighton, Mayor of the Town of Redington Beach, 105 164th Avenue, Redington Beach, Florida 33708.					
Florida	Redington Shores (Town), Pinellas County.	Gulf of Mexico	Approximately 100 feet north of the intersection of 1st Street and Long Point Drive.	*9	*11
			Approximately 600 feet west of intersection of Gulf Boulevard and Coral Avenue.	*14	*16
Maps available for inspection at the Redington Shores Town Hall, 17798 Gulf Boulevard, Redington Shores, Florida.					
Send comments to The Honorable J. J. Beyrouti, Mayor of the Town of Redington Shores, 17798 Gulf Boulevard, Redington Shores, Florida 33708.					
Florida	Seminole (City), Pinellas County.	Gulf of Mexico/Boca Ciega Bay.	At the intersection of 94th Street and 46th Avenue North.	*10	*11
			Approximately 400 feet southeast of the intersection of Woodlawn Drive and Seminole Boulevard.	*10	*15
Maps available for inspection at the City of Seminole Technical Services Department, 7464 Ridge Road, Seminole, Florida.					
Send comments to The Honorable Dottie Reeder, Mayor of the City of Seminole, 7464 Ridge Road, Seminole, Florida 33772.					
Florida	South Pasadena (City), Pinellas County.	Gulf of Mexico/Boca Ciega Bay.	At the intersection of Gulfport Boulevard and Pasadena Avenue.	*10	*12
			Approximately 500 feet west of the intersection of Sunset Drive and Bigonia Way.	*12	*15
Maps available for inspection at the South Pasadena City Hall, 7047 Sunset Drive South, South Pasadena, Florida.					
Send comments to The Honorable Fred G. Held, Jr., Mayor of the City of South Pasadena, 7047 Sunset Drive, South Pasadena, Florida 33707.					
Florida	St. Pete Beach (City), Pinellas County.	Gulf of Mexico	At the intersection of 80th Way and Blind Pass Road.	*10	*11
			Approximately 600 feet southwest of the intersection of 72nd Avenue and Sunset Avenue.	*15	*16
Maps available for inspection at the St. Pete Beach City Hall, 7701 Boca Ciega Drive, St. Pete Beach, Florida.					
Send comments to Mr. Carl L. Schwing, St. Pete Beach City Manager, 7701 Boca Ciega Drive, St. Pete Beach, Florida 33706.					
Florida	St. Petersburg (City) Pinellas County.	Miles Creek	Approximately 700 feet downstream of 38th Avenue.	*16	*13
			Approximately 0.05 mile upstream of 22nd Avenue and 58th Street.	*18	*19
		Gulf of Mexico/Boca Ciega Bay.	Approximately 50 feet west of the intersection of Park Street and 24th Avenue North.	*10	*12
			Approximately 200 feet southwest of the intersection of Sunset Drive North and 31st Terrace North.	*13	*15

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City of St. Petersburg Municipal Services Center, Permit Division, 14th Street North, St. Petersburg, Florida.					
Send comments to The Honorable David Fischer, Mayor of the City of St. Petersburg, P.O. Box 2842, St. Petersburg, Florida 33731–2842.					
Florida	Tarpon Springs (City) Pinellas County.	Gulf of Mexico	Approximately 300 feet south of the intersection of Castleworks Lane and Coldstream Court.	*10	*11
			Approximately 1,000 feet west of the intersection of Harbor Watch Circle and North Pointe Alexis Drive.	*17	*18
Maps available for inspection at the Tarpon Springs City Hall, 324 East Pine Street, Tarpon Springs, Florida.					
Send comments to Mr. Costa F. Vatikiotis, Tarpon Springs City Manager, P.O. Box 5004, Tarpon Springs, Florida 33688–5004.					
Florida	Treasure Island (City) Pinellas County.	Gulf of Mexico	Approximately 1,000 feet west of the intersection of Dolphin Drive and Paradise Boulevard.	*10	*11
			Approximately 900 feet west of the intersection of 125th Avenue and Gulf Boulevard.	*15	*17
Maps available for inspection at the Treasure Island City Hall, Building Department, 120 108th Avenue, Treasure Island, Florida.					
Send comments to Mr. Charles Coward, Treasure Island City Manager, 120 108th Avenue, Treasure Island, Florida 33706.					
Indiana	New Albany (City), Floyd County.	Fall Run	At confluence with Falling Run	*438	*443
			At downstream side of Grant Line Road	*442	*443
		Falling Run	At Ohio River levee	*433	*438
			At Janie Drive	*479	*474
		Middle Creek	Approximately 150 feet downstream of State Route 111.	None	*448
			Approximately 75 feet upstream of upstream crossing of Southern Railway.	None	*472
		Vincennes Run	At confluence with Middle Creek	None	*448
			Approximately 70 feet upstream of Eagle Lane.	None	*471
Maps available for inspection at the City of New Albany Planning Commission, Room 329, City-County Building, 311 Hauss Square, New Albany, Indiana.					
Send comments to The Honorable Douglas B. England, Mayor of the City of New Albany, Room 316, City-County Building, 1 Hauss Square, New Albany, Indiana 47150–5336.					
Kentucky	Pike County (Unincorporated Areas).	Tug Fork	Approximatley 0.35 mile upstream of confluence of Turkey Creek.	*664	*663
			Approximately 0.5 mile upstream of confluence of Sycamore Creek.	*675	*674
		Shelby Creek	Approximately 1.14 mile upstream of confluence with Levisa Fork.	*687	*688
			Approximately 0.26 mile upstream of Low Water Crossing.	*822	*821
Maps available for inspection at the Pike County Courthouse, 324 Main Street, Pikeville, Kentucky.					
Send comments to The Honorable Donna Damron, Pike County Judge/Executive, 324 Main Street, Pikeville, Kentucky 41501.					
Kentucky	Pikeville (City), Pike County.	Harold Branch	At confluence with Pikeville Road	*671	*672
			Approximately 290 feet upstream of confluence with Pikeville Pond.	*671	*672
		Ferguson Creek	At confluence with Pikeville Pond	*671	*670
			Approximately 0.25 mile upstream of confluence with Pikeville Pond.	*671	*670
Maps available for inspection at the Building Inspector's Office, 260 Hambley Boulevard, Pikeville, Kentucky.					
Send comments to The Honorable Steven D. Combs, Mayor of the City of Pikeville, P.O. Box 1228, Pikeville, Kentucky 41502.					
Maine	Sidney (Town), Kennebec County.	Kennebec River	At downstream corporate limits	None	*45
			At upstream corporate limits	None	*56
		Messalonskee Lake	Entire shoreline within community	None	*238

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Sidney Town Office, RR 3 Middle Road, Augusta, Maine.					
Send comments to Mr. Gary Fuller, Town of Sidney Code Enforcement Officer, RR 3 Middle Road, Box 491, Augusta, Maine 04330.					
Maine	Vienna (Town), Kennebec County.	Flying Pond	Entire shoreline within community	None	*349
Maps available for inspection at the Vienna Town Hall, Route 41, Vienna, Maine.					
Send comments to Mr. Creston Gaither, Secretary of the Town of Vienna Planning Board, RFD 1, Box 630, Vienna, Maine 04306.					
Massachusetts	Sudbury (Town), Middlesex County.	Cold Brook	Approximately 2.05 miles above confluence with Pantry Brook.	*122	*123
			Approximately 150 feet downstream of Pantry Road.	None	*131
		Dudley Brook and Tributary A to Dudley Brook.	Approximately 900 feet upstream of Bent Road.	None	*155
			Approximately 10 feet upstream of Boston Post Road.	None	*162
		Mineway Brook	Approximately 410 feet upstream of confluence with Pantry Brook.	*125	*126
			Approximately 240 feet upstream of Concord Road.	None	*224
		Pantry Brook	Approximately 110 feet upstream of Marlboro Road.	None	*142
			Approximately 0.54 mile upstream of Marlboro Road.	None	*161
		Run Brook	Approximately 700 feet upstream of confluence with Hop Brook.	*149	*148
			Approximately 155 feet upstream of Fairbank Road.	None	*182
		Tributary A to Cold Brook	Approximately 1300 feet upstream of confluence with Cold Brook.	*122	*123
			Approximately 635 feet upstream of Tantamouse Trail.	None	*175
		Tributary A to Hop Brook	Approximately 550 feet upstream with Hop Brook/Stearns Mill Pond.	None	*159
			Approximately 65 feet upstream of Firecut Lane.	None	*182
		Tributary A to Pantry Brook.	At confluence with Pantry Brook	None	*142
			Approximately 21 feet downstream of Willis Road.	None	*182
		Tributary B to Hop Brook	Approximately 500 feet upstream of confluence with Hop Brook.	None	*160
			Approximately 20 feet upstream of Moore Road.	None	*174
		Tributary C to Hop Brook	Approximately 710 feet upstream of confluence with Hop Brook.	*163	*164
			Approximately 0.8 mile above confluence with Hop Brook.	None	*176
		Tributary D to Hop Brook	Approximately 660 feet upstream of confluence with Hop Brook.	*163	*164
			At upstream corporate limits	None	*180
Maps available for inspection at the Sudbury Town Hall, 288 Old Sudbury Road, Sudbury, Massachusetts.					
Send comments to Mr. Steven Ledoux, Sudbury Town Manager, 288 Old Sudbury Road, Sudbury, Massachusetts 01776.					
Minnesota	Chaska (City), Carver County.	East Creek	Approximately 1875 feet upstream of confluence with Minnesota River.	*723	*712
			Approximately 100 feet upstream of North Valley Road.	None	*775
		Minnesota River	At upstream side of Milwaukee Road Railroad.	*723	*724
			Approximately 1320 feet upstream of Milwaukee Road Railroad.	*723	*724
		Old Clay Hole	Entire shoreline within community	*738	*729
		Ponding Areas at Outlet A	Entire shoreline within community	*726	*719
		Courthouse Lake	Entire shoreline within community	*723	*703

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City of Chaska Engineer's Office, One City Hall Plaza, Chaska, Minnesota. Send comments to Mr. David Pokorney, Chaska City Administrator, One City Hall Plaza, Chaska, Minnesota 55318–1962.					
Mississippi	Columbus (City), Lowndes County.	Luxapalila Creek	At upstream side of Burlington Northern Railroad.	*170	*169
			Approximately 600 feet upstream of U.S. Highway 82 Bypass.	*180	*178
		McCrary Creek	At confluence with Luxapilila Creek	*172	*170
			Approximately 500 feet upstream of Idlewood Road.	*173	172
		Magby Creek	At confluence with Luxapalila Creek	*177	*173
			Approximately 0.60 mile downstream of Lehmberg Road.	*184	*183
Maps available for inspection at the Columbus City Hall, Building Inspection Department, 1215 2nd Avenue North, Columbus, Mississippi. Send comments to The Honorable George Wade, Mayor of the City of Columbus, City Hall, Columbus, Mississippi 39703.					
Mississippi	Lowndes County (Unincorporated Areas).	Black Creek	At confluence with Luxapalila Creek	*185	*183
			Approximately 1.0 mile upstream of confluence with Luxapalila Creek.	*186	*185
		Luxapalila Creek Tributary	At confluence with Luxapilila Creek	*199	*198
			Approximately 1.3 miles upstream of confluence with Luxapalila Creek.	*201	*202
		Yellow Creek	At Confluence with Luxapalila Creek	*196	*195
			Approximately 1.0 mile upstream of confluence with Luxapalila Creek.	*199	*198
		Laxapalila Creek	At upstream side of Burlington Northern Railroad.	*170	*169
			At county/state boundary	*214	*211
Maps available for inspection at the Lowndes County Building Inspection Department, 17 Airline Road, Columbus, Mississippi. Send comments to Mr. J.L. Williams, President of the Lowndes County Board of Supervisors, P.O. Box 1364, Columbus, Mississippi 39703.					
New Jersey	Berkeley Heights (Township), Union County.	Green Brook	At confluence of Blue Brook	*196	*197
			Approximately 1600 feet upstream of Apple Tree Road.	*406	*405
		Blue Brook	At confluence with Green Brook	*196	*197
			Approximately 1.4 miles upstream of Seely's Pond Dam.	None	*240
		Branch Green Brook	At confluence with Green Brook	*358	*363
			Approximately 110 feet upstream of confluence with Green Brook.	*362	*363
		Branch Blue Brook	At confluence with Blue Brook	*209	*210
			Approximately 10 feet upstream of confluence with Blue Brook.	*209	*210
Maps available for inspection at the Berkeley Heights Township Engineering Office, 29 Park Avenue, Berkeley Heights, New Jersey. Send comments to The Honorable David Palladino, Mayor of the Township of Berkeley Heights, 29 Park Avenue, Berkeley Heights, New Jersey 07922.					
New Jersey	Scotch Plains (Township), Union County.	Green Brook	Approximately 250 feet upstream of Terrill Road.	*137	*136
			At upstream corporate limits	*196	*198
		Blue Brook	At confluence with Green Brook	*196	*198
			At upstream corporate limits	*243	*240
Maps available for inspection at the Township of Scotch Plains Engineering Office, 430 Park Avenue, Scotch Plains, New Jersey. Send comments to The Honorable Irene Schmidt, Mayor of the Township of Scotch Plains, 430 Park Avenue, Scotch Plains, New Jersey 07076.					
North Carolina	Atlantic Beach (Town), Carteret County.	Bogue Sound	Approximately 800 feet north of intersection of North Court and Hoop Pole Road within extraterritorial jurisdiction limits.	None	*8
			Approximately 2,000 feet north of intersection of Salter Path Road and Dunes Avenue within extraterritorial jurisdiction limits.	None	*8

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.5 mile east of intersection of North Court and Hoop Pole Road within extraterritorial jurisdiction limits.	*7	*9
			Approximately 0.6 mile northwest of intersection of Old Causeway and Pond Drive within extraterritorial jurisdiction limits.	*7	*9
			Approximately 1,500 feet north of intersection of Fort Macon Drive and Tar Landing Road within extraterritorial jurisdiction limits.	None	*9
Maps available for inspection at the Atlantic Beach Town Office, 125 West Fort Macon Road, Atlantic Beach, North Carolina.					
Send comments to Mr. Anthony Barrett, Atlantic Beach Town Manager, P.O. Box 10, Atlantic Beach, North Carolina 28512.					
North Carolina	Carteret County (Unincorporated Areas).	Atlantic Ocean	Approximately 300 feet south of the intersection of NC 58 and Hoffman Road.	None	*13
		Atlantic Ocean/Onslow Bay.	Approximately 1240 feet south of the intersection of State Route 1190 and State Route 1191.	*15	*18
		Atlantic Ocean/Bogue Sound.	Approximately 450 feet north of the intersection of NC 58 and Hoffman Road.	*6	*18
			Approximately 1.2 miles east of the intersection of State Route 1190 and State Route 1191.	*14	*18
Maps available for inspection at the Carteret County Central Permit Office, Courthouse Square, Beaufort, North Carolina.					
Send comments to Mr. Robert Murphy, Carteret County Manager, County Manager's Office, Courthouse Square, Beaufort, North Carolina 28516.					
North Carolina	Grifton (Town) Lenoir and Pitt Counties.	Contentnea Creek	Approximately 3.7 miles downstream of CSX Transportation.	None	*21
			Approximately 2.6 miles upstream of State Highway 11.	None	*28
		Eagle Swamp	Approximately 0.9 mile downstream of County Route 1800.	None	*24
			Approximately 500 feet upstream of County Route 1709.	None	*33
Maps available for inspection at the Grifton Town Hall, 212 West Queen Street, Grifton, North Carolina.					
Send comments to The Honorable Marian McLawhorn, Mayor of the Town of Grifton, P.O. Box 579, Grifton, North Carolina 28530.					
North Carolina	Pine Knoll Shores (Town), Carteret County.	Bogue Sound	At the intersection of Arborvitae Court and Cottonwood Court.	None	*7
			Approximately 400 feet upstream of the intersection of Morey and Coral Drives.	*6	*7
		Atlantic Ocean	At the intersection of Pinewood and Bay Drives.	None	*12
			Entire shoreline within community between western and eastern corporate limits.	*16	*19
		Pine Knoll Waterway	Entire shoreline within community	None	*7
		Kings Corner Hearth Cove	Entire shoreline within community	None	*7
Maps available for inspection at the Pine Knoll Shores Town Hall, 100 Municipal Circle, Pine Knoll Shores, North Carolina.					
Send comments to The Honorable Reese Musgrave, Mayor of the Town of Pine Knoll Shores, 100 Municipal Circle, Pine Knoll Shores, North Carolina 28512.					
North Carolina	Raleigh (City), Wake County.	Southwest Prong Beaverdam Creek.	At the confluence with Beaverdam Creek (Basin 18, Stream 28).	*247	*248
			Approximately 50 feet downstream of Cambridge Road.	*258	*257
Maps available for inspection at the City of Raleigh Inspections Department, Conservation Section, 222 West Hargett Street, Raleigh, North Carolina.					
Send comments to Mr. D.E. Benton, Jr., Raleigh City Manager, P.O. Box 590, 222 West Hargett Street, Raleigh, North Carolina 27602.					
Ohio	Ashville (Village), Pickaway County.	Walnut Creek	Just upstream of Cromley Road	None	*687

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 700 feet downstream of Lockbourne Eastern Road.	None	*694
Maps available for inspection at the Village of Ashville Municipal Building, 91 West Main Street, Ashville, Ohio.					
Send comments to The Honorable Jane Cline, Mayor of the Village of Ashville, 91 West Main Street, Ashville, Ohio 43103.					
Ohio	Circleville (City), Pickaway County.	Hargus Creek	At Island Road	*671	*670
			Approximately 50 feet upstream of Stoutsville Pike.	None	*700
		Hominy Creek	Approximately 350 feet upstream of confluence with Hargus Creek.	*687	*686
			Approximately 0.73 mile downstream of Bolender-Pontius Road.	*702	*704
		McHenry Ditch	At confluence with Hargus Creek	*675	*676
			Approximately 750 feet upstream of Nicholas Drive.	None	*702
		Scioto River	Area between U.S. Route 23 and CSX Transportation.	None	*666
Maps available for inspection at the City of Circleville Public Service Office, 127 South Court Street, Circleville, Ohio.					
Send comments to The Honorable Patricia Radabaugh, Mayor of the City of Circleville, 127 South Court Street, Circleville, Ohio 43113.					
Ohio	Pickaway County (Unincorporated Areas).	Hargus Creek	At CSX Transportation	*671	*670
			Approximately 700 feet upstream of Bolender-Pontius Road.	None	*753
		Hominy Creek	Approximately 0.78 mile downstream of Bolender-Pontius Road.	*702	*703
			Approximately 600 feet upstream of Conrail.	None	*752
		Scioto River	At the downstream county boundary	*652	*651
			Approximately 1,600 feet upstream of confluence of Big Walnut Creek.	*693	*694
		Mud Run	At upstream side of State Route 316 (Ashville Road).	None	*680
			Approximately 1.5 miles upstream of State Route 752.	None	*695
		Scioto Overflow to Mud Run.	At confluence with Mud Run	None	*683
			At downstream side of Weigand Road	None	*687
		Big Run	At county boundary	None	*809
		Big Walnut Creek	Approximately 1.1 miles upstream of confluence with Scioto River.	*693	*694
Maps available for inspection at the Pickaway County Commissioners Office, 207 South Court Street, Circleville, Ohio.					
Send comments to Mr. Robert Huffer, Chairman of the Pickaway County Board of Commissioners, 207 South Court Street, Circleville, Ohio 43113.					
Ohio	South Bloomfield (Village) Pickaway County.	Mud Run	At a point approximately 2,000 feet downstream of Ashville Road (State Route 316).	*678	*679
			At State Route 752	*681	*680
		Scioto River	At a point approximately 0.5 mile downstream of State Roue 316.	None	*682
			At a point approximately 1,400 feet downstream of State Route 316.	None	*682
Maps available for inspection at the Village of South Bloomfield Municipal Building, 5023 South Union Street, South Bloomfield, Ohio.					
Send comments to The Honorable Albert Junior Roese, Mayor of the Village of South Bloomfield, 5023 South Union Street, South Bloomfield, Ohio 43103–1035.					
Pennsylvania	Upper Merion (Township), Montgomery County.	Abrams Run	At confluence with Crow Creek	None	*141
			Approximately 420 feet upstream of Falcon Road.	None	*234
		Unnamed	At confluence with Matsunk Creek	*68	*76
		Creek A	Approximately 80 feet upstream of Flint Hill Road.	None	*114
		Crow Creek	At upstream side of ConRail	*78	*80
			Approximately 80 feet upstream of Croton Road.	None	*287

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Frog Run	At Flint Hill Road	None	*92
			Approximately 440 feet upstream of South Henderson Road.	None	*188
		Gulph Mills Creek	Approximately 130 feet downstream of I–76.	None	*127
			Approximately 330 feet upstream of Gypsy Road.	None	*270
		Abrams Creek	At upstream side of ConRail	*78	*80
			Approximately 60 feet upstream of Brownlee Road.	None	*116
		Matsunk Creek	Approximately 120 feet upstream of confluence with Schuylkill River.	*68	*69
			Approximately 140 feet upstream of School Line Drive.	None	*211
		Gulph Mills Tributary A	At confluence with Gulph Mills Creek	None	*154
			Approximately 80 feet upstream of Arden Road.	None	*155
		Gulph Mills Tributary B	At confluence with Gulph Mills Creek	None	*161
			Approximately 65 feet upstream of Lantern Lane.	None	*173
Maps available for inspection at the Upper Merion Public Works Department, 175 West Valley Forge Road, King of Prussia, Pennsylvania.					
Send comments to Mr. Ronald G. Wagenmann, Upper Merion Township Manager, 175 West Valley Forge Road, King of Prussia, Pennsylvania 19406.					
West Virginia	Berkeley County (Unincorporated Areas).	Rockymarsh Run	Approximately 80 feet downstream of Billmyer Mill Road.	None	*418
			At confluence of Tributary to Rockymarsh Run.	None	*427
		Tributary to Rockymarsh Run.	At confluence with Rockymarsh Run	None	*427
			Approximately 820 feet upstream of State Route 45.	None	*436
Maps available for inspection at the Berkeley County Planning Commission, 119 West King Street, Martinsburg, West Virginia.					
Send comments to Mr. James C. Smith, President of the Berkeley County Board of Commissioners, 126 West King Street, Martinsburg, West Virginia 25401.					
West Virginia	Jefferson County (Unincorporated Areas).	Rockymarsh Run	Approximately 430 feet downstream of Billmyer Mill Road.	None	*411
			Approximately 700 feet upstream of State Route 45.	None	*442
		Tributary to Rockymarsh Run.	At confluence with Rockymarsh Run	None	*427
			Approximately 820 feet upstream of State Route 45.	None	*436
Maps available for inspection at the Jefferson County Clerk's Office, 100 East Washington Street, Charlestown, West Virginia.					
Send comments to Mr. James Knode, President of the Jefferson County Commission, P.O. Box 250, 110 East Washington Street, Charlestown, West Virginia 25414.					
Wisconsin	Chetek (City), Barron County.	Chetek River	Approximately 1,700 feet downstream of Chicago and North Railway (At corporate limits).	None	*1,031
			Approximately 50 feet downstream of dam on Chetek River.	None	*1,039
Maps available for inspection at the Chetek City Clerk's Office, Chetek City Hall, 220 Stout Street, Chetek, Wisconsin.					
Send comments to The Honorable Shirley A. Webb, Mayor of the City of Chetek, P.O. Box 194, Chetek, Wisconsin 54728.					
Wisconsin	Merrill (City) Lincoln County.	Wisconsin River	Approximately 1.1 miles downstream of U.S. Route 51.	*1,244	*1,241
			Approximately 500 feet upstream of Alexander Dam.	None	*1,276
		Prairie River	At the confluence with Wisconsin River	*1,253	*1,252
			Approximately 1,480 feet upstream of Third Street.	*1,258	*1,259
		Devil Creek	At the confluence with Wisconsin River	*1,255	*1,254
			At Heldt Street	*1,255	*1,266

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the City of Merrill Building Inspector/Zoning Administrator's Office, Merrill City Hall, 1004 East First Street, Merrill, Wisconsin.

Send comments to The Honorable Patricia Woller, Mayor of the City of Merrill, 1004 East First Street, Merrill, Wisconsin 54452.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: March 19, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8088 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF DEFENSE

48 CFR Parts 228 and 252

[DFARS Case 98–D002]

Defense Federal Acquisition Regulation Supplement; Compliance with Spanish Laws and Insurance

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify requirements for use of a clause pertaining to compliance with Spanish laws and insurance under contracts for services or construction to be performed in Spain.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 26, 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), IMB 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

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

Please cite DFARS Case 98–D002 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98–D002 in the subject line.

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

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS 228.370(f) to clarify the prescription for use of the clause at 252.228–7006, Compliance with Spanish Laws and Insurance. The rule also amends the clause at 552.228–7006 to clarify that the requirements of the clause apply only if the contractor is not a Spanish concern; and that the requirements of the clause apply to subcontracts with non-Spanish concerns that will perform work in Spain under the contract.

B. Regulatory Flexibility Act

The proposed 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 the rule is a clarification of existing requirements and applies only to contracts for services or construction to be performed in Spain. An Initial Regulatory Flexibility Analysis has therefore not been performed. 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 98–D002 in correspondence.

C. Paperwork Reduction Act

The existing paperwork burden requirements of the clause at DFARS 252.228–7006 have been approved by the Office of Management and Budget under Clearance Number 0704–0229, which expires on September 30, 1998. This rule is not expected to result in a change in the estimated burden hours.

List of Subjects in 48 CFR Parts 228 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 228 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 228 and 252 continues to read as follows:

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

PART 228—BONDS AND INSURANCE

2. Section 228.370 is amended by revising paragraph (f) to read as follows:

228.370 Additional clauses.

* * * * *

(f) Use the clause at 252.228–7006, Compliance with Spanish Laws and Insurance, in solicitations and contracts for services or construction to be performed in Spain, unless the contractor is a Spanish concern.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.228–7006 is amended by revising the clause date; and redesignating paragraphs (a) through (e) as paragraphs (b) through (f), respectively; adding a new paragraph (a); and revising newly designated paragraph (e) to read as follows:

252.228–7006 Compliance with Spanish laws and insurance.

* * * * *

COMPLIANCE WITH SPANISH LAWS AND INSURANCE (XXX 19XX)

(a) The requirements of this clause apply only if the Contractor is not a Spanish concern.

* * * * *

(e) The Contractor shall provide the Contracting Officer with a similar representation for all subcontracts with non-Spanish concerns that will perform work in Spain under this contract.

* * * * *

[FR Doc. 98–7712 Filed 3–26–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE86

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Devils River Minnow (Dionda diaboli) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the Devils River minnow (*Dionda diaboli*) as an endangered species under authority of the Endangered Species Act of 1973, as amended (Act). The current range of the Devils River minnow is limited to three stream systems in Val Verde and Kinney counties, Texas, and one drainage in Coahuila, Mexico. The species' range has been significantly contracted and fragmented. In addition, the numbers of Devils River minnows collected during fish surveys has declined dramatically over the past 25 years; the species has declined from one of the most abundant fish to one of the least abundant. Based on the current information, the decline of the species in both distribution and abundance may be attributed in large part to the effects of habitat loss and modification and possibly predation by smallmouth bass (*Micropterus dolomieu*), an introduced game fish. This proposal, if made final, will implement Federal protection provided by the Act for the Devils River minnow.

DATES: Comments from all interested parties must be received by July 27, 1998. Public hearing requests must be received by May 11, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Austin Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas, 78758. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nathan Allan, Fish and Wildlife Biologist (see **ADDRESSES** section) (telephone 512/490–0057; facsimile 512/490–0974).

SUPPLEMENTARY INFORMATION:

Background

The Devils River minnow (*Dionda diaboli* Hubbs and Brown) is classified in the Cyprinidae (Minnow) family. It was first collected from Las Moras Creek, near Brackettville, Texas, on April 14, 1951. The species was formally described by Hubbs and Brown (1956) from specimens collected in the Devils River; the holotype locality being Devils River at Baker's Crossing. The species occurs with *Dionda argentosa* (manantial roundnose minnow) and is also similar to *Dionda episcopa* (roundnose minnow). Devils River minnow is recognized as a distinct species by the American Fisheries Society (Robins *et al.* 1991) based on morphological characteristics (Hubbs and Brown 1956), genetic markers (Mayden *et al.* 1992) and chromosome differences (Gold *et al.* 1992).

The Devils River minnow is a small fish, with adults reaching sizes of 25–53 millimeters (mm) (1.0–2.1 inches (in)) standard length. The fish has a wedge-shaped caudal spot and pronounced lateral stripe with double dashes extending through the eye to the snout but not reaching the lower lip. The species has a narrow head with prominent dark markings on scale pockets above the lateral line that produce a cross-hatched appearance when viewed from the top (Hubbs and Brown 1956).

No information is available on life history characteristics, feeding patterns, or reproductive behaviors of this species. However, based on the extended intestinal tract, species of the genus *Dionda* are considered to feed primarily on algae. *Dionda episcopa* have been observed to be broadcast spawners with nonadhesive eggs that sink to the substrate (Johnston and Page 1992).

General habitat associations for Devils River minnow have been described as channels of fast-flowing, spring-fed waters over gravel substrates (Harrell 1978). Although the species is closely associated with spring systems, it most often occurs where spring flow enters a stream, rather than in the spring outflow itself (Hubbs and Garrett 1990). The species is adapted to the hydrologic variations inherent in desert river systems (Harrell 1978), characterized by extended droughts and extreme flash floods (USGS 1989).

The Devils River minnow is part of a unique fish fauna in west Texas streams where a mixture of fishes occur, including Mexican peripherals, local endemics, and widespread North American fishes (Hubbs 1957). About half of the native fishes of the Chihuahuan Desert of Mexico and Texas are considered threatened by Hubbs (1990) and at least four species have been documented to already be extinct (Miller *et al.* 1989), primarily due to habitat destruction and introduced species.

The Devils River minnow is native to tributary streams of the Rio Grande River in Val Verde and Kinney counties, Texas, and Coahuila, Mexico. The known historic range of the species is based on collections from the 1950s and 1970s and includes—the Devils River from Beaver Lake downstream to near its confluence with the Rio Grande; San Felipe Creek from the springs in the headwaters to springs in Del Rio; Sycamore Creek, in Kinney County; Las Moras Creek near Brackettville; and Rio Sabinas, Rio San Carlos, and Rio Alamo from the Rio Salado drainage in northern Mexico (Brown 1955; Hubbs and Brown 1956; Robinson 1959; Harrell 1978; Smith and Miller 1986; Garrett *et al.* 1992). Despite numerous collection efforts, the species has never been reported from the mainstem Rio Grande, the Rio Conchos drainage, or tributary streams other than those listed above. The range of the species prior to 1951 is unknown.

The current distribution of Devils River minnow in Texas was described by Garrett *et al.* (1992). This study documented the presence of the species in 1989 at two sites on the Devils River, two sites on San Felipe Creek, and one site on Sycamore Creek. Garrett *et al.* (1992) showed that Devils River minnow was very rare throughout its range in 1989 compared to past collections. At 24 sampling locations within the historic range, a total of only 7 individuals were collected from 5 sites. In addition to declines in the Devils River minnow populations, Garrett *et al.* (1992) also observed a general shift in community structure toward fishes that tend to occupy quiet water or pool habitat, conditions that are often limited in flowing spring runs. The authors hypothesized that this shift was the result of reduced stream flows from drought, exacerbated by human modification to stream habitats, especially in Sycamore and Las Moras creeks.

No published information has been found on the status of the Devils River minnow in Mexico. A review of museum records indicates the species may now occur in only two localities in Mexico. Populations there appear to be very depressed and face significant threats from industrial development (Contreras and Lozano 1994; S. Contreras-B., University of Nuevo Leon, *in litt.* 1997). Throughout the region of northern Mexico, fish species are severely threatened with habitat loss and modification. Of an approximate 200 species that may occur in the region, 135 are considered threatened (Williams *et al.* 1989; Contreras and Lozano 1994) and 15 are thought to already be extinct (Miller *et al.* 1989; Contreras and Lozano 1994).

The region of Texas where the Devils River minnow occurs is semi-arid, receiving an average of about 46 centimeters (cm) (18 in) of rainfall annually. Spring-fed streams of west Texas flow southerly through rocky, limestone soils and shrubby vegetation characteristic of desert hill country. The aquifer that sustains spring flows within

the range of the Devils River minnow is the Edwards-Trinity (Plateau) Aquifer. This major aquifer produces the largest number of springs in Texas (Brune 1975). The contributing recharge area for springs on the Devils River and San Felipe Creek is suspected to include a large area as far north as Sheffield in Pecos County and Eldorado in Schleicher County, although the subsurface hydrogeomorphology of the region is not well-defined (Brune 1981). The flow from springs tends to fluctuate considerably, depending on the amount of rainfall, recharge, and water in storage in the underground reservoirs. Conservation of this groundwater supply is essential for the continued existence of the Devils River minnow.

Areas where the Devils River minnow occurs are mostly in private ownership. Exceptions include the Devils River State Natural Area, owned by the Texas Parks and Wildlife Department (TPWD) (Baxter 1993), and land adjoining portions of San Felipe Creek, owned by the City of Del Rio (population of about 38,000). One important private holding is the Dolan Falls Preserve, owned by The Nature Conservancy (Baxter 1993). Primary land uses are cattle, sheep, and goat ranching. Generally, these areas are very remote with little human development, beyond those to support ranching operations. Primary communities within the Devils River watershed are Ozona in Crockett County and Sonora in Sutton County (each with a population of less than 5,000), in the upper portion of the drainage where flows in the Devils River are intermittent. The middle and lower portions of the Devils River are popular for recreational fishing and canoeing (Gough 1993), although public access is limited.

The Devils River minnow is currently listed as a threatened species by the State of Texas, the Texas Organization for Endangered Species (Hubbs *et al.* 1991), and the Endangered Species Committee of the American Fisheries Society (Williams *et al.* 1989).

Previous Federal Action

On August 15, 1978, the Service published a proposed rule (43 FR 36117) to list the Devils River minnow as a threatened species and to designate critical habitat. On March 6, 1979, the Service published a notice (44 FR 12382) to withdraw the critical habitat portion of the proposal in order to meet requirements set forth in the Endangered Species Act Amendments of 1978 (Public Law 95–632, 92 Stat. 3751). The Service reproposed the designation of critical habitat for the Devils River minnow on May 16, 1980 (45 FR 32348). A notice of public hearing was published on July 9, 1980 (45 FR 46141), and the public hearing was held on July 23, 1980, in Del Rio, Texas. The Service gave notice that the listing and critical habitat proposals were withdrawn on September 30, 1980 (45 FR 64853), because the 2-year time limit on the proposal had expired.

The Service included the Devils River minnow as a category 2 candidate species in Notices of Review published December 30, 1982 (47 FR 38454), September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554). Category 2 taxa were those that the Service believed may be eligible for threatened or endangered status, but for which the available biological information in possession of the Service was insufficient to support listing the species. However, new information obtained in 1989 (and later published as Garrett *et al.* 1992) provided a basis for including the Devils River minnow as a category 1 candidate in Notices of Review published November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982). Category 1 taxa were those for which the Service had substantial biological information on hand to support proposing to list the species as threatened or endangered.

As announced in a notice published in the February 28, 1996, **Federal Register** (61 FR 7596), the designation of multiple categories of candidates has been discontinued, and only former category 1 species are now recognized as candidates for listing purposes. The Devils River minnow remained a candidate species with a listing priority of 2 in Notices of Review published February 28, 1996 (61 FR 7596), and September 19, 1997 (62 FR 49398). The listing priority numbers for candidate taxa range from 1 (highest priority) to 12 (lowest priority) and are assigned by the Service based on the immediacy and magnitude of threats, as well as taxonomic status (48 FR 43098).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Devils River minnow (*Dionda diaboli*) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range.

(1.) Devils River

The Devils River constitutes the largest segment of the documented range of the Devils River minnow. Over 40 percent of the total length of the Devils River has been lost as potential habitat, representing a contraction of the range from the northern extent of the distribution of the species. The Devils River from Beaver Springs to its confluence with the Rio Grande is about 127 river-kilometers(km) (79 river-miles(mi)) long. The lower 29 km, downstream of Big Satan Creek, is inundated by Amistad Reservoir. The uppermost 26 km, between Pecan Springs and Beaver Springs, can no longer be considered suitable habitat because of the loss of permanent flows.

The most significant loss of Devils River minnow habitat occurred on the Devils River with the impoundment of Amistad Reservoir in 1968. Backwaters from Amistad Dam inundated the natural stream habitats (about 29 km), transforming the area from a riverine to lake environment. The area is no longer suitable for most native fishes, including Devils River minnow. Before construction of Amistad Dam, two smaller dams (Devils Lake and Wall Lake) were built in the 1920's in this lower portion of the stream. However, spring run habitat remained and Devils River minnow was collected there in 1953 and 1954. Amistad Reservoir, however, inundated these springs, eliminating the natural environment and suitable habitat for native fish. Also, the construction of the dam created a physical barrier to fish movement that permanently separated the Devils River population of the species from other populations.

In addition to habitat loss in the lower Devils River due to impoundment, habitat for the species has been lost from the lack of permanent spring flows in the upstream portion (about 26 km) of the river (Dietz 1955, Brune 1975, Harrell 1978). These springs historically provided a pristine source of significant flowing water. Brune (1981) indicates that agricultural land use practices both within and north of the watershed may affect aquifer levels and account for a lack of permanent flows from the northern-most springs. Heavy well pumping from groundwater reserves for irrigation (Dietz 1955) and long term overgrazing (that reduces recharge and enhances runoff) have been cited as possible causes for decreased spring flows in the upper Devils River (Brune 1981). Springs on the Devils River

(upstream of Pecan Springs) that no longer support permanent discharges include Beaver, Juno, Headwater, Stein, and San Pedro springs (Brune 1981).

Continued decline of permanent discharge from springs is a significant threat to Devils River minnow in the middle segment of the Devils River. This threat can be the result of drought and/or human activities that withdraw groundwater or prevent recharge. The remaining central portion of the Devils River continues to flow naturally, and has been referred to as one of the most pristine rivers in Texas. Because of large groundwater reservoirs that support the remaining spring systems, the river maintains a substantial perennial flow.

Historic stream flow analysis, however, indicates decreasing base flows during the 1960's that were independent of precipitation levels (suggesting human influences). Drought can further aggravate spring flow declines (Garrett 1992). Declining trends of stream flow during the 1950's and 1980's track a decrease in precipitation in the region, suggesting the effects of drought (USGS 1989).

When spring flows become seasonally intermittent, fish populations are unable to use the stream to fulfill their life history requirements. Declines in base flow of streams also affect fish populations by reducing the total available habitat and thereby intensifying competitive and predatory interactions. For Devils River minnow, decreased instream flows may lead to a population decline due to exclusion from preferred habitats and increased mortality from predation.

Using relative abundance as an indicator, the Devils River minnow has decreased in the Devils River over time. The Devils River minnow was the fifth most abundant species of 18 species collected in 1953 at Bakers Crossing (Brown 1955); the sixth most abundant of 23 species in the river in 1974 (Harrell 1978); and one of the least abundant of 16 species in 1989 (Garrett *et al.* 1992). Recent information from Cantu and Winemiller (1997) indicates that the species was still present in the Devils River at the confluence with Dolan Falls in 1994, but only in low numbers (thirteenth most abundant of 27 species). The four collections by Cantu and Winemiller (1997) were extensive surveys over 1 year at the one site near Dolan Falls. Even with this increased effort, only 28 individuals of Devils River minnow, out of 4,470 total fish, were documented.

New information on the distribution and abundance of Devils River minnow in the Devils River and San Felipe Creek was obtained from surveys conducted in November 1997 by the TPWD. No Devils River minnow were collected from several locations on the Devils River from Pecan Springs downstream to Finegan Springs, just above Dolan Falls (Gary Garrett, TPWD, *in litt.* 1997). This indicates that, if the fish still persists in the Devils River, it is very rare.

The drastic decline in abundance within the Devils River can best be documented from collections at the site at Baker's Crossing. Over 60 individuals were collected there in 1953, only one was collected in 1989, and none were collected in 1997.

(2.) San Felipe Creek

San Felipe Creek constitutes the second largest segment of remaining habitat for Devils River minnow in Texas. Devils River minnow previously occurred in two areas on this stream. The upper area is associated with a series of headwater springs several miles upstream of the City of Del Rio and the lower area is associated with two large springs in Del Rio.

In 1979, Devils River minnow made up about 2 percent of all collections (total of 3,458 fish), and was the seventh most abundant of 16 species in the headwater springs in the upper portion of San Felipe Creek. In 1989, no Devils River minnow were collected from this site (Garrett *et al.* 1992). No known collections have been made in this area since 1989. This area of San Felipe Creek (upstream of Del Rio) is privately owned and no information is available to discern why the populations of Devils River minnow in this area have significantly declined.

In San Felipe Springs (in Del Rio) in 1989, the fish was very rare (less than 1 percent of 1,651 fish collected, and the tenth most abundant of 12 species collected) (Garrett *et al.* 1992). Data from 1997 suggest that the Devils River minnow is common in the San Felipe Springs and the urban section of the creek (about 50 individuals were collected for captive study) (Gary Garrett, TPWD, *in litt.* 1997).

The San Felipe Springs are located within the City of Del Rio and may be threatened with future habitat changes from continued urban development. Brune (1975) lists San Felipe Springs as one of the four largest springs in Texas. The City draws water directly from the springs which are the sole source of the City's municipal water supply. The expected population growth of Del Rio is projected to be low (0.5 to 1 percent annual growth). With some water conservation measures in place to reduce per capita water use, the City could reduce its water consumption in coming decades. However, any future declines in spring flows due to increased withdrawals could affect the Devils River minnow population in this location. Presently, Amistad Reservoir is thought to increase spring flows from San Felipe Springs because the pool elevation of the reservoir is often higher than that of the spring outlet. This situation places hydrostatic pressure on San Felipe Springs through inundated spring openings within the reservoir (Brune 1981).

Water quality and contamination are constant threats to the population in San Felipe Creek because of the urban setting. Recent studies by the Texas Natural Resource Conservation Commission (TNRCC) (1994) found elevated levels of nitrates, phosphates and orthophosphates in San Felipe Creek, indicating potential water quality problems. Land uses in the immediate area of the springs, such as runoff from the municipal golf course near the spring, may be contributing to these conditions. Other threats from catastrophic events such as contaminant spills could affect the species.

Based on the current abundance of the Devils River minnow in San Felipe Creek, it appears that existing practices that could impact the aquatic habitat are not yet serious enough to significantly reduce the local population. Aquatic habitat conservation measures (such as water use conservation and water quality protection) in this section of San Felipe Creek could help ensure survival of the species there.

(3.) Sycamore Creek

Sycamore Creek constitutes a relatively small portion of the range of the species. There is only one published account of fishes in this stream from one site, at the State Highway 277 crossing near the Rio Grande River (Garrett *et al.* 1992), although Harrell (1980) references the species' occurrence there. Garrett *et al.* (1992) found very few individuals at this location. Sycamore Creek is an ungaged stream, and there is little information available on habitat conditions. However, the Devils River minnow in this stream is evidently very rare and faces increased risks for extirpation because of the apparent small population size. Devils River minnow in Sycamore Creek likely face potential threats from decreasing spring and stream flows due to groundwater withdrawals and some land use practices in the watershed.

(4.) Las Moras Creek

Las Moras Creek represents the eastern extent of the range of the species. Although the populations there may have been restricted to the spring

area in Brackettville, the number of fish in historic collections was relatively large (54 individuals were collected in 1953) (Hubbs and Brown 1956). The natural spring system in Brackettville that supports Las Moras Creek is the location of the earliest collection of Devils River minnow. The species has not been collected from these springs since the 1950s and is believed to be extirpated from that stream, based on several sampling efforts in the late 1970's and 1980's (Smith and Miller 1986; Hubbs *et al.* 1991; Garrett *et al.* 1992).

Habitat for the Devils River minnow was lost when the spring was altered by damming the outflow and removing streambank vegetation to create a recreational swimming pool. Garrett *et al.* (1992) reported that the creek smelled of chlorine, indicating that the swimming pool may be maintained with chlorination (a toxin to fish). Garrett *et al.* 1992 also indicates that spring flow has been drastically reduced by drought and diversion of water for human consumption. This combination of habitat loss and alteration and the resulting water quality problems appears to be the most likely cause for the apparent extirpation of the species from Las Moras Creek.

(5.) Rio Salado

The populations of Devils River minnow in the Rio Salado Drainage of northern Mexico represent a critical portion of the range. These streams are southern tributaries of the Rio Grande and are geographically distinct from the tributaries where the fish occurs in Texas. Garrett *et al.* (1992) cites that the Devils River minnow occurs in low numbers in the Rio San Carlos and Rio Sabinas. The species may also occur in the Rio Alamo (S. Contreras-B., University of Nuevo Leon, *in litt.* 1997).

The condition of aquatic habitats in the Rio Salado drainage in Mexico is extremely poor. Contreras and Lozano (1994) report that aquatic ecosystems in this region of Mexico face significant threats due to groundwater and surface water withdrawals, as well as air and water pollution. Watersheds in northern Mexico have been heavily impacted by land uses and industrial development (S. Contreras-B., University of Nuevo Leon, *in litt.* 1997). The Rio Sabinas, in particular, has been noted for decreasing flows; and spring systems within Coahuila have been extensively exploited (Contreras and Lozano 1994).

(6.) Range-Wide

Habitat loss and modification throughout a significant portion of the range of the Devils River minnow has resulted in both the fragmentation and contraction of the range of the species. The previous occurrences of known populations of Devils River minnow in Texas can be grouped into nine geographic areas, primarily associated with spring systems: five areas in the Devils River (lower Devils River, Dolan Falls, Baker's Crossing, Pecan Springs, Juno to Beaver Lake); two areas in San Felipe Creek (headwater springs and Del Rio); one area in Sycamore Creek; and one area in Las Moras Creek. Of these nine areas, the best available information indicates that a viable population may exist only in San Felipe Creek in Del Rio. The known existence of only one viable population located in an urban setting makes the threat of extinction of the species within the U.S. very high. Although detailed information is limited regarding the status of the species in Mexico, its condition there is likely at least to be threatened.

The construction of Amistad Dam has separated the two primary populations of Devils River minnow in Texas (Devils River and San Felipe Creek) and assured they will be permanently isolated from one another. This population fragmentation has significant conservation implications (Gilpin 1987). Determining and monitoring the genetic structure of the different Devils River minnow populations will be needed to ensure the necessary genetic variation within and among populations is not lost (Meffe 1986; Minckley *et al.* 1991).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not considered a significant threat to the Devils River minnow. However, there is a potential for impacts should this species be harvested as a baitfish (either commercially or non-commercially).

C. Disease or Predation

The Devils River minnow may be affected by the presence of introduced fishes within its range. Of special concern is the threat of predation by smallmouth bass (*Micropterus dolomieu*), a game fish introduced to Amistad Reservoir in about 1975. The smallmouth bass is native to eastern North America but has been widely introduced as a sport fish to reservoirs and streams outside its natural range. It is believed smallmouth bass gained access to the upper portions of the Devils River (upstream of Dolan Falls) in the early to mid-1980's (Gary Garrett, TPWD, pers. comm. 1997). This species is now the dominant predator in the fish community of the Devils River. The TPWD is currently managing the Devils River as a trophy smallmouth bass fishery.

The Devils River minnow evolved in the presence of native piscivores such as channel catfish (*Ictalurus punctatus*) and largemouth bass (*Micropterus salmoides*) and is adapted to persist with these species. However, smallmouth bass are not native, are aggressive predators, and are known to impact other native fish communities (Taylor *et al.* 1984, Moyle 1994). The Devils River minnow falls within the size class of small fishes that are susceptible to predation by smallmouth bass. The scarcity of Devils River minnow in the Devils River (where smallmouth bass are prominent) and the abundance of Devils River minnow in San Felipe Creek (where smallmouth bass are not known to occur) provides circumstantial evidence of the likely impacts of this introduced predator. The establishment of smallmouth bass in San Felipe Creek is another potential threat to that Devils River minnow population.

The release (intentional or unintentional) of other minnows into areas inhabited by Devils River minnow is another potential threat. Live bait fish are commonly discarded by anglers resulting in introductions of nonnative species. This situation has occurred in many streams in the southwestern U.S. with considerable impacts to the native fish community (Moyle 1994). Exotic fishes from aquariums can also be introduced into local waters. Currently, only a small number of introduced fishes occur within the range of the Devils River minnow, but the potential for bait bucket introductions is high because of the number of anglers on the Devils River. Threats to the populations of Devils River minnow from possible introduction and establishment of nonnative fishes include diseases, parasites, competition for food and space, and hybridization.

D. The Inadequacy of Existing Regulatory Mechanisms

The Devils River minnow is listed as a threatened species by the State of Texas. This provides some protection from collecting, as a permit is required to collect listed species in Texas. However, there is no State or local mechanism to protect habitat for the conservation of the species. In addition, limited regulations exist to prevent unintentional releases of exotic species by the baitfish industry and anglers.

Limited State regulations exist that serve to protect instream flows for surface water rights and water quality for wildlife and human uses. However,

these regulations were not designed to conserve habitat for native fishes and currently no minimum instream flows are required on streams where Devils River minnow occur. Surface water rights along the Rio Grande in Texas and its U.S. tributaries are administered by the State of Texas. Groundwater withdrawals that could be affecting stream flows within the range of the Devils River minnow are unregulated. Texas courts have held that, with few exceptions, landowners have the right to take all the water that can be captured under their land (right of capture). Therefore, there is little opportunity to protect groundwater reserves within existing regulations.

State Water Quality Standards, though primarily concerned with protecting human health, may provide some protection to the Devils River minnow and its habitat. The classification of the Devils River and San Felipe Creek under the Texas Surface Water Quality Standards requires maintenance of existing water quality. Sycamore and Las Moras Creeks are not classified under these standards

E. Other Natural or Manmade Factors Affecting Its Continued Existence.

The destruction of habitat throughout the range of the Devils River minnow has reduced the number of viable populations of the species, perhaps down to as few as one. The restricted range makes the species especially vulnerable to extinction. The Devils River minnow is currently known to be common in only one location, San Felipe Creek in Del Rio, and this population is threatened due to its proximity to the urban environment.

Populations of Devils River minnow in Sycamore Creek, and possibly the Devils River, may have so few individuals that they may no longer constitute viable populations (Caughley and Gunn 1996). Small populations can lead to genetic erosion through inbreeding and are more vulnerable to loss from random natural events than larger populations (Meffe 1986).

The overall decline in abundance of Devils River minnow is likely the result of several cumulative factors. For example, subtle changes in stream flows could produce small shifts in habitat use that make the species more vulnerable to competition and predation by native predators and nonnative smallmouth bass. In addition, long-term drought can have a major effect on the habitat of the species, particularly when combined with impacts of human water use. This species has adapted to the historic natural climatic variations (such as large floods and prolonged droughts). However, in conjunction with other threats to the species (primarily existing habitat loss and exotic predators), a drought could significantly increase the threat of extinction. The use of water supplies for human needs (municipal or agricultural) serves to worsen the effects of drought on the natural environment.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Devils River minnow as endangered. The species currently inhabits a very limited range and the best scientific information available indicates a decline in abundance throughout the range of the species. The species is in danger of becoming extinct in the foreseeable future throughout all or a significant portion of its range. Threatened status would not accurately reflect the vulnerability of the species due to its restricted range and low numbers. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

The Service finds that the designation of critical habitat for the Devils River minnow is not prudent due to lack of benefit. The section 7 prohibitions against adverse modification of critical habitat apply to Federal actions only (see Available Conservation Measures section). The watersheds in the U.S. in which the Devils River minnow occurs are almost entirely in private ownership, and no significant Federal actions affecting the species' habitat are likely to occur in the area. Therefore, the designation of critical habitat would provide no benefit to the species.

In addition, any Federal action which would cause adverse modification of critical habitat for the Devils River Minnow likely would also cause jeopardy. Under section 7, actions funded, authorized, and carried out by Federal agencies may not jeopardize the continued existence of a species or result in the destruction or adverse modification of critical habitat. To ''jeopardize the continued existence'' of a species is defined as an action that appreciably reduces the likelihood of its survival and recovery. ''Destruction or adverse modification of critical habitat'' is defined as an appreciable reduction in the value of critical habitat for the survival and recovery of a species. Given the imperiled status of the Devils River minnow, it is likely that a Federal action that would destroy or adversely modify the species' critical habitat would also jeopardize its continued existence. Thus, prohibitions associated with critical habitat would be duplicative and superfluous, and would, therefore, provide no benefit to the species.

Finally, critical habitat designation can sometimes serve to highlight areas that may be in need of special management considerations or protection. The continued existence of the Devils River minnow is dependent upon the efforts of the TPWD and local land owners, and those parties are aware of the areas in need of special management considerations or protection. For these reasons, the designation of critical habitat for the Devils River minnow would provide no benefit to the species beyond that conferred by listing alone and is, therefore, not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation

actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species.

The State of Texas is currently working on a conservation agreement for the Devils River minnow. Because the agreement has not yet been finalized, the Service did not consider it in determining whether to issue this listing proposal. Should this agreement be finalized within a reasonable period of time, and should the Service decide that it potentially removes the need to list the species, the Service will extend or reopen the comment period for this proposal to accept comments on the agreement and its ability to remove the need to list the species.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing these interagency cooperation provisions of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat, if any has been designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include Army Corps of Engineers review and approval of activities such as the construction of roads, bridges, and dredging projects subject to Section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*) and U.S. Environmental Protection Agency authorization of discharges under the National Pollutant Discharge Elimination System. Other Federal agencies whose actions could require consultation include the Department of Defense, Natural Resources Conservation Service, the Federal Highways Administration, and the Department of Housing and Urban Development.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the U.S. to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.22.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and on-going activities within a species' range. The Service believes that, based on the best available information, the following actions will not result in a violation of section 9:

(1) Normal livestock grazing and other standard ranching practices which do not destroy or significantly degrade Devils River minnow habitat.

(2) Federally-approved projects that involve activities conducted in accordance with any reasonable and prudent measures given by the Service in accordance with section 7 of the Act.

Activities the Service believes could potentially harm the Devils River minnow and result in ''take'' include, but are not limited to:

(1) Unauthorized collecting or handling of the species.

(2) Any activities that may result in destruction or significant alteration of habitat occupied by Devils River minnow including, but not limited to, the discharge of fill material, the diversion or alteration of spring and stream flows or withdrawal of groundwater to the point at which habitat becomes unsuitable for the species, and the alteration of the physical channels within the spring runs and stream segments occupied by the species;

(3) Discharge or dumping of pollutants such as chemicals, silt, household or industrial waste, or other material into the springs or streams occupied by Devils River minnow or into areas that provide access to the aquifer and where such discharge or dumping could affect water quality in spring outflows;

(4) Herbicide, pesticide, or fertilizer application in violation of label restrictions in or near the springs containing the species; and

(5) Introduction of certain non-native species (fish, plants, and other) into occupied habitat of the Devils River minnow or areas connected to these habitats.

In the descriptions of activities above, a violation of section 9 would occur if those activities occur to an extent that would result in ''take'' of Devils River minnow. Not all of the activities mentioned above will result in violation of section 9 of the Act; only those activities which result in ''take'' of Devils River minnow would be considered violations of section 9. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor, Austin Ecological Services Field Office (see **ADDRESSES** section).

Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, Region 2, Endangered Species Listing Coordinator, 500 Gold Avenue SW., Room 4012, Albuquerque, New Mexico 87103–1306 (telephone 505/248–6655; facsimile 505/248–6922).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any

threat (or lack thereof) to the Devils River minnow;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of the species;

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communication may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Austin Ecological Services Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Austin Ecological Services Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Nathan Allan (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.11(h) by adding the following, in alphabetical order under ''Fishes,'' to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
*	*	*	*	*	*		*
Minnow, Devils River	Dionda diaboli	U.S.A. (TX), Mexico	Entire	E	.....	NA	NA
*	*	*	*	*	*		*

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–7997 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE56

Endangered and Threatened Wildlife and Plants; Extension of Public Comment Period on Proposed Endangered Status for the Pecos Pupfish (Cyprinodon pecosensis) and Notice of Public Hearing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period is extended on the proposed rule to list the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species. The Service is working with the New Mexico Department of Game and Fish, the New Mexico State Parks Department, the Texas Department of Parks and Wildlife, and the Bureau of Land Management to assess potential conservation actions for the species. The extension of the comment period will allow these entities and all other interested parties to continue to work with the Service and to submit comments on the proposal.

The Eddy County Board of Commissioners, Eddy County, New Mexico, has requested that a public hearing be held on this proposal. The Service gives notice that a public hearing will be held on the proposed rule.

DATES: The comment period for this proposal, originally opened from January 30 through March 31, 1998, will be extended to November 20, 1998. Comments must be received by the closing date. The public hearing will be held from 5 p.m. to 8 p.m. on April 9, 1998, in Carlsbad, New Mexico (see **ADDRESSES** section).

ADDRESSES: The public hearing will be held at the Pecos River Village Conference Center, 711 Muscatel, Carlsbad, New Mexico. Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna NE., Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, Field

Supervisor, at the above address or at telephone 505/761–4525, ext. 106.

SUPPLEMENTARY INFORMATION:

Background

The historical range of the Pecos pupfish included the mainstream Pecos River and various lakes, gypsum sinkholes, saline springs, and tributaries associated with the river from the vicinity of Roswell, Chaves County, New Mexico, downstream to the vicinity of Sheffield, Pecos County, Texas. The Pecos pupfish has been replaced by sheepshead minnow (*Cyprinodon variegatus*) x Pecos pupfish hybrids throughout more than two-thirds of its historical range. Pure populations of the Pecos pupfish are now thought to occur only in a reduced reach of the Pecos River and small and isolated off-channel habitats within the Pecos River Basin in New Mexico; in the upper reaches of Salt Creek, Culberson and Reeves counties, Texas; and in two water-filled gravel pits in Pecos County, Texas.

On January 30, 1998, the Service published a proposed rule to list the Pecos pupfish as endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. A public hearing request was received within the allotted time period from Laurie Kincaid, Chairman of the Eddy County Board of Commissioners, New Mexico.

The Service has scheduled this hearing in Carlsbad, New Mexico, on April 9, 1998, at the Pecos River Village Conference Center, 711 Muscatel, Carlsbad, New Mexico. Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of the statement to be presented to the Service at the start of the hearing. Oral statements may be limited to several minutes if there are many requests to speak. Oral comments presented at the public hearing are given the same weight and consideration as written comments. If the public hearing is of insufficient time to provide for all who wish to speak, all who are not accommodated will be asked to submit their comments in writing. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The Service must receive all comments by November 20, 1998. Comments should be submitted to the Service at the office listed in the **ADDRESSES** section above. Legal notices announcing the date, time, and location of the hearing are being published in newspapers concurrently with this **Federal Register** notice.

Author

The primary author of this notice is Jennifer Fowler-Propst, at the above address.

Authority

The authority citation for this action is 16 U.S.C. 1531–1544.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Reporting and recordkeeping requirements, Transportation.

Dated: March 20, 1998.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–8018 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 59
Friday, March 27, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Conference Room of William M. Mercer, Incorporated, 30th Floor, Conference Room 30C, 1166 Avenue of the Americas, New York, New York, on Monday, March 30, 1998, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Section 1242 (a)(1)(B).

We have determined as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that the subject of the meeting falls with the exception to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 17, 1998.

Robert I. Brauer,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 98–7979 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act: Revision of an Existing System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of an existing system of records.

SUMMARY: The U.S. Department of Agriculture is giving notice of a revision to its Privacy Act System of Records entitled Claims Against Food Stamp Recipients–USDA/FNS–3.

DATES: This revision will become effective on May 11, 1998, unless modified by a subsequent notice to incorporate comments received from the public. To be assured of consideration, comments must be received by the contact person listed below on or before April 27, 1998.

ADDRESSES: Comments should be addressed to James I. Porter, Assistant Branch Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, 3101 Park Center Drive, Room 905, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, Food and Nutrition Service Privacy Act Officer, Room 308, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone (703) 305–2244.

SUPPLEMENTARY INFORMATION: The Privacy Act requires FNS to publish this Privacy Act Systems of Records Notice to inform the public that certain changes are being made to a system of records containing information on individuals against whom fiscal claims have been established under the Food Stamp Program and to request public comment.

Monetary claims are established against food stamp recipients and former recipients who owe debts due to certain errors or infractions of Food Stamp Program rules. State and Federal Government offices seek collections for these debts through recoupment of benefits for recipients still receiving benefits, direct billing to non-recipients and other means. Debt collection and tracking systems necessarily were established to accomplish these collections, and the establishment of and certain changes to such systems require notification to the public under the Privacy Act.

This notice announces changes to implement the Treasury Offset Program (TOP). TOP is a mandatory government-wide delinquent debt matching and payment offset system, centralized in the Department of Treasury. The Debt Collection Act of 1982, as amended, (Pub.L. 97–365) provides statutory authority for Federal agencies to collect debts through administrative offset. The Debt Collection Improvement Act of 1996 (Pub.L.104–134) expands the statutory authority for TOP by requiring agencies to transfer delinquent non-tax debt to Treasury for the purpose of offsetting Federal payments to collect delinquent debts owed to the Federal Government. TOP operates in accordance with statutory and regulatory authorities, including those contained in 31 U.S.C. 3716 and 4 CFR part 102. Further, this notice announces our intent for the Department of Treasury and other debt collection centers designated as such by Treasury, to be among those with whom data may be shared.

FNS has been participating in the Federal Tax Refund Offset (FTROP) and Federal Salary Offset (FSOP) Programs. FNS published notices to test FTROP in 1991 and FSOP in 1994. Final regulations were published in 1995. Under these programs food stamp debts that occurred due to overissuance of program benefits, as a result of an intentional program violation or an inadvertent household error, are offset from Federal Tax Refunds and the salaries of Federal employees, respectively. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 removed some limits on collection methods for State agency error claims. As a result the scope of referable debts was broadened to include State agency error claims.

This Notice modifies the system of records entitled, Claims against Food Stamp Recipients—USDA/FNS—3 so that FNS can fully comply with the Department of the Treasury (Treasury) requirements for various debt collection actions. This Notice modifies the systems of records as follows. The current routine use (1) was changed to list Treasury and its designated collection centers as the referral points and to include Federal administrative payments as an additional routine use and record source category. The current routine use (2) was modified to eliminate the requirement that Federal employee claims be deleted from the tax refund claims, as there is no longer a separate FTROP, since both are subsumed under TOP.

FNS has included some technical changes that do not affect the operation of the system. The notice is modified to reflect that the system manager and system location are now in the FNS Grants Management Division rather than

in Accounting Division as a result of an internal reorganization.

The Privacy Act requires that any changes in the types of data entered into or extracted from systems of records, or changes in the entities with whom the data is shared be announced to the public in a notice. In this case, there are no changes in the types of data collected about individuals; however, more individuals will be affected by the notice with the addition of State agency error claims now being eligible for offset. Additional entities with whom the data may be shared are identified. The Department of the Treasury and other debt collection centers, as defined by Treasury are new entities with whom data will be shared.

Data will continue to be shared with the following entities: the Department of Defense (DOD); the United States Postal Service (USPS); other Federal agencies that employ debtors; State agencies for such purposes as updating claims files, collecting claims, and fiscal reporting; and Congressional offices in response to an inquiry from the Congressional office made at the request of the individual against whom the claim has been established.

Dated: March 20, 1998.

Signed at Washington, DC.

Dan Glickman,

Secretary of Agriculture.

USDA/FNS–3

SYSTEM NAME:

Claims Against Food Stamp Recipients—USDA/FNS–3.

SYSTEM LOCATION:

Grants Management Division, Food and Nutrition Service (FNS), United States Department of Agriculture, 3101 Park Center Drive, Room 415, Alexandria, Virginia 22302, and FNS Regional Offices located in: Atlanta, Georgia, which covers the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; Boston, Massachusetts, which covers the States of Connecticut, Massachusetts, Maine, New Hampshire, New York, Rhode Island, and Vermont; Chicago, Illinois, which covers the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; Dallas, Texas, which covers the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas; Denver, Colorado, which covers the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming; Trenton, New Jersey, which covers the State of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia; and San Francisco, California, which covers the State of Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, American Samoa, Trust Territories of the Pacific, and Washington. The address of each regional office is listed in the telephone directory of the respective cities listed above under the heading of ''United States Government, Department of Agriculture, Food and Nutrition Service.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received food stamp benefits to which they are not entitled.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in the system consists of individuals' names, addresses, Social Security Numbers and amounts of claims and amounts of any collections. The information in the system also includes identification of individuals' Federal and/or United States Postal Service (USPS) employing agencies and other sources of Federal payments, if any. The system also may include limited information about claims such as age, reasons for the overissuance of benefits, and State agency collection efforts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 2011–2031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the Department of Treasury (Treasury) or other designated debt collection centers for debt collection actions including administrative offset. (2) Referral to the Department of Defense (DOD) and the USPS to identify Federal and USPS employees owing claims. (3) Referral may be made to State agencies for such purposes as updating claims files, collecting claims, and for fiscal reporting. Referral may also be made to Federal agencies and the USPS for additional collection action. (4) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the written request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained by automated data storage methods such as magnetic tape and disk. Some records may also be maintained on paper.

RETRIEVABILITY:

Records are retrievable by name and Social Security Number.

SAFEGUARDS:

Access to records is limited to those persons who process the records for the specific routine uses stated above. Records in such forms as magnetic tape are kept in physically secured rooms and/or cabinets. Various methods of computer security limit access to records in automated databases. Paper records will be segregated and physically secured in locked cabinets.

RETENTION AND DISPOSAL:

The Food and Nutrition Service retains records for no longer than two years. All records are either returned to State agencies or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Grants Management Division, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Room 415, Alexandria, Virginia 22302.

NOTIFICATION PROCEDURE:

Individuals may request from the system manager identified in the preceding paragraph information regarding this system of records or whether the system contains records pertaining to them. Individuals requesting such information must provide their name, address and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals may obtain information about records in the system which pertain to them by written or oral requests to the system manager. To assure confidentiality and prompt routing, written requests should be marked ''Privacy Act Request.''

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct requests to the system manager, state the reasons for contesting the information and provide any available documentation to support the requested action.

RECORD SOURCE CATEGORIES:

Information in this system comes from State agency files concerning food stamp recipient claims, from IRS files of addresses of individuals who have filed income tax returns, Information in this system also comes from DoD and USPS files of individuals who are currently employed by or who are receiving pensions and other payments from Federal agencies and the USPS, and

from all other sources of Federal payments.

[FR Doc. 98–8104 Filed 3–26–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on April 17, 1998 at the Jamestown s'Klallam Tribal Center, 1033 Old Blyn Highway, Sequim, Washington. The meeting will begin at 9:30 a.m. and continue until 3:00 p.m. Agenda items to be covered include: (1) Review and update on 1998 watershed restoration program; (2) Update on listing of salmon stocks under the Endangered Species Act in the Puget Sound area; (3) Update from the Monitoring sub-committee; (4) Review of Chief Dombeck's Agenda for the Forest Service; (5) Update or current projects and activities on the Quilcene Ranger District. Olympic Province Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360) 765–2211.

Dated: March 20, 1998.

Claire Lavendel,

Acting Forest Supervisor.

[FR Doc. 98–8122 Filed 3–26–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Little Toby Creek Watershed, PA

AGENCY: USDA—Natural Resources Conservation Service.

ACTION: ''Notice of a Finding of No Significant Impact''.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR, Part 1500); and the Natural Resources Conservation Service (formerly the Soil Conservation Service) Guidelines (7 CFR, Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Toby Creek Watershed, Elk and Jefferson Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Oertly, State Conservationist, USDA—Natural Resources Conservation Service, Suite 340, One Credit Union Place, Harrisburg, Pennsylvania 17110–2993, telephone (717) 237–2202; fax (717) 237–2239.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant adverse impacts on the local, regional, or national environment. As a result of these findings, Janet L. Oertly, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for water quality improvement by treating acid mine drainage from seven discharges that are the source of surface water pollution. The planned works of improvement involve six passive wetland treatment systems and one hydrated lime dosing plant to reduce acid, iron, and aluminum loadings into watershed streams. A deep mine opening will be closed and a mine highwall will be removed.

The ''Notice of a Finding of No Significant Impact'' (FONSI) has been forwarded to the U.S. Environmental Protection Agency. A limited number of copies of the FONSI is available to fill single copy requests at the above address. The environmental assessment and basic data may be reviewed by contacting Janet L. Oertly.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

[FR Doc. 98–7990 Filed 3–26–98; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: April 27, 1998.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 6, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (63 F.R. 6152) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in

connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Grounds Maintenance

S.E. Army Reserve Intelligence Center, Building 839, Fort Gillem, Georgia

Janitorial/Custodial

Greensburg AMSA 104, Greensburg, Pennsylvania

Janitorial/Custodial OCIE Warehouse, Latrobe, Pennsylvania

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities.
3. The action will result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Bag, Paper, Grocer's

8105–00–281–1158
8105–00–281–1163
8105–00–281–1425
8105–00–271–1485
8105–00–286–7308
8105–00–281–1156
8105–00–281–1429
8105–00–579–9161
8105–00–022–1319
8105–00–543–7169
8105–00–262–7363
8105–00–130–4586

G. John Heyer,

General Counsel.

[FR Doc. 98–8045 Filed 3–26–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 27, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.
3. The action will result in authorizing small entities to furnish the commodity and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Pen, Black, Ergonomic
M.R. 013
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin

Services

Food Service
Great Lakes Naval Training Center, (Galleys 535, 928 & 1128), 2703 Sheridan Road, Great Lakes, Illinois
NPA: GWS, Inc., Milwaukee, Wisconsin

Janitorial/Custodial

USARC Headquarters, Fort McPherson, Georgia
NPA: WORKTEC, Jonesboro, Georgia

G. John Heyer,

General Counsel.

[FR Doc. 98–8047 Filed 3–26–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Additions to the Procurement List; Correction

In the document appearing on page 9999, FR Doc. 98–5095, in the issue of February 27, 1998, in the first column, the service listed as Janitorial/Custodial, Marine Corps Air Base, Camp Pendleton, California should read Janitorial/Custodial, (including Fallbrook Naval Ordinance Center), Camp Pendleton, California.

G. John Heyer,

General Counsel.

[FR Doc. 98–8046 Filed 3–26–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Short Supply Regulations, Petroleum (Crude Oil).

Agency Form Number: None.

OMB Approval Number: 0694–0027.

Type of Request: Extension of a currently approved collection of information.

Burden: 196 hours.

Average Time Per Response: Ranges between 4 to 10 hours per response.

Number of Respondents: 24 respondents.

Needs and Uses: The export of U.S. domestic crude oil is restricted by five separate, but overlapping statutes. The Export Administration Regulations require that applications for licenses to export crude oil under the provisions of the statutes must include supporting documents and statements to prove compliance with the Act. The information is used by licensing officers to determine the exporter's compliance with the statutes.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dennis Marvich (202) 395–3122.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Dennis Marvich, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: March 23, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–8013 Filed 3–26–98; 8:45 a.m.]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Order Amending August 3, 1995 Order Denying Export Privileges

In the Matter of: Realtek Semi-Conductor Co., Ltd., with addresses at 3F, 56, Wu-Kung 6 Rd., Wu-Ku Industrial Park, Taipei Hsien, Taiwan; 1F, No. 11 Industry E. Rd. IX, Science-Based Industrial Park, Hsinchu, 300 Taiwan; and 6F, No. 4 Fu-Shon Street, Taipei, Taiwan, Respondent.

On August 3, 1995, I issued a Decision and Order of Default (hereinafter the ''Order'') against Realtek Semi-Conductor Co. Ltd. (hereinafter ''Realtek''), affirming a Recommended Decision and Default Order (hereinafter ''Decision'') issued by Edward J. Kuhlmann, Administrative Law Judge. In his Decision, Judge Kuhlmann found that Realtek had violated the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1997)) (hereinafter the ''Regulations''),[1] issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1997)) (hereinafter the ''Act''),[2] by causing, aiding, or abetting the export of U.S.-origin Trident TVGA 8800 and TVGA 8900 graphic chip technology from the United States to Taiwan without the written letter of assurance required by Section 779.4 of the former Regulations. Based on Judge Kuhlmann's Decision and by Order of August 3, 1995, I denied all of Realtek's U.S. export privileges for five years. The Order was published in the **Federal Register** (60 FR 40565, August 9, 1995).

Since publication of that Order, Realtek has moved from the addressed listed on the August 3, 1995 Order. Set forth below are the current addresses for the company, which replace the address listed on the August 3, 1996 Order.

3F, 56, Wu-Kung 6 Rd., Wu-Ku Industrial Park, Taipei Hsien, Taiwan,

and

1F, No. 11 Industry E. Rd. IX, Science-Based Industrial Park, Hsinchu, 300 Taiwan

This order is effective immediately and will be published in the **Federal Register.**

Dated: March 19, 1998.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 98–8025 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Regulations governing the violation referenced in the August 3, 1995 Order are found in the 1994 version of the Code of Federal Regulations (15 CFR Parts 768–799 (1994)) and are hereinafter referred to as the former Regulations. Since that time the Regulations have been reorganized and restructured.

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), and August 13, 1997 (62 FR 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1997)).

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 962]

Grant of Authority for Subzone Status; Shell Oil Company Oil Refinery, Mobile County, AL; Correction

The **Federal Register** notice (63 FR 13168, 3/18/98) describing Foreign-Trade Zones Board Order 962 (approved 3/6/98) authorizing special-purpose subzone status at the oil refinery complex of Shell Oil Company, located in Mobile County, Alabama, is corrected as follows:

Paragraph 6, Sentence 1, should read, ''*Now, therefore,* the Board hereby authorizes the establishment of a subzone (Subzone 82G) at the oil refinery complex of Shell Oil Company, located in Mobile County, Alabama, * * *''

Dated: March 19, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–8108 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 13–98]

Foreign-Trade Zone 216—Olympia, WA Request for Export Processing Authority; Darigold, Inc. Dairy By-Products

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Olympia, grantee of FTZ 216, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Darigold, Inc. (Darigold), to process certain dairy by-products for export under FTZ procedures within FTZ 216. It was formally filed on March 19, 1998.

Darigold operates a 74,000 square foot dairy product processing facility (37 employees) within FTZ 216—Site 13 located at 67 S.W. Chehalis Avenue in Chehalis, Washington, for manufacturing/ processing a variety of dairy products, such as dry milk and whey, for the U.S. market and export. This application requests authority on behalf of Darigold to process foreign origin, ex-quota liquid whey permeate (a by-product of cheese manufacturing) into dried whey under FTZ procedures for export. In this activity, foreign whey permeate (HTSUS 0404.10.11, duty rate—13%) would be admitted to FTZ 216 to be processed (pasteurized,

evaporated, crystallized, dried) into powdered whey (HTSUS 0404.10.50, 3.3%). All of the finished powdered whey would be exported in 25 kilogram bags, and no foreign, ex-quota liquid whey permeate would be entered for U.S. consumption.

FTZ procedures would exempt Darigold from U.S. dairy product quota requirements and Customs duty payments on the foreign whey permeate used in this export activity. The application indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 11, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 26, 1998).

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 19, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–8109 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Termination of New Shipper Antidumping Duty Administrative Review

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

SUMMARY: On August 22, 1997, the Department of Commerce published a notice of initiation of a new shipper administrative review of the antidumping duty order on certain pasta from Italy. The Department is now terminating that review.

EFFECTIVE DATE: March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Edward Easton or John Brinkmann, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1777 or 482–5288, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to the regulations at 19 CFR Section 353, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On June 17, 1997, Amabile S.r.l. (''Amabile'') requested that the Department conduct a new shipper review of the antidumping duty order on certain pasta from Italy. On August 15, 1997, the Department initiated a new shipper review for Amabile relating to the antidumping duty order on certain pasta from Italy, covering the period July 1, 1996 through June 30, 1997 (62 FR 44643, August 22, 1997). On September 4, 1997, we issued the Department's antidumping duty questionnaire [1] to Amabile. On October 3, 1997, Amabile requested an extension to respond and consequently submitted its response to Sections A–C of the questionnaire on November 3, 1997. The Department initiated a cost investigation on December 24, 1997, and Amabile submitted its response to Section D of the antidumping questionnaire on January 28, 1998.

On January 22, 1998, the Department extended the time for completion of the preliminary results of this review to no later than June 11, 1998 (63 FR 4218, January 28, 1998).

Termination of New Shipper Review

On February 19, 1998, counsel for Amabile informed the Department in writing that its only U.S. sales during the period of review had been canceled. Given its lack of sales to the United States during the period of review, Amabile withdrew its request for a new shipper review and requested that the Department terminate the new shipper review. Therefore, the Department is terminating the new shipper review concerning Amabile.

This notice is published pursuant to 19 CFR 353.22(h).

Dated: March 19, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–8106 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DS–P

[1] Section A of the questionnaire requests information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request home market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

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

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

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results for the sixth review of silicon metal from Brazil. This review covers the period July 1, 1996 through June 30, 1997.

EFFECTIVE DATE: March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Lisette Lach at 202/482–0190 or Cindy Sonmez at 202/482–0961; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

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

Extension of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (*See* Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration, March 19, 1998). The Department is extending the time limit for completion of the preliminary results until July 30, 1998 in accordance with section 751(a)(3)(A) of the Act.

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

Dated: March 20, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–8107 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 980320072–8072–01]

Solicitation of Minority Business Development Center Applications for Miami/Ft. Lauderdale, Raleigh/Durham, San Antonio, El Paso, Statewide New Mexico, Philadelphia, Williamsburg, Seattle, Honolulu and San Jose

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Minority Business Development Centers (MBDC) listed in this document.

The purpose of the MBDC Program is to provide business development assistance to persons who are members of groups determined by MBDA to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

DATES: The closing date for applications is April 27, 1998, 5:00 p.m. (local time). Applications must be received in the Executive Secretariat or Room 1874 on or before the closing date.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, NW., Room 5073, Washington, DC 20230. If application is hand delivered by the applicant or its representative, it must be delivered to Room 1874, which is located at entrance #10, 15th Street NW, between Pennsylvania and Constitution Avenues.

PRE-APPLICATION CONFERENCE: A pre-application conference will be held for each MBDC. Interested applicants should immediately contact the appropriate regional office, as indicated below, for further information.

Proper Identification Is Required for Entrance Into Any Federal Building.

1. *MBDC Application:* Miami/Ft. Lauderdale.

Consolidated Metropolitan Statistical Area: Miami/Ft. Lauderdale, Florida.

Award Number: 04–10–98003–01.

Pre-Application Conference: For the exact date, time and place, contact the Atlanta Regional Office at (404) 730–3300.

For Further Information and an Application Package, Contact: Robert Henderson, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (6 months) from July 1, 1998 to December 31, 1998, is estimated at $333,427. The total Federal amount is $283,413 and is composed of $276,500 plus the Audit Fee amount of $6,913. The application must include a minimum cost share of 15%, $50,014 in non-Federal (cost-sharing) contributions for a total project cost of $333,427. The operator of the Miami/Ft. Lauderdale MBDC is required to maintain a satellite office in the Ft. Lauderdale, Florida Primary Metropolitan Statistical Area, as well as having their Headquarter's office in the Miami, Florida Primary Metropolitan Statistical Area.

2. *MBDC Application:* Seattle.

Primary Metropolitan Statistical Area: Seattle, Washington.

Award Number: 09–10–98004–01.

Pre-Application Conference: For the exact date, time and place, contact the San Francisco Regional Office at (415) 744–3001.

For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (6 months) from July 1, 1998 to December 31, 1998, is estimated at $111,098. The total Federal amount is $94,434 and is composed of $92,130 plus the Audit Fee amount of $2,304. The application must include a minimum cost share of 15%, $16,664 in non-Federal (cost-sharing) contributions for a total project cost of $111,098.

3. *MBDC Application:* San Jose.

Primary Metropolitan Statistical Area: San Jose, California.

Award Number: 09–10–98005–01.

Pre-Application Conference: For the exact date, time and place, contact the San Francisco Regional Office at (415) 744–3001.

For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $333,125. The total Federal amount is $283,156 and is composed of $276,250 plus the Audit Fee amount of $6,906. The application must include a minimum cost share of 15%, $49,969 in non-Federal (cost-sharing) contributions for a total project cost of $333,125.

4. *MBDC Application:* San Antonio.

Metropolitan Statistical Area: San Antonio, Texas.

Award Number: 06–10–98002–01.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and an Application Package, Contact: John Iglehart, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (6 months) from July 1, 1998 to December 31, 1998, is estimated at $166,562. The total Federal amount is $141,578 and is composed of $138,744 plus the Audit Fee amount of $2,834. The application must include a minimum cost share of 15%, $24,984 in non-Federal (cost-sharing) contributions for a total project cost of $166,562.

5. *MBDC Application:* El Paso.

Metropolitan Statistical Area: El Paso, Texas.

Award Number: 06–10–98003–01.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and an Application Package, Contact: John Iglehart, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $198,970. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share of 15%, $29,845 in non-Federal (cost-sharing) contributions for a total project cost of $198,970.

6. *MBDC Application:* Statewide New Mexico.

Metropolitan Statistical Area: State of New Mexico.

Award Number: 06–10–98006–01.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and an Application Package, Contact: John Iglehart, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $333,125. The total Federal amount is $283,156 and is composed of $276,250 plus the Audit Fee amount of $6,906. The application must include a minimum cost share of 15%, $49,960 in non-Federal (cost-sharing) contributions for a total project cost of $333,125.

7. *MBDC Application:* Philadelphia.

Primary Metropolitan Statistical Area: Philadelphia, Pennsylvania.

Award Number: 02–10–98002–01.

Pre-Application Conference: For the exact date, time and place, contact the New York Regional Office at (212) 264–3262.

For Further Information and an Application Package, Contact: Heyward Davenport, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $388,898. The total Federal amount is $330,563 and is composed of $322,500 plus the Audit Fee amount of $8,063. The application must include a minimum cost share of 15%, $58,335 in non-Federal (cost-sharing) contributions for a total project cost of $388,898.

8. *MBDC Application:* Williamsburg.

Metropolitan Statistical Area: Williamsburg/Brooklyn, New York.

Award Number: 02–10–98003–01.

Pre-Application Conference: For the exact date, time and place, contact the New York Regional Office at (212) 264–3262.

For Further Information and an Application Package, Contact: Heyward Davenport, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $385,882. The total Federal amount is $328,000 and is composed of $320,000 plus the Audit Fee amount of $8,000. The application must include a minimum cost share of 15%, $57,882 in non-Federal (cost-sharing) contributions for a total project cost of $385,882.

9. *MBDC Application:* Honolulu.

Metropolitan Statistical Area: Honolulu, Hawaii.

Award Number: 09–10–98006–01.

Pre-Application Conference: For the exact date, time and place, contact the San Francisco Regional Office at (415) 744–3001.

For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (4 months) from September 1, 1998 to December 31, 1998, is estimated at $68,166. The total Federal amount is $68,166 and is composed of $66,666 plus the Audit Fee amount of $1,500. The application must include a minimum cost share of 15%, $12,029 in non-Federal (cost-sharing) contributions for a total project cost of $80,195.

10. *MBDC Application:* Raleigh/Durham.

Metropolitan Statistical Area: Raleigh/Durham, North Carolina.

Award number: 04–10–98004–01.

Pre-Application Conference: For the exact date, time and place, contact the Atlanta Regional Office at (404) 730–3300.

For Further Information and an Application Package, Contact: Robert Henderson, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $353,972. The total Federal amount is $300,876 and is composed of $292,624 plus the Audit Fee amount of $8,252. The application must include a minimum cost share of 15%, $53,096 in non-Federal (cost-sharing) contributions for a total project cost of $353,972. The operator of the Raleigh/Durham MBDC is required to maintain a satellite office in the Charlotte, North Carolina Metropolitan Statistical Area, as well as having their Headquarter's office in the Raleigh/Durham, North Carolina Metropolitan Statistical Area.

SUPPLEMENTARY INFORMATION: The following information and requirements are applicable to the listed MBDCs: Miami/Ft. Lauderdale, Raleigh/Durham, San Antonio, El Paso, Statewide New Mexico, Philadelphia, Williamsburg, Seattle, Honolulu, and San Jose.

The funding instrument for this project will be a cooperative agreement. Competition is open to non-profit and for-profit organizations (including sole-proprietors), state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated by an independent panel of at least three individuals qualified to review the applications based on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. The competitive panel's evaluations are then considered by the Regional Director or the Director's designee who makes a recommendation for selection to the Director of MBDA. The Director of MBDA will review those applications determined to be acceptable and responsive. Recommendations by the Regional Director or the Director's designee and final award selection by the Director shall be based on the number of evaluation criteria points received, the demonstrated responsibility of the applicant, and the Director's determination of the applications most likely to further the purpose of the MBDA program. Negative audit findings, financial instability, and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. Applicants not selected for these reasons will be notified. The applicant with the highest point score will not necessarily receive the award. On occasion, competitive solicitations or competitive panels may produce results that do not satisfactorily comply with MBDA program requirements. Some examples of unsatisfactory results are as follows:

- Competition resulting in no applications,
- Competition resulting in one programmatically acceptable application (where the MBDA Director establishes with written justification that a slate of more than one programmatically acceptable application is necessary), and
- Competition resulting in all unresponsive applications (determined to be programmatically unacceptable).

In these cases, MBDA will take the most time and cost effective approach available that is in the best interest of

the government to achieve its mission. This includes one of the following:

- *Recompetition*—is the most acceptable option. Where time and funding considerations allow for recompetition, MBDA will cancel the original solicitation and issue a new one; beginning a new round of competition.
- *Re-paneling*—is a viable option when the MBDA Director has reason to question either the objectivity or proper scoring of a panel.
- *Negotiation*—may be an option in those instances where the MBDA Director believes that recompeting would produce the same or similar results as the original competition and is, therefore, a waste of government money and time. When negotiations occur because recompeting is not a viable option, negotiations must occur equitably with all original applicants.
- *Cancellation*—is appropriate when none of the above is determined to be a viable option, or for other programmatic reasons.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Under MBDA's existing competitive program cycle, an MBDC recipient can receive two additional twelve-month budget periods. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. The contact person indicated above can answer questions concerning the preceding information, and copies of application kits and applicable regulations can be obtained at the above address. This document involves collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0640–0006. 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 current valid OMB control number.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Application Forms and Kit—Standard Forms 424, Application for Federal Assistance; 424A, Budget Information—Non-Construction Programs; and 424B, Assurances—Non-Construction Programs, (Rev 4–92), shall be used in applying for financial assistance. An application kit containing all application forms and certifications is available by contacting the appropriate Regional Office listed as further information contacts.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Indirect Costs—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect costs rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Outstanding Accounts Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters, which significantly reflect on the applicant's management honesty or financial integrity.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, § 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, § 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, § 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase

American-made equipment and products with funding provided under this program.

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance)

Dated: March 23, 1998.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

Courtland Cox,

Acting Director, Minority Business Development Agency.

[FR Doc. 98–8081 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–21–U

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 980320072–8075–02]

Solicitation of Native American Business Development Center Applications for Minnesota, North/South Dakota, and Oklahoma

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Native American Business Development Centers (NABDC) listed in this document.

The purpose of the NABDC Program is to provide integrated business development services to Native American entrepreneurs and other eligible clients within designated geographic service areas.

DATES: The closing date for applications is April 27, 1998, 5:00 p.m. (local time). Applications must be received in the Executive Secretariat or Room 1874 on or before the closing date.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230. If application is hand delivered by the applicant or its representative, it must be delivered to Room 1874, which is located at entrance #10, 15th Street NW, between Pennsylvania and Constitution Avenues.

PRE-APPLICATION CONFERENCE: A pre-application conference will be held for each NABDC. Interested applicants should immediately contact the appropriate regional office, as indicated below, for further information.

Proper Identification Is Required for Entrance Into Any Federal Building.

1. NABDC Application: Minnesota.

Metropolitan Statistical Area: State of Minnesota.

Award Number: 05–10–98001–01.

Pre-Application Conference: For the exact date, time and place, contact the Chicago Regional Office at (312) 353–-0182.

For Further Information and an Application Package, Contact: David Vega, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $169,125. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125.

2. NABDC Application: North/South Dakota.

Metropolitan Statistical Area: States of North and South Dakota.

Award Number: 06–10–98004–01.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and an Application Package, Contact: John Iglehart, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $169,125. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125.

3. NABDC Application: Oklahoma.

Metropolitan Statistical Area: State of Oklahoma.

Award Number: 06–10–98005–01.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and an Application Package, Contact: John Iglehart, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from January 1, 1999 to December 31, 1999, is estimated at $254,200. The total Federal amount is $254,200 and is composed of 248,000 plus the Audit Fee amount of $6,200.

SUPPLEMENTARY INFORMATION: The following information and requirements are applicable to the listed NABDCs: Minnesota, North/South Dakota, and Oklahoma.

The funding instrument for this project will be a cooperative agreement. Competition is open to non-profit and for-profit organizations (including sole-proprietors), state and local governments, American Indian tribes and educational institutions.

Applicaitons will be evaluated by an independent panel of at least three individuals qualified to review the applications based on the following criteria: The knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of Native American businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. The competitive panel's evaluations are then considered by the Regional Director or the Director's designee who makes a recommendation for selection to the Director of MBDA. The Director of MBDA will review those applications determined to be acceptable and responsive. Recommendations by the Regional Director or the Director's designee and final award selection by the Director shall be based on the number of evaluation criteria points received, the demonstrated responsibility of the applicant, and the Director's determination of the applications most likely to further the purpose of the MBDA program. Negative audit findings, financial instability, and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. Applicants not selected for these reasons will be notified. The applicant with the highest point score will not necessarily receive the award. On occasion, competitive solicitations or competitive panels may produce results that do not satisfactorily comply with MBDA program requirements. Some examples of unsatisfactory results are as follows:

- Competition resulting in no applications,
- Competition resulting one programmatically acceptable application (where the MBDA Director establishes with written justification that a slate of more than one programmatically acceptable application is necessary), and

• Competition resulting in all unresponsive applications (determined to be programmatically unacceptable).

In these cases, MBDA will take the most time and cost effective approach available that is in the best interest of the government to achieve its mission. This includes one of the following:

• *Recompetition*—is the most acceptable option. Where time and funding considerations allow for recompetition, MBDA will cancel the original solicitation and issue a new one; beginning a new round of competition.

• *Re-paneling*—is a viable option when the MBDA Director has reason to question either the objectivity or proper scoring of a panel.

• *Negotiation*—may be an option in those instances where the MBDA Director believes that recompeting would produce the same or similar results as the original competition and is, therefore, a waste of government money and time. When negotiations occur because recompeting is not a viable option, negotiations must occur equitably with all original applicants.

• *Cancellation*—is appropriate when none of the above is determined to be a viable option, or for other programmatic reasons.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Under MBDA's existing competitive program cycle, an NABDC recipient can receive two additional twelve-month budget periods. Continued funding will be at the total discretion of MBDA based on such factors as the NABDC's performance, the availability of funds and Agency priorities.

Anticipated processing time of this award is 120 days. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. The contact person indicated above can answer questions concerning the preceding information, and copies of application kits and applicable regulations can be obtained at the above address. This document involves collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0640–0006. 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 current valid OMB control number.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Application Forms and Kit—Standard Forms 424, Application for Federal Assistance; 424A, Budget Information—Non-Construction Programs; and 424B, Assurances—Non-Construction Programs, (Rev 4–92), shall be used in apply for financial assistance. An application kit containing all application forms and certifications is available by contacting the appropriate Regional Office listed as further information contacts.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Indirect Costs—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect costs rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Outstanding Accounts Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—Alll non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters, which significantly reflect on the applicant's management honesty or financial integrity.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, § 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26 § 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, § 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and

products with funding provided under this program.

11.801 Native American Business Development Center (Catalog of Federal Domestic Assistance)

Dated: March 23, 1998.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

Courtland Cox,

Acting Director, Minority Business Development Agency.

[FR Doc. 98–8082 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Billfish Tagging Report

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 May 26, 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 and instructions should be directed to Dave Holts, Southwest Fisheries Science Center (SWFSC), 8604 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038–0271; (619) 546–7186.

SUPPLEMENTARY INFORMATION:

I. Abstract

Anglers report tagging date, location, species, name, etc. for billfish they have tagged and released. Minor revisions have been made to the NOAA 88–162 to reflect better reporting.

II. Method of Collection

The SWFSC provides tagging supplies to individuals electing to tag and release the billfish they catch. The ''Billfish Tagging Report'' is the primary mechanism by which these cooperating anglers and commercial fishers return the tagging and release information concerning the billfish they have tagged. Responses are not required for any legal or administrative purpose. Interested individuals cooperating in the Program do so on a strictly voluntary basis.

III. Data

OMB Number: 0648–0009.
Form Number: NOAA 88–162.
Type of Review: Regular Submission.
Affected Public: Individuals, businesses or other for-profit (billfish anglers and commercial fishers).
Estimated Number of Respondents: 1,250.
Estimated Time Per Response: 5 minutes.
Estimated Total Annual Burden Hours: 104.2.
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: March 23, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

(FR Doc. 98–8014 Filed 3–26–98; 8:45 a.m.)

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032398C]

Marine Mammals

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Alaska SeaLife Center, P.O. Box 1239, Seward, AK 99664, has been issued a permit to import Steller sea lions (*Eumetopias jubatus*) and harbor seals (*Phoca vitulina*) and obtain other harbor seals from U.S. facilities for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/ 586–7221).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On January 27, 1998, notice was published in the **Federal Register** (63 FR 3880) that a request for a scientific research permit to import Steller sea lions and harbor seals had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 23, 1998.

Art Jeffers,

Acting Chief, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–8112 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.031798A]

Marine Mammals

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 978, issued to the Oregon Coast Aquarium, 2820 SE Ferry Slip Road, Newport, Oregon 97365, was amended effective on March 20, 1998.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206/526–6150).

FOR FURTHER INFORMATION CONTACT: Ann Hochman, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

By letter of February 9, 1998, the Oregon Coast Aquarium (Aquarium) and the Free Willy Keiko Foundation (Foundation) jointly requested that the public display permit issued on September 25, 1995, to the Oregon Coast Aquarium be amended to change the Permit Holder from the Aquarium to the Foundation. NMFS reviewed this request along with supporting documentation and determined that: (1) The Foundation has the responsibility for and the authority to determine the disposition of ''Keiko''; (2) the Foundation meets the three criteria for holding marine mammals for purposes of public display; (3) for Marine Mammal Inventory purposes, the holder of record of ''Keiko'' should be the Foundation; and (4) it was appropriate to amend the permit to change the Permit Holder from the Aquarium to the Foundation.

This amendment of Permit No. 978 is considered a ''minor amendment'' under 50 CFR 216.39(a)(2) and, therefore, publication of this **Federal Register** notice is not required. However, NMFS determined that, in this case where a change in Permit Holder is involved, a notice is appropriate. This notice should not be perceived as a precedent concerning other minor amendments.

Dated: March 23, 1998.

Art Jeffers,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–8114 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Visa and Certification Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

March 24, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements.

EFFECTIVE DATE: March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

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.

Effective on March 27, 1998, textile products in Categories 352/652, produced or manufactured in El Salvador and exported on or after March 27, 1998 will no longer require a visa. In addition, products in Categories 352/652 will no longer be subject to the Special Access Program.

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 60 FR 2740, published on January 11, 1995.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 24, 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 January 6, 1995, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador which were not properly visaed by the Government of El Salvador.

Effective on March 27, 1998, you are directed to no longer require a visa for shipments of textile products in Categories 352/652 which are produced or manufactured in El Salvador and exported on or after March 27, 1998. In addition, products in Categories 352/652 will no longer be subject to the Special Access Program.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–8031 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Visa and Certification Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Honduras

March 24, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements.

EFFECTIVE DATE: March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

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.

Effective on March 27, 1998, textile products in Categories 352/652, produced or manufactured in Honduras and exported on or after March 27, 1998 will no longer require a visa. In addition, products in Categories 352/652 will no longer be subject to the Special Access Program.

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 61 FR 38236, published on July 23, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 24, 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 July 18, 1996, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain textile products, produced or manufactured in Honduras which were not properly visaed by the Government of Honduras.

Effective on March 27, 1998, you are directed to no longer require a visa for shipments of textile products in Categories 352/652 which are produced or manufactured in Honduras and exported on or after March 27, 1998. In addition, products in Categories 352/652 will no longer be subject to the Special Access Program.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–8030 Filed 3–26–98; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds and Education Awards Under the AmeriCorps Education Awards Program

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds and education awards under the AmeriCorps Education Awards Program.

SUMMARY: The Corporation for National and Community Service (the ''Corporation'') seeks to expand opportunities for individuals to serve as AmeriCorps members and earn educational benefits, broaden the network of national service programs and strategies, increase the number of communities joining with AmeriCorps to better meet compelling local needs, and encourage additional non-federal resources to support national and community service.

Accordingly, the Corporation announces the availability of up to 10,000 education awards from the National Service Trust (the Trust) for national, state, and local community service programs that: (1) Can support most or all of the AmeriCorps member and program costs from sources other than the Corporation; (2) meet agreed-upon AmeriCorps program requirements; and (3) are judged to be high quality according to Corporation criteria, as highlighted below and set forth in the application materials. The education awards may be earned by AmeriCorps members successfully completing full-time, part-time, or reduced part-time terms of service in a community service program approved through this application process.

AmeriCorps Education Awards programs supported through this competition are expected to uphold standards of service quality, member support and program management similar to other AmeriCorps programs in order to maintain the integrity of the AmeriCorps National Service Network. However, the Corporation has modified certain AmeriCorps requirements and permits program sponsors greater management and operating flexibility. In addition, the Corporation will consider requests for up to $500 per full-time member (pro-rated for part-time members) to manage these programs.

Potential program sponsors eligible to apply under this Notice include national nonprofit organizations, multi-state collaborations, State Commissions on National and Community Service (on behalf of local non-profit organizations, state and local units of government, other state-wide programs, and programs operating only within the state), institutions for higher education, and state education agencies.

Program and administrative requirements are set forth in the application guidelines issued by the Corporation.

DATES: Applications may be obtained on or after March 25, 1998. There are two separate competitions for funding with the following deadlines: April 23, 1998, and June 23, 1998.

ADDRESSES: Application materials and additional information may be requested from: AmeriCorps Education Awards Program, Corporation for National Service, 1201 New York Avenue NW, Washington, DC 20525. Materials may also be requested by telephone, at 202/606–5000, ext. 417, or (TDD) 202/565–2700, and may be requested in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the Nation's education, public safety, environmental, and other human needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501, *et seq.* (the Act), the Corporation may ''support innovative and model programs.'' 42 U.S.C. 12653(b). In addition, an individual can receive an education award from the National Service Trust if, among other things, the individual ''successfully completes the required term of service * * * in an approved national service position.'' 42 U.S.C. 12602. The Act defines an approved national service position to include six specific service positions and ''such other national service positions as the Corporation considers to be appropriate.'' 42 U.S.C. 12573.

The AmeriCorps Education Awards Program was launched in the 1997 program year, during which 104 proposals were approved, representing approximately 14,000 service positions. Sponsors include national non-profit organizations, state commissions, institutions of higher education, state and local agencies, and local organizations. Program requirements and application guidelines have been refined based on the experience of this first year.

Program Eligibility and Design

The Corporation will accept applications from eligible applicants

proposing to sponsor a national service program that addresses unmet education, public safety, environmental, and other human needs in the community served. The Corporation seeks high-quality programs that (1) ''get things done'' to meet local needs, (2) strengthen communities, and (3) develop members. Programs must establish specific objectives which are subject to the Corporation's approval.

The Corporation seeks programs that will support most or all program and participant costs (other than the education awards) through sources other than the Corporation. However, the Corporation will consider requests for up to $500 per full-time member (pro-rated for part-time members) to manage the program and will fund all the approved education awards. A request for funds in addition to the education awards should only be made when necessary and may affect approval of the proposal due to lack of available funding. There is no match requirement under the AmeriCorps Education Award Program.

Programs will be required to cooperate with the Corporation and its evaluators in all its monitoring and evaluation efforts. Semi-annual program progress reports will be required. Member hours must be tracked, and member enrollment, end-of-term, and other National Service Trust forms must be submitted in compliance with existing requirements.

By getting things done, the Corporation means that programs are expected to meet specific and articulated local needs through direct and demonstrable service, and must include clear objectives related to the proposed service activities and results.

To strengthen communities, programs should engage a full range of local partners to build a self-sustaining commitment to service.

To develop members, programs should provide appropriate training, education, supervision, and support to carry out the service activities.

Program Strategies

The Corporation intends to support a variety of strategies under this initiative. The following are examples of strategies for part-time (including summer) and full-time programs. Applicants are encouraged to identify additional strategies and demonstrate to the Corporation why they should be supported.

1. School-based and community-based service programs, including youth corps, that provide tutoring and mentoring for younger children and opportunities to participate in service projects after school, on weekends, and during school vacations.

2. College-based programs in which student AmeriCorps members, including Federal Work Study students, perform service (or serve as service-learning coordinators) in local schools or other community settings.

3. Summer programs in which AmeriCorps members organize service and other positive activities for children and youth.

4. Before and after-school child care programs led by AmeriCorps members and funded by local communities.

5. Full-time service programs run by faith-based organizations, youth corps, or other entities.

6. Fellowship programs in which individuals such as recent college or professional school graduates are placed in community service positions.

7. Programs sponsored by youth-serving organizations that create opportunities for older members or graduates of the organization to provide positive activities for younger members.

8. Service programs for college students that involve part-time service during the academic year and full-time service during the summer.

9. Programs initiated by mayors and other local officials to integrate locally funded AmeriCorps members into community-wide strategies to meet local needs.

Terms of Service

Programs must enroll members for full-time, part-time, or reduced part-time terms of service. A full-time term of service requires members to serve at least 1700 hours during a period of not less than nine months and not more than a year. A part-time term requires members to serve at least 900 hours during a period of not more than two years. Reduced part-time terms are less than 900 hours, and are either: (1) Full-time—at least 35 hours per week—for a minimum of 8 weeks during the summer or another multi-month period; or (2) service of at least 450 hours during a single academic year (*i.e.*, September to May), while enrolled in college.

Under the AmeriCorps Education Awards Program, the Corporation will not accept proposals for part-time terms of more than two years nor for reduced part-time terms other than the two types explained above. Successful applicants will have up to one year following the start of the program to select and place members who will receive the approved education awards upon successful completion of their service.

Member Recruitment and Development

Programs must recruit and select members in a non-partisan, non-political, and non-discriminatory manner. Members must be U.S. citizens, U.S. nationals, or lawful permanent resident aliens. Members must be at least 17 years old at the time of their enrollment, except for out-of-school sixteen year-olds who may participate in youth corps programs and programs for disadvantaged youth that address the need for housing and other community facilities in low-income areas.

Programs are encouraged to recruit members who possess leadership potential and a commitment to the goals of national service, regardless of the member's educational level, work experience, or economic background. Programs should engage diverse members, community volunteers and staff in service activities, and should actively seek to include members and staff from the communities in which projects are conducted, as well as individuals of different races and ethnicity, ages, genders, education levels, socioeconomic backgrounds, and individuals with disabilities.

Programs must provide members with the training, skills, and knowledge necessary to perform the tasks required in their respective projects. In addition, programs must provide reasonable accommodation, including auxiliary aids and services, based on the individualized need of a member who is a qualified individual with a disability. Also, programs are encouraged to help members who have not completed their secondary education to earn the equivalent of a high school diploma.

In recruiting and placing members, programs must not displace any employee or position, or otherwise violate the non-displacement provisions of the Corporation's regulations, which are published at 45 CFR 2540.100(f).

Member Benefits

The Corporation does not require that a living allowance be paid, or health care and child care benefits be provided, to members under the AmeriCorps Education Awards Program. While the Corporation strongly encourages program sponsors to do so whenever possible, Corporation funds may not be used to provide any part of an allowance or such benefits. However, programs proposing full-time members must explain how these members will meet basic living expenses during their terms of service.

The maximum living allowance which may be paid to full-time AmeriCorps Members under this

program is $16,680 per year, regardless of the source. Any living allowance for a part-time Member may not exceed a prorated share of a maximum of $16,680 per year on a full-time basis. This maximum may be waived by the Corporation, upon request, for certain professional corps and similar programs.

Programs must also establish and maintain a procedure for receiving and resolving grievances from members and other interested individuals concerning the program.

Eligibility for and Use of Education Award

Members who successfully complete full-time, part-time, or reduced part-time terms of service are eligible to earn no more than two education awards. Full-time education awards are $4,725, and part-time education awards are $2,362.50. Amounts of reduced part-time education awards are prorated to the number of hours served.

The education award may be used only for specific educational purposes: (1) To repay a member's qualified student loans; or (2) toward the cost of a member's attendance at a qualified institution of higher education or approved School-to-Work program. The education award is not transferable to anyone other than the member. The award will be paid directly to the loan holder or the educational institution by the Corporation.

Prohibited Service

Prohibited activities may not be performed by participants in the course of their duties, at the request of program staff, or in a manner that would associate the activities with the national service program or the Corporation. However, members are free to engage in such activities on their own initiative, on their own time, and at their own expense. These activities include:

(1) Any effort to influence legislation;

(2) Organizing or engaging in protests, petitions, boycotts, or strikes;

(3) Assisting, promoting, or deterring union organizing;

(4) Impairing existing contracts for services or collective bargaining agreements;

(5) Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;

(6) Participating in, or endorsing, events or activities which are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

(7) Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious education or worship, constructing or operating facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;

(8) Providing a direct benefit to (a) a business organized for profit, (b) a labor union, (c) a partisan political organization, (d) a nonprofit organization that fails to comply with the restrictions contained in Sec. 501(c)(3) of the Internal Revenue Code of 1986, or (e) an organization engaged in the religious activities described in paragraph (7) above, unless Corporation assistance is not used to support those religious activities;

(9) Voter registration drives by AmeriCorps members.

Eligible Applicants

State Commissions, national non-profit organizations proposing to operate in more than one state, and multi-state collaborations, must apply directly to the Corporation. Institutions of higher education and state education agencies may apply directly to the Corporation, or to State Commissions, as below.

Local non-profit organizations, state and local units of government (other than state education agencies), other state-wide programs, and other programs operating solely within the state must apply through respective State Commissions. Interested applicants should first contact their respective commissions.

Current Education Awards Program sponsors should contact the Corporation or their respective State Commissions for information about continuing their existing programs.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible to apply, serve as a host site for member placements, or act in any type of supervisory role in the program.

This Notice does not apply to organizations currently operating, or interested in applying to become, AmeriCorps*VISTA cost-share projects. Such organizations should contact the respective state office of the Corporation for National Service.

Criteria for the Selection of Programs

The Corporation will employ the following criteria in the review of proposals under this initiative:

1. *Program Quality.* A proposal must establish clear and specific objectives to meet compelling community needs, demonstrate the applicant's capacity to implement meaningful service activities based on these needs, and select, train and manage AmeriCorps members to carry out these needs. The proposal should evidence strong community support and the capacity to substantially and positively impact the community being served, as well as to document that impact.

2. *Program Growth.* If the applicant currently sponsors an AmeriCorps project or other community service project, the proposal must evidence how the availability of education awards will add value to the program and increase the program's impact in the community.

3. *Preference for Youth Programs.* The Corporation will give preference to proposals addressing the needs of our Nation's children and youth, such as tutoring, mentoring, after-school and summer programs, and immunization, as well as programs to involve children and youth in performing service themselves.

4. *Summer Programs.* For the application deadline of April 23, 1998, the Corporation will give a preference to programs which will begin operations during June or July, 1998.

Selection Process

The Corporation will judge proposals with a process that includes review by outside experts, staff review and recommendations, and final approval by the Corporation Board.

The Corporation will enter into negotiations with potentially successful applicants in a manner that may require significant modifications to original proposals. Awards are contingent on successful completion of negotiations. The number of applications approved, the number of education awards provided to approved programs, and the duration of approved programs are subject to the availability of funds and education awards.

Dated: March 23, 1998.

Thomas L. Bryant,

Associate General Counsel, Office of the General Counsel.

[FR Doc. 98–8017 Filed 3–26–98; 8:45 am]

BILLING CODE 6850–28–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–281–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

March 23, 1998.

Take notice that on March 16, 1998, Colorado Interstate Gas Company (CIG), P.O.Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP98–281–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon the existing Bush Lake Purchase Meter Station in Sweetwater County, Wyoming by sale to BTA Oil Producers, under CIG'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.

CIG states that the Bush Lake Purchase Meter Station is remote from CIG's facilities. It was constructed in 1978 to measure gas purchased by CIG from Western Transmission Corporation (Western). After measurement by CIG, the gas was delivered to Panhandle Eastern Pipe Line Company (Panhandle) and Panhandle redelivered the gas to CIG under an exchange agreement certificated in Docket No. CP77–423. Both Western and Panhandle facilities have been sold to other parties. CIG has agreed to sell the Bush Lake Purchase Meter Station to BTA Oil Producers (BTA), the current operator of the upstream facilities, for $7,000 as detailed in the Purchase and Sale Agreement dated February 27, 1998. Because this facility is remote from CIG's other facilities, it is more economic for BTA to own and operate.

CIG states that the proposed abandonment is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the proposed abandonment without detriment or disadvantage to CIG's other customers.

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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8006 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN98–3–000]

Consumers Energy Company; Order Instituting Proceeding

Issued March 23, 1998.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

Consumers Energy Company (Consumers), a local distribution company in Michigan, holds firm transportation (FT) capacity on interstate natural gas pipelines. Consumers has a limited-jurisdiction blanket certificate of public convenience and necessity under section 7 of the Natural Gas Act (NGA).[1] The blanket certificate is solely for the purpose of releasing FT capacity to replacement shippers pursuant to the Commission's capacity release regulations, 18 CFR 284.243 (1997).

This order establishes a proceeding pursuant to sections 5 and 16 of the NGA.[2] The Commission is requiring Consumers to identify each transaction in which it released or is releasing capacity to a replacement shipper at the pipeline's applicable maximum tariff rate and also received or will receive a payment in excess of the pipeline's applicable maximum rate. For each such transaction, we are requiring Consumers to show why it has not violated, and is not violating, NGA sections 4(a), 4(b)[3] and 5(a) and section 284.243(h)(1) of the Commission's regulations, as well as the section 284.243(g) blanket certificate Consumers holds.

For each such transaction, we are also requiring Consumers to show why it should not refund to the replacement shipper any payment Consumers received in excess of the relevant pipeline maximum tariff rate.

[1] 15 U.S.C. 717f (1994).

[2] 15 U.S.C. 717d and 717o (1994).

[3] 15 U.S.C. 717(a) and (b) (1994).

I. Regulatory Background

In Order No. 636,[4] the Commission added section 284.243[5] to its regulations to require all open-access pipelines to provide a capacity release mechanism. Under capacity release, shippers ''can voluntarily reallocate all or a part of their firm transportation capacity rights to any person who wants to obtain that capacity by contracting with the pipeline.''[6] Shippers may allocate their capacity only under section 284.243.[7] Section 284.243(g) grants shippers limited-jurisdiction blanket certificates of public convenience and necessity pursuant to section 7 of the NGA solely for the purpose of releasing firm capacity.

Section 284.243(h)(1) authorizes firm shippers to release capacity at the maximum applicable pipeline tariff rate without prior notice.[8] However, section 284.243(h)(1) also specifies that the release cannot exceed the maximum rate. Finally, section 284.243(h)(1) mandates that notice of a release at the maximum rate ''must be provided on the pipeline's electronic bulletin board * * * not later than forty-eight hours * * * after the release transaction commences.''

In Order No. 636–A, the Commission stated that electronic bulletin board (EBB) postings of capacity releases are necessary to prevent abuse by releasing shippers, including requiring compensation ''outside of the reassignment process.''[9] Thus, the Commission requires that ''*all* terms and conditions for capacity release must be posted. * * *''[10] In Order No. 636–B, the Commission expressly rejected a proposal that pipelines need not post on their EBBs release transactions involving designated, prearranged replacement shippers at maximum rates.[11] Posting of releases at maximum rates, which are not subject to bidding, is nonetheless necessary to provide the industry and the Commission with the ability to review and monitor transactions at maximum rates.[12]

[4] FERC Stats. & Regs., Regs. Preambles 1991–1996 ¶ 30,939 (1992).

[5] 18 CFR 284.243 (1997).

[6] FERC Stats. & Regs. Regs. Preambles 1991–1996 at 30,418.

[7] *Id.*

[8] 18 CFR 284.243(h)(1).

[9] FERC Stats. & Regs., Regs. Preambles 1991–1996 ¶ 30,950 at 30,559 (1992).

[10] *Id.* (Emphasis in original.)

[11] 61 FERC ¶ 61,272 at 61,994 (1992).

[12] Order No. 577, FERC Stats. & Regs., Regs. Preambles 1991–1996 ¶ 31,017 at 31,316, n. 16 (1995).

II. Factual Background

Consumers is subject to the jurisdiction of the Michigan Public Service Commission (PSC) with respect to retail gas sales in the state of Michigan. In a gas cost reconciliation (GCR) proceeding pending before the PSC,[13] a Consumers witness testified that Consumers ''charge[d] more than the maximum pipeline rate for certain release transactions * * *.''[14] He also characterized the transactions as ''capacity pricing transactions in which [Consumers] receives an increment over maximum pipeline rates * * *.[15]

The Consumers witness was responding to evidence from the Michigan Department of Attorney General (Michigan AG) that, in six release transactions involving firm capacity on Panhandle Eastern Pipe Line Company (Panhandle) and ANR Pipeline Company (ANR), Consumers appears to have obtained release prices higher than the relevant pipeline's maximum tariff rate for the released capacity. In each instance, according to the Michigan AG witness, Consumers received a credit from the pipeline for a release at the maximum tariff rate, and the replacement shipper paid directly to Consumers additional consideration in excess of the pipeline's maximum tariff rate.[16] The Michigan AG witness concluded that, through the six releases, Consumers collected a total of $486,911 in excess of the applicable pipeline maximum tariff rate, as follows:

Replacement shipper	Pipeline	Month	Excess revenue
Anadarko Trading Co	ANR	7/96	25,668
Anadarko Trading Co	Panhandle	11/96	193,400
Howard Energy	Panhandle	4/96	100,599
Tenaska Mktg. Ventures	Panhandle	4/96	68,044
TransCanada Gas Services	Panhandle	7/96	37,200
Valero Gas Mktg., L.P	ANR	7/96	62,000
Total			486,911

III. Discussion

With[17] respect to the six releases, it appears that Consumers violated the Commission's rate ceiling applicable to capacity releases. It also appears that Consumers violated the regulations on providing notice of all the terms and conditions applicable to capacity release transactions.

A. Violations of the Rate Ceilings on Capacity Releases

In the PSC proceeding, Consumers stated that with respect to the six releases, it charged and collected a premium over the pipelines' maximum rates in return for releasing FT capacity. Nothing in the testimony of Consumers's witness or the Michigan AG's witness indicates that Consumers itself sold any gas in connection with the release transactions. For example, the release agreement between Consumers and Anadarko Trading Company (Anadarko) for capacity on Panhandle states that Consumers's payment will be based on Anadarko's price for Anadarko's gas sales.[18] Therefore, all revenue that Consumers received in excess of the pipelines' applicable maximum rates appears to have been consideration solely for Consumers's release of pipeline capacity. Thus, Consumers appears to have violated the capacity release maximum rate ceiling in section 284.243(h)(1).

If so, Consumers, a ''natural-gas company'' subject to the Commission's jurisdiction with respect to capacity releases, charged and received from replacement shippers unjust and unreasonable transportation rates and charges in violation of NGA sections 4(a) and 5(a). If Consumers charged prices for releasing capacity in excess of the rate cap, it also appears to have violated NGA sections 4(b) and 5(a) by subjecting the replacement shippers to an undue disadvantage (the premium above the applicable pipeline maximum rate).

Section 16 of the NGA empowers the Commission to take any necessary or appropriate actions to carry out the provisions of the NGA. In Order No. 636, the Commission explained that the certificates it issued to releasing shippers under section 284.243(g) ''make it clear that the Commission has sufficient jurisdiction to take appropriate enforcement action if capacity is not released on a nondiscriminatory basis.''[19] In other words, as a releasing shipper, Consumers is subject to the full scope of the Commission's authority under NGA section 16 with respect to all aspects of the release, including any violation of the section 284.243(h)(1) price ceiling. Section 16 thus authorizes the Commission to order Consumers to refund to the replacement shippers the excess over the just and reasonable rate (*i.e.*, the excess over the applicable pipeline's maximum tariff rate).[20]

Moreover, under NGA section 5(a), the Commission may require a natural-gas company to charge a just and reasonable rate if the Commission determines that the company is charging an unjust or unreasonable rate for transactions under the Commission's jurisdiction. Upon a finding that the company is engaging in an unduly discriminatory or preferential practice relating to such a transaction, NGA section 5(a) also authorizes the Commission to order a natural-gas company to change its contracts or practices. Thus, upon a finding that Consumers is violating NGA sections 4(a), 4(b) and 5(a) with respect to its capacity releases, the Commission could require Consumers to cease any current violations by amending its current capacity release agreements and by requiring new agreements to state that Consumers may not collect rates in excess of the pipelines' applicable maximum rates.

[13] Consumers Energy Company, PSC Case No. U–11060–R (1996–97 GCR Reconciliation).

[14] Rebuttal Testimony of Michael J. Shore on Behalf of Consumers Energy Company (December 1997), p. 7.

[15] *Id.* at 8.

[16] Supplemental Testimony of Ralph E. Miller on Behalf of the Michigan Department of Attorney General (December 5, 1997), pp. 7–8; Michigan AG Exhibit I–____(REM–1).

[17] Michigan AG Exhibit I–____ (REM–1); Michigan AG Exhibit I–____ (REM–4), Bates Nos. 06010042–46.

[18] An October 1, 1996 ''Transaction Agreement'' between Consumers and Anadarko covering releases from November 1, 1996 through March 31, 1997 is attached to Michigan AG Exhibit I–____(REM–4), Bates Nos. 06010049–50.

[19] FERC Stats. & Regs., Regs. Preambles 1991–1996 at 30,421.

[20] *C.f.*, 18 CFR 154.501 (1997) (refund obligation for natural-gas companies); *Coastal Oil & Gas Corp.* versus *FERC*, 782 F.2d 1249, 1253 (5th Cir. 1986), *citing Mesa Petroleum Co.* v. *FPC*, 441 F.2d 182 (5th Cir. 1971) (Commission can require violators to cure the harm caused by violations).

B. Violation of the Commission's Notice Requirements

As previously discussed, section 284.243(h)(1) requires that notice of a capacity release (at the maximum rate) must be provided on a pipeline's EBB not later than 48 hours after the release transaction commences. In Order No. 636–A, the Commission stated that it ''will not tolerate deals undertaken to avoid the notice requirements of the regulations.''[21]

With respect to the six transactions identified above, it is not clear whether Consumers disclosed to Panhandle or ANR that the replacement shippers had to share revenue (above the pipelines' maximum tariff rates) with Consumers. If Consumers did fail to notify the pipelines of this condition, the pipelines could not post the condition on their EBBs. Consumers would thus have violated the notice requirement of section 284.243(h)(1).

The Commission Orders

(A) Within 30 days of the issuance of this order, Consumers shall:

(1) File an answer to the allegations of violations that conforms to the requirements of Rule 213 of the Commission's Rules of Practice and Procedure, 18 CFR 385.213 (1997). In its answer, Consumers shall admit or deny, specifically and in detail, each allegation set forth in Part III of this order, and shall set forth every defense relied on. If an allegation is only partially accurate, Consumers shall specify that part of the allegation it admits and that part of the allegation it denies.

(2) Show in this answer why it has not violated sections 4(a), 4(b), and 5(a) of the NGA and section 284.243(h)(1) of the Commission's regulations. In addition, Consumers shall show why it has not violated its blanket certificate issued under section 7 of the NGA and section 284.243(g) of the Commission's regulations.

(3) For the period from January 1, 1996 through the date of its answer to this order, identify each transaction in which Consumers (a) released or is releasing capacity to a replacement shipper and (b) received or will receive any payment or other consideration in excess of the relevant pipeline's applicable maximum tariff rate.

(4) For each of the six release transactions identified by the Michigan AG discussed herein, and for each transaction identified in response to Ordering Paragraph (A)(3):

a. Identify the pipeline, the date(s) of the release and the replacement shipper, and calculate the amount in excess of the pipeline's applicable maximum tariff rate;

b. Provide copies of all documents relating to the release transaction, including the release agreement (with all amendments), all billing statements submitted by Consumers to the replacement shipper, all records of payments or other consideration made by the replacement shipper, and all communications between Consumers and the relevant pipeline, and all communications between Consumers and the replacement shipper, concerning the transaction; and

c. Show why Consumers should not refund to the replacement shipper any payment Consumers received in excess of the relevant pipeline's applicable maximum tariff rate; and

d. If the transaction is ongoing, show why Consumers should not be required to limit its collections of rates or other consideration from the replacement shipper to the pipeline's applicable maximum tariff rate.

(B) Notice of this proceeding will be published in the **Federal Register**. Interested parties will have 20 days from the date of publication of the notice to intervene.

By the Commission.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8010 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

[21] FERC Stats. & Regs., Regs. Preambles 1991–1996 at 30,559.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–4084–001]

Denver City Energy Associates, L.P.; Notice of Filing

March 23, 1998.

Take notice that on February 27, 1998, Denver City Energy Associates, L.P., (DCE), tendered for filing a revised Code of Conduct in compliance with the Federal Energy Regulatory Commission order issued on January 28, 1998 in Docket No. ER97–4084–001.

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 and protests should be filed on or before April 2, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8032 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10624–020]

French Paper Company; Notice Rejecting Request for Rehearing

March 23, 1998.

On February 10, 1998, the Acting Director, Office of Hydropower Licensing, issued an order modifying and approving the fish entrainment study recommendations proposed by French Paper Company, licensee for the French Paper Project No. 10624. 82 FERC ¶ 62,134. On March 12, 1998, the Michigan Department of Natural Resources (Michigan DNR) filed a request for rehearing of this order with the Commission.

Under Section 313(a) of the Federal Power Act, 16 U.S.C. 825*l*(a), a request for rehearing may be filed only by a party to the proceeding. In order to become a party to any Commission proceeding, an interested person must file a motion to intervene pursuant to Rule 214 of the Rules of Practice and Procedure, 18 CFR 385.214. Michigan DNR's prior intervention in the licensing proceeding for this project does not continue into post-licensing proceedings.[1] Because Michigan DNR did not file a motion to intervene in this post-licensing proceeding, it therefore is not a party. Consequently, its request for rehearing is rejected.

This notice constitutes final agency action. Requests for rehearing by the Commission of this rejection notice must be filed within 30 days of the date of issuance of this notice pursuant to 18 CFR 385.713.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8011 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Kings River Conservation District, 36 FERC ¶ 61,365 (1986).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–290–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

March 23, 1998.

Take notice that on March 19, 1998, NorAm Gas Transmission Company (NGT), 1111 Louisiana Street, Houston, Texas 77002, filed a request with the Commission in Docket No. CP98–290–000, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to own and operate certain facilities in Arkansas to deliver gas to Arkla, a distribution of NorAm Energy Corporation authorized in blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, all as more fully set forth in the request on file with the Commission and open to public inspection.

NGT proposes to install a 1-inch delivery tap and meter station on NGT's Line BT–14 in Conway County, Arkansas which would provide service to Arkla's rural distribution system. The estimated volumes to be delivered through the above facilities are 4,320 MMBtu annually and 11 MMBtu on a peak day. NGT's construction costs are estimated at $6,523. NGT states that Arkla would reimburse NGT $5,603 of actual construction costs.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8009 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–282–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

March 23, 1998.

Take notice that on March 16, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158–0900, filed in Docket No. CP98–282–000, a request, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211), for authorization to construct and operate a new Oremet Meter Station to provide direct deliveries to Oregon Metallurgical Corporation (Oremet) in Linn County, Oregon, under Northwest's blanket certificate authorization issued in Docket No. CP82–433–000, 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.

Northwest describes the new meter station as tap facilities, consisting of two 4-inch taps, one each on Northwest's 10-inch Camas-Eugene Lateral and 20-inch lateral loop line; and meter facilities consisting of a 3-inch turbine meter, 2-inch piping, filter-separator, valves and appurtenances.

Northwest reports that the proposed meter station will have a design delivery capacity of approximately 4,300 Dth per day, limited by the inlet piping, calculated at an assumed line pressure of 500 psig, with initial deliveries projected to be up to 2,000 Dth per day and up to 500,000 Dth annually.

Northwest states that Oremet is presently receiving natural gas transportation and sales services from Northwest Natural Gas Company (Northwest Natural), a local distribution company. Northwest says that Oremet requested Northwest to provide a new delivery point for direct natural gas deliveries to Oremet's titanium mill, when the Oregon Public Utility Commission declined to approve an anti-bypass competitive rate contract between Northwest Natural and Oremet.

Northwest provides services to Northwest Natural under Rate Schedule TF–1, TF–2 or TI–1 transportation agreements. Northwest indicates that to receive service from Northwest at the new Oremet Meter Station, Oremet intends to acquire released firm capacity on Northwest's system or arrange for deliveries by existing firm shippers.

Northwest states that the total cost for construction of the meter station will be approximately $189,000; $30,000 for new tap facilities to be built and owned by Northwest and the remainder for the new meter facilities to be built and owned by Oremet. Northwest says its expenses will be totally reimbursed by Oremet. Northwest proposes to operate the meter station, including facilities to be owned by Oremet, as part of its open-access transportation system.

Northwest asserts that any deliveries made to Oremet through the new Meter Station will be gas delivered either for Oremet or other shippers for whom Northwest is authorized to transport gas. Northwest states that any volumes delivered to the new Oremet delivery point will be within the authorized entitlement of such shippers. Northwest does not expect its system peak day deliveries or its annual throughput to increase since deliveries through the proposed facilities will replace existing services currently being provided by Northwest Natural, which is also served by Northwest.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C., 20426, 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 therefore, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8007 Filed 3–26–98; 11:25 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–285–000]

Northwest Pipeline Corporation; Notice of Application

March 23, 1998.

Take notice that on March 18, 1998, Northwest Pipeline Corporation

(Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act and Part 157 of the Commission's Regulations for amendments to existing certificates of public convenience and necessity, permission and approval for abandonments and approval of various tariff waivers and modifications as necessary to implement changes in its use of storage for system balancing and its provision of storage from the Jackson Prairie Storage Project (Jackson Prairie), in which it is a one-third owner, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that the proposed changes generally are related to and/or consistent with proposals by Puget Sound Energy, Inc. (Puget Sound), the Project Operator of Jackson Prairie, to implement an updated and amended Gas Storage Agreement (Update Project Agreement) and expand the storage project.

Concurrently with the implementation of the Updated Project Agreement proposed by Puget Sound, which is anticipated to occur in the fall of 1998, Northwest proposes to:

(1) Abandon the certificated services provided under Rate Schedule SGS–1 and X–82 for the two-thirds of the Jackson Prairie capacity owned by Puget Sound and The Washington Water Power Company. (Each owner henceforth will have direct access to its one-third ownership share of storage rights in Jackson Prairie.)

(2) Abandon the certificated Rate Schedule SGS–1 services from Northwest's one-third ownership share of storage rights in Jackson Prairie. (Each SGS–1 customer has elected to convert to open-access service under Rate Schedule SGS–2F.) Northwest also requests waivers of the posting/billing provisions in Section 25 of the General Terms and Conditions in its FERC tariff to the extent necessary to effectuate these conversions.

(3) Increase total firm deliverability by 2,200 Dth per day (Dth/d) and total firm working gas capacity by 60,400 Dth available for Northwest's storage services from its one-third ownership share in the storage project. (These increased storage quantities result from utilization of an updated thermal conversion factor for the existing volumetric capacities of the storage project.) Northwest specifically requests waivers of the available capacity posting provisions in Sections 17.4(c) and 26 of the General Terms and Conditions in its FERC tariff to allow these available storage quantities to be allocated pro rata among Northwest's existing firm storage customers, as reflected in the new Rate Schedule SGS–2F service agreements replacing existing service agreements for both converting Rate Schedule SGS–1 customers and existing Rate Schedule SGS–2F customers.

(4) Utilize for system balancing all firm, best-efforts and interruptible rights to which Northwest is entitled under the Updated Project Agreement, to the extent such rights are not being used to provide firm service under Rate Schedule SGS–2F. (This clarification of existing certificate authority ensures that Northwest's existing balancing flexibility will be maintained.)

(5) Abandon its certificate for operation of the Jackson Prairie meter station. (Northwest henceforth will operate the meter station as agent for and under the certificate authority of Puget Sound, the project operator.)

(6) Implement the related tariff changes necessary to: cancel Rate Schedules X–82 and SGS–1; enhance the best-efforts withdrawal rights under Rate Schedule SGS–2F; clarify and revise the scheduling and curtailment priorities for Northwest's use of its storage service rights under the Updated Project Agreement; clarify and enhance availability of interruptible service under Rate Schedule SGS–2I; explicitly define injection capacity rights under Rate Schedule SGS–2F; and update and revise the provisions of Rate Schedule TF–2 for storage redelivery transportation service.

Upon completion of the Jackson Prairie expansion proposed by Puget Sound, which is anticipated to occur in the fall of 1999, Northwest proposes to:

(1) Realign storage capacity authorized to be retained for system balancing by replacing 3.04 Bcf of its existing Clay Basin storage capacity and the associated 25.3 MMcf/d of firm deliverability with Northwest's share of the proposed Jackson Prairie expansion capacity, 1.067 Bcf of storage capacity and the associated 100 MMcf/d firm deliverability;

(2) Abandon, by sale, Northwest's certificated share of the Jackson Prairie Zone 2 cushion gas (0.73 Bcf) and Zone 9 testing gas (0.33 Bcf) which will be converted to working gas as a result of Puget Sound's proposed expansion;

(3) Implement the related tariff changes necessary to: revise the fuel gas reimbursement procedures applicable to Northwest's share of the Jackson Prairie storage fuel and lost and unaccounted-for-gas; allow the sale of the cushion gas and testing gas proposed to be abandoned; and reflect the storage project's proposed new withdrawal deliverability formula in Rate Schedule SGS–2F.

Further, Northwest requests the Commission to make a determination in this proceeding that Northwest's one-third share (approximately $10 million) of the Jackson Prairie expansion costs should be treated on a rolled-in basis in Northwest's next general rate case. Northwest proposes to use its share of the expanded storage capacity for system balancing, which will provide system-wide operational benefits. Northwest contends that its cost-of-service attributable to the expansion will be more than offset by the associated reduction in Clay Basin storage expenses.

Northwest also requests blanket authority to make periodic, short-term (less than one year) adjustments in the quantity of Clay Basin storage capacity and associated injection and withdrawal rights which it retains for system balancing, as appropriate to accommodate by short-term changes in its operational balancing agreements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 13, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy 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 with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate and 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 Northwest to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8008 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–64–000]

R.J. Patrick Operating Company; Notice of Petition for Adjustment

March 23, 1998.

Take notice that on March 10, 1998, R.J. Patrick Operating Company (Patrick Operating Company), filed a petition for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] requesting to be relieved of its obligation to pay Kansas ad valorem tax refunds, as required by the Commission's September 10, 1997, order in Docket Nos. GP97–3–000, GP97–4–000, GP97–5–000 and RP97–369–000,[2] and as set forth in the Statement of Refunds Due (SRD) received from Northern Natural Gas Company. Patrick Operating Company's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission's September 10, order also provided that first sellers could, with the Commission's prior approval, amortize their Kansas ad valorem tax refunds over a 5-year period, although interest would continue to accrue on any outstanding balance.

Patrick Operating Company states that the SRD, as subsequently revised, seeks refund in the amount of $323,669.97, including interest, for 8 Western Kansas wells, namely, the Lemert #2, R. Baker #1, Wimmer 1, 3, and 4, Ora Baker #2, and the Ora Baker #1 and #3. Patrick Operating Company also states that the Ora Baker #1, determined to be a Section 102 well, was deregulated January 1, 1985. Patrick Operating Company further states that during the period involved from 1983 through June 1987, these were very low-volume wells.

Patrick Operating Company states that since the wells were producing 12 Mcf per day or less, all of the wells, except the Lemert, were sold February 1, 1995. Patrick Operating Company further states that the Lemert #2 was then sold in February 1992, at which time it was also producing about 12 Mcf per day.

It is stated that the R.J. Operating Company presently operates 20 wells, of which Mr. and Mrs. R.J. Patrick own 5 of the wells. It is stated that these wells are owned by a number of people, many of whom do not have great financial resources. It is stated that it would take considerable time to recover the reimbursement amount even from other production. The Patrick Operating Company states that although each working interest owner is liable for his own share of any refund; Patrick Operating Company is requesting that since the 8 wells were only marginally economical to produce, that Mr. Patrick and all other working interest owners be relieved of any refund obligation because of the great financial hardship that would occur.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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, 385.211, 385.1105, and 285.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8012 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3142(c) (1982).

[2] *See* 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC,* 91 F.3d 1478 (D.C. 1986), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–32–000, et al.]

PG&E Generating Company, et al. Electric Rate and Corporate Regulation Filings

March 19, 1998.

Take notice that the following filings have been made with the Commission:

1. PG&E Generating Company, U.S. Generating Company, LLC, USGen Power Group, LLC, USGen Energy Group, LLC

[Docket No. EC98–32–000]

Take notice that on March 17, 1998, PG&E Generating Company, U.S. Generating Company, LLC, USGen Power Group, LLC, and USGen Energy Group, LLC tendered for filing an application for approval pursuant to Section 203 of the Federal Power Act for an intra-corporate restructuring, or for disclaimer of jurisdiction over such restructuring.

Comment date: April 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. West Texas Wind Energy Partners, LLC

[Docket No. EG98–58–000]

On March 11, 1998, West Texas Wind Energy Partners, LLC (WTWEP) 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.

WTWEP is developing a wind-powered eligible facility with a capacity of 74.6 megawatts (gross), powered by 113 Vestas V–47 660kW wind turbines, which will be located approximately four miles southeast of the town of McCamey, Texas, in the area known as the Southwest Mesa, Upton and Crockett Counties, Texas.

Comment date: April 8, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Morgan Stanley Capital Group v. Illinois Power Company

[Docket No. EL98–29–000]

Take notice that on March 6, 1998, Morgan Stanley Capital Group tendered for filing a Complaint and Request for Expeditious Action against Illinois Power Company (IP) regarding (1) IP's failure to accurately post available firm

transmission capacity, (2) IP's failure to award transmission capacity in a nondiscriminatory manner as required by its tariffs and the Commission's regulations, and (3) IP's discriminatory allocation of transmission in favor of its own bulk power marketing arm.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. The Narragansett Electric Company

[Docket No. EL98–30–000]

Take notice that on March 13, 1998, The Narragansett Electric Company submitted for filing a Petition for Declaratory Order Approving Proposed Jurisdictional Separation for Transmission and Distribution Facilities.

Comment date: April 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket Nos. ER89–627–001]

Take notice that on March 9, 1998, Florida Power Corporation tendered for filing an amendment in the above-referenced dockets.

Comment date: April 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. CSW Operating Companies

[Docket No. ER97–1793–000]

Take notice that on February 23, 1998, CSW Operating Companies tendered for filing a letter of withdrawal in the above-referenced docket.

Comment date: April 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. MidAmerican Energy Company

[Docket No. ER98–1742–000]

Take notice that on March 13, 1998, MidAmerican Energy Company tendered for filing a proposed change in its Rate Schedule for Power Sales, FERC Electric Rate Schedule, Original Volume No. 5. The proposed change consists of certain reused tariff sheets consistent with the quarterly filing requirement with the information for which MidAmerican sought confidential treatment in its February 2, 1998 filing (Docket No. ER98–1742–000) included.

MidAmerican states that it is submitting these tariff sheets for the purpose of complying with the requirements set forth in *Southern Company Services, Inc.*, 75 FERC ¶ 61,130 (1996), relating to quarterly filings by public utilities of summaries of short-term market-based power transactions. The tariff sheets contain summaries of such transactions under the Rate Schedule for Power Sales for the applicable quarter.

MidAmerican proposes an effective date of the first day of the applicable quarter for the rate schedule change. Accordingly, MidAmerican requests a waiver of the 60-day notice requirement for this filing. MidAmerican states that this date is consistent with the requirements of the Southern Company Services, Inc. order and the effective date authorized in Docket No. ER96–2459–000.

Copies of the filing were served upon MidAmerican's customers under the Rate Schedule for Power Sales and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: April 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Minnesota Power & Light Company

[Docket No. ER98–1895–000]

Take notice that on February 17, 1998, Minnesota Power & Light Company and Superior Water, Light and Power tendered for filing a signed Service Agreement for Non-Firm Point-to-Point Transmission Service with the Power Company of America under its Transmission Service Agreement to satisfy its filing requirements under this tariff.

Comment date: March 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Iowa Power Partners I, LLC

[Docket No. ER98–2118–000]

Take notice that on March 6, 1998, Iowa Power Partners I, LLC tendered for filing a Notice of Succession in the above-referenced docket.

Comment date: April 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. NGE Generation, Inc.

[Docket No. ER98–2179–000]

Take notice that on March 13, 1998, NGE Generation, Inc. tendered for filing a Notice of Succession for the transfer of certain jurisdictional facilities from New York State Electric & Gas Corporation to NGE Generation Inc. The transfer was effective on February 11, 1998. By this filing, NGE Generation, Inc. adopts, ratifies and makes its own, in every respect, all applicable tariffs, rate schedules, and supplements thereto, heretofore filed with the Commission by New York State Electric & Gas Corporation.

NGE Generation, Inc. Served copies of the filing on the New York State Public Service Commission and all of the customers and utilities served under or parties to the tariff and rate schedules.

Comment date: April 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. UtiliCorp United Inc.

[Docket No. ER98–2193–000]

Take notice that on March 16, 1998, UtiliCorp United Inc. (UtiliCorp) tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with Continental Energy Services, L.L.C. The service agreement provides for the sale of capacity and energy by Missouri Public Service to Continental Energy Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by Continental Energy Services, L.L.C. to Missouri Public Service pursuant to Continental Energy Services, L.L.C.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Continental Energy Services, L.L.C.

UtiliCorp requests waiver of the Commission's regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER98–2194–000]

Take notice that on March 16, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing on behalf of its operating company, PSI Energy, Inc. (PSI) a Second Supplemental dated February 1, 1998, to the Interchange Agreement dated June 1, 1993, between the City of Piqua, Ohio and Cinergy.

Cinergy requests an effective date of one day after the filing of this Second Supplemental Agreement of the Interchange Agreement.

Copies of the filing were served on the City of Piqua, Ohio, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Commission.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER98–2195–000]

Take notice that on March 16, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff entered into between Cinergy and Boston Edison Company (BE).

Cinergy and BE are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER98–2196–000]

Take notice that on March 16, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff entered into between Cinergy and ConAgra Energy Services, Inc. (ConAgra).

Cinergy and ConAgra are requesting an effective date of February 28, 1998.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Company

[Docket No. ER98–2197–000]

Take notice that on March 16, 1998, New England Power Company (NEP) filed a service agreement with VTEC Energy, Inc. for non-firm, point-to-point transmission service under NEP's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 9.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER98–2198–000]

Take notice that on March 16, 1998, New England Power Company (NEP) filed an assignment of a Service Agreement, dated as of March 15, 1997, (Service) between Ohio Edison Company and NEP. NEP requests waiver of the Commission's sixty (60) day notice requirement and an immediate effective date for the assignment.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER98–2200–000]

Take notice that on March 16, 1998, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company) tendered for filing two revisions to Southern Company's Open Access Transmission Tariff (Tariff). Southern Company seeks express authority to waive, under certain circumstances and on a non-discriminatory basis, the deposit required to accompany applications for firm point-to-point transmission service. In addition, Southern Company is also revising the Tariff to expressly state that SCS is Southern Company's Designated Agent under the Tariff.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C.

[Docket No. ER98–2201–000]

Take notice that on March 16, 1998, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the LLC, membership applications of Columbia Power Marketing, Constellation Energy Source, Inc., and PEI Power Corporation. PJM requests an effective date on the day after receipt by the Commission.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company

[Docket No. ER98–2202–000]

Take notice that on March 16, 1998, Louisville Gas and Electric Company (LG&E) tendered for filing an executed Purchase and Sales Agreement between LG&E and Griffin Energy Marketing, L.L.C. under LG&E's Rate Schedule GSS.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Ameren Services Company

[Docket No. ER98–2203–000]

Take notice that on March 16, 1998, Ameren Services Company (Ameren Services) tendered for filing a Network Operating Agreement and a Service Agreement for Network Integration Transmission Service between Ameren Services and the City of Kahoka, Missouri (City). Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to City pursuant to Ameren's Open Access Transmission Tariff.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Ameren Services Company

[Docket No. ER98–2204–000]

Take notice that on March 16, 1998, Ameren Services Company (ASC) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between ASC and Merchant Energy Group of the Americas, Inc. (MEGA). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to MEGA pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Ameren Services Company

[Docket No. ER98–2205–000]

Take notice that on March 16, 1998, Ameren Services Company (ASC) tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and ConAgra Energy Services, Inc., Merchant Energy Group of the Americas, Inc. and SCANA Energy Marketing, Inc. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Union Electric Company

[Docket No. ER98–2206–000]

Take notice that on March 16, 1998, Union Electric Company (UE) tendered for filing a Service Agreement for Market Based Rate Power Sales between UE and the City of Kahoka, Missouri (City). UE asserts that the purpose of the Agreement is to permit UE to make sales of capacity and energy at market based rates to the City pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. South Carolina Electric & Gas Company

[Docket No. ER98–2207–000]

Take notice that on March 16, 1998, South Carolina Electric & Gas Company (SCE&G) submitted a service agreement establishing Tenaska Power Services Co. (TPSC) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon TPSC and the South Carolina Public Service Commission.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. UtiliCorp United Inc.

[Docket No. ER98–2208–000]

Take notice that on March 16, 1998, UtiliCorp United Inc. tendered for filing

on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with Continental Energy Services, L.L.C. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to Continental Energy Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by Continental Energy Services, L.L.C. to WestPlains Energy-Kansas pursuant to Continental Energy Services, L.L.C.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Continental Energy Services, L.L.C.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. UtiliCorp United Inc.

[Docket No. ER98–2209–000]

Take notice that on March 16, 1998, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with Continental Energy Services, L.L.C. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to Continental Energy Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by Continental Energy Services, L.L.C. to WestPlains Energy-Colorado pursuant to Continental Energy Services, L.L.C.''s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Continental Energy Services, L.L.C.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Indiana Michigan Power Company

[Docket No. ER98–2210–000]

Take notice that on March 16, 1998, Indiana Michigan Power Company (I&M) tendered for filing with the Commission Facility Request No. 11 to the existing Agreement dated December 11, 1989 (1989 Agreement) between I&M and Wabash Valley Power Association, Inc. (WVPA). Facility Request No. 11 was negotiated in response to WVPA's request that I&M provide new facilities at a new 138 kV tap station to be owned by WVPA and operated by I&M known as Fruit Belt Electric Cooperative-Flowerfield Tap Station. The Commission has previously designated the 1989 Agreement as I&M's Rate Schedule FERC No. 81.

As requested by, and for the sole benefit of WVPA, I&M proposes an effective date of May 15, 1998, for Facility Request No. 11. A copy of this filing was served upon WVPA, the Indiana Utility Regulatory Commission, and the Michigan Public Service Commission.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Tampa Electric Company

[Docket No. ER98–2211–000]

Take notice that on March 16, 1998, Tampa Electric Company (Tampa Electric) tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and NP Energy Inc. (NP Energy). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to NP Energy.

Tampa Electric proposes an effective date of March 17, 1998 for the Contract, or, if the Commission's notice requirement cannot be waived, the earlier of May 15, 1998 or the date the Contract is accepted for filing.

Copies of the filing have been served on NP Energy and the Florida Public Service Commission.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Rochester Gas and Electric Corporation

[Docket No. ER98–2212–000]

Take notice that on March 16, 1998, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the PP&L, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of March 9, 1998, for the Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Boston Edison Company

[Docket No. ER98–2213–000]

Take notice that on March 16, 1998, Boston Edison Company (Boston Edison) filed revised sheets to its open access tariff deleting a provision in Section 36.5 of the tariff requiring tariff customers to pay Boston Edison for reactive supply and voltage control service.

Boston Edison requests that this filing be allowed to become effective 60 days from date of receipt of filing.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Louisville Gas and Electric Company

[Docket No. ER98–2214–000]

Take notice that on March 16, 1998, Louisville Gas and Electric Company (LG&E) tendered for filing an executed Purchase and Sales Agreement between LG&E and Tenaska Power Services Company under LG&E's Rate Schedule GSS.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Niagara Mohawk Power Corporation

[Docket No. ER98–2216–000]

Take notice that on March 16, 1998, Niagara Mohawk Power Corporation (NMPC) tendered for filing an executed transmission service agreement between NMPC and Eastern Power Distribution, Inc. This transmission service agreement specifies that Eastern Power Distribution, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This tariff, filed on July 9, 1996, will allow NMPC and Eastern Power Distribution, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for Eastern Power Distribution, Inc., as the parties may mutually agree.

NMPC requests an effective date of March 5, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Eastern Power Distribution, Inc.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Niagara Mohawk Power Corporation

[Docket No. ER98–2217–000]

Take notice that on March 16, 1998, Niagara Mohawk Power Corporation (NMPC) tendered for filing an executed Transmission Service Agreement between NMPC and Eastern Power Distribution, Inc. This transmission service agreement specifies that Eastern Power Distribution, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This tariff, filed with on July 9, 1996, will allow NMPC and Eastern Power Distribution, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for Eastern Power Distribution, Inc., as the parties may mutually agree.

NMPC requests an effective date of March 5, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Eastern Power Distribution, Inc.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Rochester Gas and Electric Corporation

[Docket No. ER98–2223–000]

Take notice that on March 16, 1998, Rochester Gas and Electric Corporation filed an application for amendment of its December 31, 1996, filing in OA97–243–000. RG&E is making this filing to reflect transmission rates resulting from a settlement agreement accepted by the Commission in Docket No. OA96–141.

A copy of the filing has been served on the Public Service Commission of the State of New York.

Comment date: April 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. Florida Power Corporation

[Docket No. OA96–73–001]

Take notice that on March 9, 1998, Florida Power Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: April 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. PacifiCorp

[Docket No. OA97–405–000]

Take notice that on March 10, 1998, PacifiCorp tendered for filing an amendment to its filing of an unexecuted contract entitled Amendment No. 1 to the AC Intertie Agreement between PacifiCorp and Bonneville Power Administration (Bonneville).

Copies of this filing were supplied to Bonneville, the Public Utility Commission of Oregon, Public Service Commission of Utah, and the Washington Utilities and Transportation Commission.

PacifiCorp renews its request for an effective date of January 3, 1997 be assigned to the Agreement.

Comment date: April 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Inquiry Concerning the Commission's Policy on Independent System Operators, Midwest Independent Transmission System Operator, Inc., Cincinnati Gas & Electric Company

[Docket No. PL98–5–000, Docket No. ER98–1438–000 and EC98–24–000]

Take notice that on March 2, 1998, the State Public Utility or Public Service Commissions of Arkansas, Illinois, Kansas, Michigan, Minnesota, Missouri, North Dakota, Ohio, Oklahoma, Pennsylvania, and Texas tendered for filing a Petition concerning the matter of competing and/or conflicting independent system operator formation processes in the above-referenced dockets.

Comment date: April 7, 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. 98–7901 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5987–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Spill Prevention, Control and Countermeasure Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Spill Prevention, Control and Countermeasure Plans, OMB Control No. 2050–0021; expiring 5/31/98). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0328.07.

SUPPLEMENTARY INFORMATION:

Title: ''Spill Prevention, Control and Countermeasure Plans'' (OMB Control No. 2050–0021; EPA ICR No. 328.07) expiring 5/31/98. This ICR requests an extension of a currently approved collection.

Abstract: Under section 311 of the Clean Water Act, EPA's Oil Pollution Prevention regulation (40 CFR part 112) requires facility owners or operators to prepare and implement SPCC Plans and keep certain records. Preparation of the SPCC Plan requires that a facility owner or operator analyze how to prevent oil discharges, thereby promoting appropriate facility design and operations. The information in the SPCC Plan also promotes efficient response in the event of a discharge. Finally, proper maintenance of the SPCC Plan promotes important spill-reducing measures, facilitates leak detection, and generally ensures that the facility deters discharges at its peak capability. All of the SPCC Plan recordkeeping activities are mandatory. The specific activities and reasons and uses for the information collection are described below.

Recordkeeping Activities: Under section 112.3, a facility owner or operator must prepare a written SPCC Plan, maintain it at or near the facility, and have it certified by a Registered Professional Engineer (PE). Under section 112.5 the SPCC Plan must be amended (i) whenever there is a facility change that materially affects the potential to discharge oil, and (ii) to include more effective prevention and control technology identified in the owner or operator's triennial Plan review. If amended, the Plan must also be certified by a PE. Under section 112.4, in the event of certain oil discharges, facility owners or operators must submit the SPCC Plan and other information to the EPA Regional Administrator and the appropriate state water pollution control agency within 60 days. Upon review, the Regional Administrator may require amendment of the SPCC Plan. Again, the amended Plan must be certified by a PE. Under section 112.3, the owner or operator must maintain (and update) records of specific inspections as outlined under section 112.7(e).

On December 2, 1997, at 62 FR 63812, EPA published proposed revisions to the SPCC rule (40 CFR part 112). The proposed revisions were designed to reduce the information collection burden of the SPCC rule. The comment period for the proposal closed on February 2, 1998. EPA is now reviewing the comments received. EPA will also review the comments received pursuant to proposals to modify the SPCC rule in 1991 and 1993 (*see* 56 FR 54612, October 22, 1991; and 58 FR 8824, February 17, 1993) and craft a single final rule embodying the 1991, 1993, and 1997 proposals. The final rule should be published in 1999.

Purpose of Data Collection: Facility owners or operators are the primary users of SPCC Plans and related data. EPA does not collect the Plan or related records on a routine basis. Facilities that prepare, implement, and maintain an SPCC Plan improve their ability to prevent oil discharges, and mitigate the environmental damage caused by such discharges. As facility owners or operators accumulate the data, they necessarily analyze the facility's capability to prevent oil discharges, facilitate safety awareness, and promote the use of appropriate design and operational standards that reduce the likelihood of an oil discharge. The Plan information can also help the facility respond efficiently in the event of a discharge. Inspection records help facility owners and operators to promote important operation and maintenance, and demonstrate compliance with SPCC requirements.

EPA also uses the SPCC data in certain situations. EPA primarily uses SPCC Plan data to verify that facilities comply with the regulation and implement their Plan, including design and operation specifications and inspection requirements. EPA reviews SPCC Plans; (1) when facilities submit the Plans because of oil discharges, and (2) as part of EPA's inspection program. State and local governments may also use the data, which is not necessarily available elsewhere and can greatly assist local emergency preparedness planning efforts.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 18, 1997 (62 FR 66360); EPA received five comment letters.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 39.9 hours per newly regulated facility and 5.4 hours per already regulated facility. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements to train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/affected entities: Non-transportation facilities with the potential to discharge oil to navigable waters.

Estimated number of respondents: 455,472.

Frequency of response: One-time plan, occasional records/reports.

Estimated total annual hour burden: 2.62 million hours.

Estimated total annualized cost burden: $79.3 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 328.07 and OMB Control No. 2050–0021 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M St., SW., Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725—17th St., NW., Washington, DC 20503.

Dated: March 23, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–8053 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5987–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Request for the 1997 State Source Water Assessment and Protection Programs Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: The 1997 State Source Water Assessment and Protection Programs Guidance, EPA ICR#1816.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www/epa/gov/icr and refer to EPA ICR No. 1816.01.

SUPPLEMENTARY INFORMATION:

Title: The 1997 State Source Water Assessment and Protection Programs

Guidance (EPA ICR No. 1816.01). This is a new collection.

Abstract: Section 1453 (a)(3) of the Safe Drinking Water Act requires states to submit to EPA a Source Water Assessment Program within 18 months after issuance of the national guidance on State Source Water Assessment and Protection Programs, which was issued by EPA on August 5, 1997. These State source water assessments and protection programs describe the process by which a State does assessments for the protection and benefit of public water systems by: delineating source water protection areas, conducting contamination source inventories and susceptibility determinations, and indicating whether or not it plans to implement a source water protection program. A State is also required to develop such a program with public participation and report the results of the assessments to the public.

Once a State program is approved by EPA, the State has two years to complete the source water assessments for the public water systems within its borders. Section 1453(a)(4) allows a State to request an extension of up to 18 months to complete the assessments. The extension request must indicate the reason a State requires additional time and must include a description of how and when the State will complete the assessment within the requested extension period. The request must also include information on the progress in implementing the assessments by the end of the first 18 months. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/24/97 (FRL–5846–4). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2,436 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States and Puerto Rico.

Estimated Number of Respondents: 51.

Frequency of Response: Occasional.

Estimated Total Annual Hour Burden: 402,009 hours.

Estimated Total Annualized Cost Burden: $18,582,723.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR NO. 1816.01 in any correspondence.

Ms. Sandy Farmer,
U.S. Environmental Protection Agency,
OPPE Regulatory Information Division (2137),
401 M Street SW,
Washington, DC 20460;
and
Office of Information and Regulatory Afairs,
Office of Management and Budget,
Attention: Desk Officer for EPA,
725 17th Street, NW,
Washington, DC 20503.

Dated: March 23, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–8054 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140268; FRL–5781–2]

Computer Based Systems, Incorporated; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Computer Based Systems, Incorporated (CBSI), 2750 Prosperity Avenue, Suite 300, Fairfax, VA 22031, for access to information which has been submitted to EPA under sections 303, 311, 312, and 313 of the Emergency Planning and Community Right-to-Know Act of 1986, also known as Title III. Some of the information may be claimed or determined to be trade secret information.

DATE: CBSI will have access to the trade secret information submitted to EPA pursuant to this Notice effective April 1, 1998.

FOR FURTHER INFORMATION CONTACT: Janette Petersen, Information Management Division (7407), Office of Pollution Prevention and Toxics, Rm. NE–G102, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–1558.

SUPPLEMENTARY INFORMATION: Under the Superfund Amendments and Reauthorization Act of 1986 (SARA), industry must report information on the presence, use, production, and manufacture of certain chemicals to EPA.

Under contract number 68–W–98–045, CBSI will assist the Office of Pollution Prevention and Toxics, Information Management Division in receiving and processing the information submitted by industry in response to the requirements of sections 303, 311, 312, and 313 of SARA. Specifically, CBSI will establish and maintain a facility, called the Regulatory Data Collection Reporting Center. For example, CBSI personnel will be given access to SARA section 303, 311, 312, and 313 submissions and related documents. Some of the information may be claimed or may be determined to be trade secret. Personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures.

EPA is issuing this notice to inform all submitters of information under sections 303, 311, 312, and 313 of SARA that EPA may provide CBSI access to these trade secret materials on a need-to-know basis. All access to SARA trade secret information under this contract will take place at the Regulatory Data Collection Reporting Center. Upon termination of their contract or prior to termination of their contract at EPA's request, CBSI will return all materials to EPA.

Clearance to access to SARA trade secret information under this contract is scheduled to expire on January 31, 2003.

List of Subjects

Environmental protection.

Dated: March 20, 1998.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–8068 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5490–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed March 16, 1998 Through March 20, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980086, Final EIS, FHW, FL, Miami Intermodal Center (MIC), Construction, Bounded by FL–112 on the north, FL–836 on the south, Miami International Airport landside terminal NW 27th Avenue on the east, along FL–836 that extends West to NW 57th Avenue, Dade County, FL, Due: April 27, 1998, Contact: J. R. Skinner (904) 942–9579.

EIS No. 980087, Final EIS, AFS, ID, Caribou National Forest, Implementation, Federal Phosphate Leasing Proposal for the Manning Creek and Dairy Syncline Tracts, Caribou County, ID, Due: April 27, 1998, Contact: Steve Robison (208) 236–7573.

EIS No. 980088, Draft EIS, FHW, AL, Tuscaloosa East Bypass Project (DPI–0080(001), Construction from I–59/I–20 east Tuscaloosa and Newport to US–82 near west of Newport, Funding, NPDESs Permit, COE Section 10 and 404 Permits, Tuscaloosa County, AL, Due: May 22, 1998, Contact: Joe D. Wilkerson (334) 223–7370.

EIS No. 980089, Draft Supplement, AFS, OR, Summit Fire Recovery Forest Restoration Project, Implementation, Information on Two New Alternatives, Malheur National Forest, Long Creek Ranger District, Grant County, OR, Due: May 11, 1998, Contact: Michael Hutchins (541) 575–3000.

EIS No. 980090, Draft EIS, FHW, PA, PA–0119 South Transportation Improvement Project, Between Blairsville and Homer City, Funding, NPDESs Permit and COE Section 404 Permit, Indiana County, PA, Due: May 13, 1998, Contact: Ronald W. Carmichael, PE. (717) 221–3461.

EIS No. 980091, Draft EIS, COE, NJ, Lower Cape May Meadows—Cape May Point Feasibility Study, Ecosystem Restoration, New Jersey Shore Protection Study, Cape May County, NJ, Due: May 11, 1998, Contact: Beth Brandreth (215) 656–6558.

EIS No. 980092, Final EIS, AFS, CA, San Juan Fuels and Wildlife Project, Implementation, Tahoe National Forest, Nevada City Ranger District, Nevada County, CA, Due: April 27, 1998, Contact: Don Thane (530) 265–4531.

EIS No. 980093, Draft EIS, USA, MD, Aberdeen Proving Ground, Pilot Testing of Neutralization/Biotreatment of Mustard Agent (HD), Design, Construction and Operation, NPDESs and COE Section 404 Permit, Harford County, MD, Due: May 11, 1998, Contact: Don Thane (530) 265–4531.

EIS No. 980094, Final EIS, AFS, OR, Crown Pacific Limited Partnership Land Exchange Project, Implementation, Consolidate Land Ownership and Enhance Future Resource, Deschutes, Fremont and Winema National Forests, Deschutes, Jefferson, Klamath and Lake Counties, OR, Due: April 27, 1998, Contact: Susan Skakel (541) 388–2715.

EIS No. 980095, Final EIS, GSA, WA, Seattle New Federal Courthouse, Construction, King County, WA, Due: April 27, 1998, Contact: Michael D. Levine (253) 931–7263.

EIS No. 980096, Regulatory Draft EIS, NOA, American Lobster Fishery Management Plan, Implementation, To Prevent Overfishing of American Lobster and to Rebuild Lobster Stocks, Exclusive Economic Zone (EEZ) off the New England and Mid-Atlantic, Due: May 11, 1998, Contact: Bob Ross (978) 281–9234.

EIS No. 980097, Final EIS, COE, CA, Unocal Avila Beach Cleanup Project, Petroleum Hydrocarbon Contamination, Approval and Implementation, US Army COE Section 10 and 404 Permits Issuance, San Luis Obispo County, CA, Due: April 27, 1998, Contact: Tiffany Welch (805) 641–2935.

Amended Notices

EIS No. 970439, DRAFT EIS, IBR, CA, Programmatic EIS—Central Valley Project Improvement Act (CVPIA) of 1992 Implementation, Central Valley, Trinity, Contra Costa, Alameda, Santa Clara and San Benito Counties, CA, Due: April 17, 1998, Contact: Alan Candlish (916) 978–5190. Published FR 11–14–97—Review Period extended.

EIS No. 980014, Draft EIS, AFS, OR, Nicore Mining Project, Implementation, Plan-of-Operations, Mining of Four Sites, Road Construction, Reconstruction, Hauling and Stockpiling of Ore, Rough and Ready Creek Watershed, Illinois Valley Ranger District, Siskiyou National Forest, Medford District, Josephine County, OR, Due: May 15, 1998, Contact: Rochelle Desser (541) 592–2166. Published FR 01–30–98 Review Period Extended.

Dated: March 24, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–8110 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5490–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 09, 1998 Through March 13, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES AT (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 1997 (62 FR 16154).

Draft EISs

ERP No. D–AFS–K65082–CA Rating EC2, Payen, Pass Creek and English Range Allotments, Grazing Land Management Plan, Implementation, Tahoe National Forest, Sierraville Ranger District, Sierra and Nevada Counties, CA.

Summary: EPA expressed environmental concerns about insufficient site information to develop a monitoring plan and suggested the final EIS contain environmental indicators and establish threshold values to measure improvement.

ERP No. D–BLM–J31025–WY Rating EO2, Greybull Valley Irrigation District Dam and Reservoir Project, Issuance of Right-of-Way Permit and COE Section 404 Permit, Park County, WY.

Summary: EPA expressed environmental objections about cumulative adverse impacts to the aquatic system of the Greybull River and requested that the water conservation alternative be pursued.

ERP No. D–BLM–J60019–WY Rating EC2, Cave Gulch-Bullfrog-Waltman Natural Gas Development Project, Implementation, Platte River Resource Area, Natrona County, WY.

Summary: EPA expressed environmental concerns about impacts to a regional ground water recharge area

and suggested the final EIS develop site-specific ground water data and define the selected protection measures.

EERP No. D–BLM–J67026–MT Rating EC2, Golden Sunlight Mine Expansion, Implementation of Amendment 008 to Operating Permit No. 0065, COE Section 404 Permit, Whitehall, Jefferson County MT.

Summary: EPA expressed environmental concerns about implementing the proposed environmental mitigation measures and suggested the final EIS calculate the final bonding amount needed to comply with water quality standards in perpetuity and improve the groundwater mixing zone procedure.

ERP No. DR–AFS–K65184–CA Rating EC2, Aock Creek Recreational Trails Management Plan, Implementation, Additional Information, Eldorado National Forest, Georgetown Ranger Director, Eldorado County, CA.

Summary: EPA expressed environmental concerns about numerous substantive changes to the Forest Service's preferred alternative, and recommended that the Forest Service take additional steps to address high road densities and excessive sediment delivery in the project area. The final monitoring plan identify specific sedimentation minimization targets and follow-up actions.

ERP No. D1–AFS–J65111–MT, Rating EC2, Flathead National Forest, Management Direction Plan Related to Old Growth Forests, Forest Plan Amendment No. 21, Implementation, Flathead, Lake, Lincoln, Missoula and Lewis and Clark Counties, MT.

Summary: EPA expressed environmental concerns and recommends that the preferred alternative be modified to include areas of old growth to monitor ecological responses and to allow protect biodiversity and grizzly bear habitat.

Final EISs

ERP No. F–AFS–J61098–MT, Lost Trail Ski Area Expansion Project, Implementation, New Master Development Plan, Bitterroot National Forest, Sula Ranger District, Ravalli County, MT.

Summary: EPA expressed environmental concerns about inadequate wetlands mitigation, potential water quality degradation associated with increased wastewater pollutant loading, lack of adequate analysis and disclosure or indirect growth related impacts and air quality impacts.

ERP No. F–AFS–J65263–SD, Anchor Hill Mine Expansion Project in Gilt Edge Mine, Plan-of-Operations, Approval, Black Hills National Forest, SD.

Summary: The Final EIS has addressed many of EPA's comment however, EPA has remaining concerns about the inadequate cash reclamation bonding, the absence of post closure operations and maintenance (O&M) funding/bonding and contingency plans, and long term water quality protection.

ERP No. F–AFS–J65271–MT, Jericho Salvage Timber Sale, Implementation, Salvage Treatments and Temporary Road Construction, Helena National Forest, Helena Ranger District, Powell County, MT.

Summary: EPA expressed environmental concerns about proposed reduction of streamside buffer zone widths below INFISH recommended widths, and inadequate water quality/aquatics monitoring for the detection and mitigation of all potential environmental impacts of the management actions.

Dated: March 24, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–8111 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5987–5]

Public Meeting on the Ground Water Disinfection Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notification is hereby given that the Environmental Protection Agency (EPA) is holding three public meetings concerning the Ground Water Disinfection Rule (GWDR). The objective of these meetings are to provide the public with the current available data and the potential regulatory options under consideration to support the GWDR development; ask for comments on the data and potential regulatory options; solicit further data if available; as well as to identify parties who may be interested in further meetings.

DATES: The first meeting will be held on May 5, 1998, in Portland, OR. The second will be held on June 9, 1998, in Madison, WI. The last meeting will be held on June 25, 1998, in Dallas, TX.

FOR FURTHER INFORMATION CONTACT: EPA will provide a copy of meeting materials prior to each meeting to anyone requesting it. To register for any of these meetings and for copies of the meeting materials please contact the Safe Drinking Water Hotline (800) 426–4791 or Martha Kucera at US EPA (202) 260–7773, kucera.martha@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act as amended in 1996 directs EPA to promulgate regulations requiring disinfection ''as necessary'' for ground water systems. The intention of the GWDR is to reduce microbial contamination risk from public water sources relying on ground water. To determine if treatment is necessary, the rule will establish a framework to identify public water supplies vulnerable to microbial contamination and to develop and implement risk control strategies including but not limited to disinfection. This rulemaking will apply to all public water systems that use ground water, which includes noncommunity systems.

Dated: March 23, 1998.

W. R. Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–8055 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00529; FRL–5779–5]

Pesticide Program Dialogue Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act [Public Law 92–463], EPA's Office of Pesticide Programs (OPP) is giving notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC).

DATES: The meeting will be held on Thursday, April 16, 1998 from 8:30 a.m. to 5:45 p.m. and Friday, April 17, 1998 from 8:30 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at: the Holiday Inn (Hotel & Suites, Historic District Alexandria); 625 First Street; Alexandria, Virginia 22314; Telephone number: 703 548–6300.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach or Linda Murray, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway; Arlington, VA 22202; Phone: 703 305–

7090; e-mail: fehrenbach.margie@epamail.epa.gov or murray.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The PPDC is composed of a balanced group of participants from the following sectors: federal agencies and state governments; consumer and environmental/public interest groups, including representatives from the general public; academia; the public health community; pesticide industry and user groups. The Committee was formed to foster communication and understanding among the parties represented on the Committee and with OPP. The Committee also provides advice and guidance to OPP regarding pesticide regulatory, policy, and implementation issues.

PPDC meetings are open to the public. Outside statements are welcome. Oral statements will be limited to five minutes per individual or group. Any person who wishes to file a written statement can do so before or after a Committee meeting. These statements will become part of the permanent file and will be provided to the Committee members for their information. Materials will be available for public review at the following address: U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

Major topics to be discussed at the April 16–17, 1998 meeting include: registration review; update on the FQPA safety factor (10×); FQPA consumer brochure; Approach for Reassessing Tolerances for Organophosphates (ARTO); section 18 issues; and, ecological issues.

List of Subjects

Environmental protection.

Dated: March 16, 1998.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 98–8066 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64037; FRL 5778–4]

Notice of Receipt of Request to Voluntarily Cancel Rid-A-Bird Perch 1100 Solution According to Memorandum of Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by the registrant, Rid-A-Bird, Inc. of Wilton, Iowa, to voluntarily cancel Rid-A-Bird Perch 1100 Solution and is publishing the Memorandum of Agreement (MOA) dated November 5, 1997, between the Agency and Registrant affecting the terms and conditions of this registration and its cancellation.

DATES: The effective date of this cancellation is March 1, 1999. EPA is providing a 180–day opportunity for comment on the request for voluntary cancellation of Rid-A-Bird Perch 1100 Solution. To comment, or for further information, contact: By mail: Dennis R. Deziel, Office of Pesticide Programs (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 3W26, Crystal Station, 2900 Crystal Drive, Arlington, VA 22202, (703) 308–8173; e-mail: deziel.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be canceled, and pursuant to section 6(f)(1)(C), EPA must provide a 180–day opportunity for comment on a request for voluntary cancellation unless that period is waived by the registrant or EPA. In this case the Registrant has requested voluntary cancellation through the signing of a MOA dated November 5, 1997, with the Agency. This MOA modifies the terms and conditions of this registration and its cancellation.

The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request. In this case the Agency is including the text of the MOA in this Notice of Receipt.

II. Background

The MOA sets forth the terms between the EPA and Rid-A-Bird, Inc. ''Registrant'' regarding Rid-A-Bird Perch 1100 Solution or ''the product,'' EPA Reg. No. 7579–2, a registration held by the Registrant under FIFRA containing the active ingredient fenthion, which is also known under the chemical name of *O,O*-Dimethyl *O*-(4-(methylthio)-m-tolyl) phosphorothioate.

The Rid-A-Bird Perch 1100 Solution is currently registered for control of starlings, English sparrows, and pigeons at the following sites: (1) In and around farm buildings and feed lots; (2) building tops and structural steel; (3) inside other buildings; (4) power plants and sub-stations; (5) storage yards; (6) loading docks; and (7) bridges. EPA believes that this product may pose a significant risk to non-target species feeding on pest species killed by the Rid-A-Bird Perch 1100 Solution at these sites. This concern is supported by numerous incidents in the United States involving mortality to non-target species such as: barn swallows; crows; screech, short-eared, and great-horned owls; kestrels; sharp-shinned, Cooper's, and red-tailed hawks; the peregrine falcon; and the bald eagle.

EPA and the Registrant have entered into an agreement in an effort to make future poisoning incidents from the Registrant's perch products less likely. The MOA serves as the Registrant's request for voluntary cancellation of the Rid-A-Bird Perch 1100 Solution with an effective date of March 1, 1999. After this date, the Registrant may not distribute or sell the Rid-A-Bird Perch 1100 Solution except for the purposes of recall or disposal. Persons other than the Registrant and producers of the product may continue to distribute, sell or use the product until October 1, 1999. Any use of existing stocks must be in accordance with the previously approved labeling accompanying the products. In addition, the Registrant will complete by December 1, 1999, a recall of product held by distributors, sellers or users of the Rid-A-Bird Perch product after the expiration of the existing stocks date.

The Registrant has also agreed to seek an experimental use permit (EUP) to conduct experiments necessary to support an application for the registration of a perch product containing the new active ingredient CPT, which is also known under the chemical name of 3-chloro-4-methylbenzenamine, or 3-chloro-p-toluidine. A perch with CPT is expected to reduce secondary poisonings, because available data indicate that CPT is less toxic to most birds of prey than is fenthion. EPA has agreed to conduct an expedited review of the EUP application and any subsequent application submitted by the Registrant to support the registration of a CPT perch product.

The Agreement does not affect any other uses of products containing the active ingredient fenthion. In addition, because this is the only current fenthion bird perch product, the Agreement does not affect other registrants of products containing fenthion.

III. Voluntary Cancellation Request

This Notice announces receipt by the Agency of a request to cancel a pesticide product registered under section 3 of FIFRA. This registration is listed in the following Table 1.

TABLE 1. — REGISTRATION WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
7579–2	Rid-A-Bird Perch 1100 Solution	Fenthion

This cancellation is effective March 1, 1999.

The following Table 2 includes the name and address of record for the registrant of the product in Table 1.

TABLE 2. — REGISTRANT REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
7579	Rid-A-Bird, Inc. P.O. Box 436 Wilton, IA 52778

IV. Additional Information

As a convience to the reader, the MOA reads as follows:

Memorandum of Agreement Between the Environmental Protection Agency and Rid-A-Bird, Inc. Regarding the Registration of the Rid-A-Bird Perch Product Containing Fenthion

This Memorandum sets forth the terms of an Agreement ''Agreement'' between the United States Environmental Protection Agency (EPA) and Rid-A-Bird, Inc. ''Registrant'' regarding Rid-A-Bird Perch 1100 Solution or ''the product,'' EPA Reg. No. 7579–2, a registration held by the Registrant under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) containing the active ingredient fenthion, which is also known under the chemical name of *O,O*-Dimethyl *O*-(4-(methylthio)-m-tolyl) phosphorothioate.

The Rid-A-Bird Perch 1100 Solution is currently registered for control of starlings, English sparrows, and pigeons at the following sites: (1) in and around farm buildings and feed lots; (2) building tops and structural steel; (3) inside other buildings; (4) power plants and sub-stations; (5) storage yards; (6) loading docks; and (7) bridges.

This Agreement serves as the Registrant's request for voluntary cancellation of the Rid-A-Bird Perch 1100 Solution with an effective date of March 1, 1999. After this date, the Registrant may not distribute or sell the Rid-A-Bird Perch 1100 Solution except for the purposes of recall or disposal. Persons other than the Registrant and producers of the product may continue to distribute, sell or use the product until October 1, 1999. In addition, the Registrant will complete by December 1, 1999 a recall of product held by distributors, sellers or users of the Rid-A-Bird Perch product after the expiration of the existing stocks date. The Registrant has also agreed to seek an experimental use permit (EUP) to conduct experiments necessary to support an application for the registration of a perch product containing the new active ingredient CPT, which is also known under the chemical name of 3-chloro-4-methylbenzenamine. EPA has agreed to conduct an expedited review of the EUP application and any subsequent application submitted by the Registrant to support the registration of a CPT perch product.

The Agreement does not affect any other uses of products containing the active ingredient fenthion. In addition, because this is the only current fenthion bird perch product, the Agreement does not affect other registrants of products containing fenthion. The specific terms of this Agreement are as follows:

1. This Agreement constitutes the Registrant's request for the voluntary cancellation of the Rid-A-Bird Perch 1100 Solution pursuant to section 6(f) of FIFRA. The terms of the cancellation will be as follows:

(a) The effective date of cancellation will be March 1, 1999. The Registrant and any producer of the product may not distribute or sell the canceled product after such date except for the purposes of recall or proper disposal.

(b) Existing stocks of the canceled product in the possession of persons other than the Registrant or any producer of the product may not be distributed, sold or used after October 1, 1999 except for the purposes of recall or proper disposal.

(c) The Registrant agrees as a condition of continued registration of the product that it may not withdraw this request for voluntary cancellation.

2. The Registrant agrees as a condition of continuing registration of the Rid-A-Bird Perch 1100 Solution to submit an amendment to include on the label or in supplemental labeling the following statements on all products sold or distribute by the Registrant or any producer of the product after May 1, 1998:

(a) This product may not be used in starling roosting areas.

(b) This product may not be used on sites utilized by over 200 starlings.

(c) This product may not be used after October 1, 1999.

The Registrant agrees to submit proposed labeling to EPA to implement these changes no later than April 1, 1998.

3. EPA will, as expeditiously as possible, review the Registrant's proposed labeling submitted pursuant to paragraph 2, and will make a good faith effort to act on the proposed labeling within 10 working days of receipt.

4. The Registrant agrees to complete a recall of all canceled product at its own expense by December 1, 1999. The registrant agrees that it will contact any customer who has purchased 1 gallon or more of the product in the year preceding the expiration date of the existing stocks period under paragraph 1(b) (October 1, 1999 or a later date if the existing stocks date is extended pursuant to paragraph 7) to provide information on the return of the product. The communication must inform the customer that the existing stocks date will soon expire; that any further distribution, sale or use of the product after the expiration of the existing stocks date is unlawful; that the Registrant is recalling all unused and unopened product down to the user level; and that the Registrant will bear the cost of transportation and provide a full refund (or equivalent value) for any returned product. The Registrant agrees to maintain a log that records the name of each customer contacted and the date of the communication. The Registrant agrees that if the recall is not be completed prior to the registration of a CPT perch solution product (should EPA issue a registration for such a product), completion of the recall pursuant to the terms of this agreement shall be a condition of the registration of its CPT perch solution product.

5. The Registrant Agrees to submit an application for an experimental use permit under section 5 of FIFRA and 40 CFR part 172 for a product containing the active ingredient CPT by November 15, 1997. Data requirements for the EUP application are set forth in Appendix A, ''Proposed Data Requirements for Rid-A-Bird CPT Bird Control Perch for Experimental Use Permit and Registration - September 10, 1997 [interested parties can obtain a copy of

Appendix A, ''proposed data requirements,'' by contacting Mr. Dan Peacock at (703) 305–5407]. Within two months of receipt of a complete EUP application, EPA will review all information contained in the EUP application and will provide the Registrant with lists of:

(a) the terms and conditions EPA intends to impose upon issuance of the EUP;

(b) revised data requirements for registration of a CPT Perch Solution product (if changed by the EUP review); and

(c) the results of all reviews of data and rationales for extrapolating data from Starlicide to satisfy CPT requirements.

6. After receipt by the Registrant of the above EUP review, EPA agrees to meet with the Registrant and/or its representatives at least once, if requested, to discuss any issue involving the EUP and registration of CPT.

7. EPA agrees to review any complete application submitted by the Registrant for registration of a perch solution product containing the active ingredient CPT within 4 months of receipt. If EPA's total review time for complete EUP and registration applications for perch solution products containing CPT exceeds 6 months in the aggregate, the existing stocks provisions of the cancellation order as set forth in paragraph 1(b), and the date for the recall of all canceled product as set forth in paragraph 4, shall each be extended by a period equal to the additional time utilized by EPA for the review of the applications. The effective date of cancellation under paragraph 1(a) shall not be extended unless EPA determines, in its discretion, to extend the date.

8. The parties acknowledge that the labeling restrictions set forth in paragraph 2 apply only to the Rid-A-Bird Perch 1100 Solution and are not necessarily applicable to the registration of a CPT perch product by the Registrant. The acceptability of labeling and proposed uses for a CPT perch product will be evaluated on their own merits by EPA pursuant to section 3 of FIFRA.

9. The Registrant agrees that failure to comply with any of the conditions of registration set forth in this Agreement shall be grounds for cancellation of the Rid-A-Bird Perch 1100 Solution under section 6(e) of FIFRA.

10. The Registrant agrees that it will not challenge or assist any person in challenging this Agreement in any forum.

11. This Agreement constitutes the complete agreement reached by EPA and the Registrant.

12. This Agreement shall take effect if the Registrant and EPA sign the Agreement. The effective date shall be the date that the last party signs the Agreement.

Dated this 3rd and 5th day of November, 1997.

Steven Johnson, Acting Director, Office of Pesticide Programs, U.S. Environmental Protection Agency, /s/ 11/5/97.

Keith Wilson, President, Rid-A-Bird, Inc., /s/ 11/3/97.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: March 18, 1998

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–8067 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–799; FRL–5579–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–799, must be received on or before April 27, 1998.

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

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

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

FOR FURTHER INFORMATION CONTACT: The product reviewer listed in the table below:

Product Manager	Office location/telephone number	Address
Ann Sibold	Rm. 212, CM #2, 703–305–6502, e-mail:sibold.ann@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Joseph M. Tavano	Rm. 214, CM #2, 703–305–6411, e-mail: tavano.joseph@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–799] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in

Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 19, 1998

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. American Cyanamid Company

PP 6F4623

EPA has received a pesticide petition (PP 6F4623) from American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543-0400, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance of 0.5 ppm for residues of 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1-pyrrole-3-carbonitrile, (chlorfenapyr) in or on the raw agricultural commodity citrus. As citrus processed commodities fed to food animals may be transferred to milk and edible tissues, tolerances are also proposed for the following ruminant food items: milk at 0.01 parts per million (ppm); milk fat at 0.15 ppm; meat at 0.01 ppm; and meat by-products (including fat) at 0.10 ppm.

The proposed analytical method is capillary gas chromatography using an electron capture detector. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residues of chlorfenapyr in plants is adequately understood and the residue of concern in citrus consists of the parent molecule. Expressed on a whole basis, the parent compound accounted for 56-75% of the total radioactive residue (TRR), 98% of which was associated with the external rinse and peel.

2. *Analytical method*. The GC analytical method, M2284, which is proposed as the enforcement method for the residues of chlorfenapyr in citrus, has a limit of detection (LOD) of 0.01 ppm (0.025 ppm for juice) and a limit of quantitation (LOQ) of 0.05 ppm.

3. *Magnitude of residues*. Extensive citrus field trials have been conducted over multiple growing seasons in all major citrus growing regions of the US. The results of these studies indicate that at the highest proposed use rate of 1.05 lbs ai/A, the maximum expected chlorfenapyr residues are 0.4 ppm in oranges, 0.38 ppm in lemons and 0.27 ppm in grapefruit in/on citrus samples harvested 7 days following the last application. These field trial data are adequate to support the proposed tolerance of 0.5 ppm in/on citrus harvested 7-days following the last application. The results of processing studies indicate that chlorfenapyr residues do not concentrate in molasses and juice. The actual concentration factors in dried pulp (2.4x) and citrus oil (70x) are well below the maximum theoretical concentration factors for these commodities. Although citrus oil is not considered to be a ready-to-eat item and is not expected to contribute to the dietary exposure, a tolerance at 35 ppm (0.5 ppm x 70) is proposed for enforcement purposes.

B. Toxicological Profile

1. *Acute toxicity*. Based on the EPA's toxicity category criteria, the acute toxicity category for chlorfenapyr technical is Category II or moderately toxic (signal word WARNING) and the acute toxicity category for the 2SC formulation is Category III or slightly toxic (signal word CAUTION). Males appear to be more sensitive to the effects of chlorfenapyr than females. The acute toxicity profile indicates that absorption by the oral route appears to be greater than by the dermal route. The following are the results from the acute toxicity tests conducted on the technical material:

i. Rat Oral LD_{50}: 441/1152 milligram/kilograms (mg/kg) bwt.(M/F) -- Tox. Category II

ii. Rabbit Dermal LD_{50}: >2,000 mg/kg bwt.(M/F) -- Tox. Category III

iii. Acute Inhal. LC_{50}: 0.83/>2.7 mg/L (M/F) -- Tox. Category III

iv. Eye Irritation: Moderately Irritating -- Tox. Category III

v. Dermal Irritation: Non-Irritating -- Tox. Category IV

vi. Dermal Sensitization: Non-Sensitizer -- Non Sensitizer

vii. Acute Neurotoxicity: NOEL 45 mg/kg bwt. -- Not An Acute Neurotoxicant

2. *Genotoxicty*. Chlorfenapyr technical (94.5% a.i.) was examined in a battery of*in vitro* and *in vivo* tests to assess its genotoxicity and its potential for carcinogenicity. These tests are summarized below.

Microbial/Microsome Mutagenicity Assay: Non-mutagenic

Mammalian Cell CHO/HGPRT Mutagenicity Assay: Non-mutagenic

In Vivo Micronucleus Assay: Non-genotoxic

In Vitro—Chromosome Aberration Assay in CHO: Non-clastogenic

In Vitro—Chromosome Aberration Assay in CHLC: Non-clastogenic

Unscheduled DNA Synthesis (UDS) Assay: Non-genotoxic.

3. *Reproductive and developmental toxicity*. Chlorfenapyr is neither a reproductive or developmental toxicant and is not a teratogenic agent in the Sprague-Dawley rat or the New Zealand white rabbit. This is demonstrated by the results of the following studies:

Rat Oral Teratology -- No-Observed-Effect-Level (NOEL) for maternal toxicity 25 mg/kg bwt./day and NOEL for fetal/develop. toxicity 225 milligram/kilograms body weight/day (mg/kg bwt./day)

Rabbit Oral Teratology -- NOEL for maternal toxicity 5 mg/kg bwt./day and NOEL for fetal/develop. toxicity 30 mg/kg bwt./day

Rat 2-Generation Reproduction -- NOEL for parental toxicity /growth and offspring development 60 ppm (5 mg/kg bwt./day)
NOEL for reproductive performance 600 ppm (44 mg/kg bwt./day).

4. *Subchronic toxicity*. The following are the results of the subchronic toxicity tests that have been conducted with chlorfenapyr:

28-Day Rabbit Dermal -- NOEL 100 mg/kg bwt./day

28-Day Rat Feeding -- NOEL >600 ppm (< 71.6 mg/kg bwt./day)

28-Day Mouse Feeding -- NOEL >160 ppm (<32 mg/kg bwt./day)

13-Week Rat Dietary -- NOAEL 150 ppm (11.7 mg/kg bwt./day)

13-Week Mouse Dietary -- NOEL 40 ppm (8.2 mg/kg bwt./day)

13-Week Dog Dietary -- NOAEL 120 ppm (4.2 mg/kg bwt./day)

5. *Chronic toxicity*. Chlorfenapyr is not oncogenic in either Sprague Dawley rats or CD-1 mice and is not likely to be carcinogenic in humans. The following are the results of the chronic toxicity tests that have been conducted with chlorfenapyr:

1-Year Neurotoxicity in Rats -- NOEL 60 ppm (2.6/3.4 mg/kg bwt./day M/F)

1-Year Dog Dietary -- NOEL 120 ppm (4.0/4.5 mg/kg bwt./day M/F)

24-Month Rat Dietary -- NOEL for Chronic Effects 60 ppm (2.9/3.6 mg/kg bwt./day M/F) and NOEL for Oncogenic Effects 600 ppm (31/37 mg/kg bwt./day M/F)

18-Month Mouse Dietary -- NOEL for Chronic Effects 20 ppm (2.8/3.7 mg/kg bwt./day M/F) and NOEL for Oncogenic Effects 240 ppm (34.5/44.5 mg/kg bwt./day M/F)

6. *Animal metabolism*. A metabolism study was conducted in Sprague Dawley rats at approximately 20 and 200 mg/kg bwt. using radiolabeled chlorfenapyr. Approximately 65% of the administered dose was eliminated during the first 24 hours (62% in feces and 3% in urine) and by 48 hours following dosing, approximately 85% of the dose had been excreted (80% in feces and 5% in urine). The absorbed chlorfenapyr-related residues were distributed throughout the body and detected in tissues and organs of all treatment groups. The principal route of elimination was via feces, mainly as unchanged parent plus minor N-dealkylated, debrominated and hydroxylated oxidation products.

The metabolic pathway of chlorfenapyr in the laying hen and the lactating goat was also similar to that in laboratory rats.

7. *Metabolite toxicology*. The parent molecule is the only moiety of toxicological significance which needs regulation in plant and animal commodities.

8. *Endocrine effects*. Collective organ weights and histopathological findings from the 2-generation rat reproduction study, as well as from the subchronic and chronic toxicity studies in two or more animal species, demonstrate no apparent estrogenic effects or effects on the endocrine system. There is no information available which suggests that chlorfenapyr would be associated with endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Food*. For purposes of assessing the potential dietary exposure, a Theoretical Maximum Residue Contribution (TMRC) has been calculated from the tolerance of chlorfenapyr in/on citrus at 0.5 ppm. This exposure assessment is based on very conservative assumptions, namely 100% of all citrus is treated with chlorfenapyr and that the residues of chlorfenapyr in citrus are at the tolerance level. Although there are no other established US permanent tolerances for chlorfenapyr, a petition for a permanent tolerance at 0.5 ppm in cottonseed is pending at the Agency. Therefore, the dietary exposures to residues of chlorfenapyr in or on food will be limited to residues in cottonseed, citrus and food and feed items derived from them. As dried citrus pulp is a dairy and beef cattle feed item, a cold feeding study with dairy cattle was conducted. Since this study demonstrated that measurable residues of chlorfenapyr may occur in milk, meat and meat by products, appropriate residue tolerances for these items are proposed. The contribution of the citrus tolerances alone to the daily consumption uses only 0.23% of the reference dose (RfD) for the overall US population. The combined contributions of the citrus and the pending cottonseed tolerances to the daily consumption uses less than 1% (actual 0.85%) of the reference dose for the overall US population and less than 3% (actual 2.23%) and less than 1% (actual 0.89%) of the reference doses for children aged 1-6 and for non-nursing infants, respectively.

ii. *Drinking water*. There is no available information about chlorfenapyr exposures via levels in drinking water. There is no concern for exposure to residues of chlorfenapyr in drinking water because of its extremely low water solubility (120 ppb at 25°). Chlorfenapyr is also immobile in soil and does not leach because it is strongly adsorbed to all common soil types. In addition, the label explicitly prohibits applications near aquatic areas

There is a reasonable certainty that no harm will result from dietary exposure to chlorfenapyr, because dietary exposure to residues on food will use only a small fraction of the (RfD) (including exposure of sensitive subpopulations), and exposure through drinking water is expected to be insignificant.

2. *Non-dietary exposure*. There is no available information quantifying non-dietary exposure to chlorfenapyr. However, based on the physico-chemical characteristics of the compound, the proposed use pattern and available information concerning its environmental fate, non-dietary exposure is expected to be negligible. The vapor pressure of chlorfenapyr is less than 1 x 10^{-7} mm of Hg; therefore, the potential for non-occupational exposure by inhalation is insignificant. Moreover, the current proposed registration is for outdoor, terrestrial uses which severely limit the potential for non-occupational exposure.

D. Cumulative Effects

The pyrrole insecticides represent a new class of chemistry with a unique mechanism of action. The parent molecule, AC 303,630 is a pro-insecticide which is converted to the active form, CL 303,268, via rapid metabolism by mixed function oxidases (MFOs). The active form uncouples oxidative phosphorylation in the insect mitochondria by disrupting the proton gradient across the mitochondrial membrane. The production of ATP is inhibited resulting in the cessation of all cellular functions. Because of this unique mechanism of action, it is highly unlikely that toxic effects produced by chlorfenapyr would be cumulative with those of any other pesticide chemical.

In mammals, there is a lower titer of MFOs, and chlorfenapyr is metabolized by different pathways (including dehalogenation, oxidation and ring hydroxylation) to other polar metabolites without any significant accumulation of the potent uncoupler, CL—303,268. In the rat, approximately 85 % of the administered dose is excreted in the feces within 48-hours, thereby reducing the levels of AC 303,630 and CL 303,268 that are capable of reaching the mitochondria. This differential metabolism of AC 303,630 to CL 303,268 in insects versus to other polar metabolites in mammals is responsible for the selective insect toxicity of the pyrroles.

E. Safety Determination

1. *U.S. population*. The RfD of 0.03 mg/kg bwt./day for the residues of chlorfenapyr in citrus is calculated by applying a 100-fold safety factor to the overall NOEL of 3 mg/kg bwt./day. This NOEL is of based on the results of the chronic feeding studies in the rat and mouse and the 2-generation reproduction study in the rat (see Item 2). The TMRC for the proposed tolerances in citrus alone, (0.0000692 mg/kg bwt./day), will utilize only 0.23% of the RfD for the general U.S. population and the combined TMRC for the proposed chlorfenapyr tolerances in cottonseed, citrus, milk and meat (0.0002558 mg/kg bwt./day) will utilize approximately 0.85% of the RfD for the general U.S. population.

2. *Infants and children*. The TMRC in milk consumed by a non-nursing infant

(>1-year of age) is 0.0002435 mg/kg bwt./day. The combined tolerances will use less than 1% (actual 0.89%) of the RfD for non-nursing infants. The TMRC in milk consumed by a child (1-6 years of age) is 0.0003886 mg/kg bwt./day. The combined TMRC for the proposed chlorfenapyr tolerances in cottonseed, citrus meat and milk consumed by a child 1-6 years of age is 0.0006708 mg/kg bwt./day, which is less than 3% (actual 2.23%) of the RfD. Therefore, the results of the toxicology and metabolism studies support both the safety of chlorfenapyr to humans based on the intended use as an insecticide-miticide on citrus and cottonseed and the granting of the requested tolerances in cottonseed, citrus, milk, milk fat solids, meat and meat by-products.

Based on the conservative assumptions used in proposing the above tolerances and the absence of other non-dietary routes of exposure to chlorfenapyr, and since the calculated exposures are well below 100% of the reference dose, there is a reasonable certainty that no harm will result from aggregate exposure to residues of chlorfenapyr, including all anticipated dietary exposure and all other non-occupational exposures. The use of a 100-fold safety factor ensures an acceptable margin of safety for both the overall U. S. population as well as infants and children. As the toxicology database (reproduction/developmental and teratology studies) is complete, valid and reliable, no additional safety factor is needed.

The 100-fold margin of safety is adequate to assure a reasonable certainty of no harm to infants and children from the proposed use. As stated earlier, the NOEL is based on the effects observed in the rat and mouse chronic oncogenicity studies, (reduced body weight gains, increased globulin and cholesterol values and increased liver weights in the rat and reduced body weight gains and vacuolation of white matter of the mouse brain), the one-year neurotoxicity study in the rat, (reduced body weight gains and vacuolar myelinopathy of the brain and spinal cord that is completely reversible following termination of treatment and is not associated with any damage to neuronal cell bodies or axons; vacuolation of the white matter is a consequence of edema (water) formation between the myelin layers which result from the unrestricted movement of ions across the cell membranes) and the 2-generation rat reproduction study, (reduced body weight gains for parental animals and reduced pup body weights for the F1 and F2 litters; however no behavioral changes were observed in either F1 or F2 offsprings in the 2-generation reproduction study). Moreover, as the NOELs for fetal/developmental toxicity are significantly higher than those for maternal toxicity, the results indicate that chlorfenapyr is neither a developmental toxicant nor a teratogenic agent in either the Sprague-Dawley rat or New Zealand White rabbit. Thus, there is no reliable information to indicate that there would be a variability in the sensitivities of infants and children and adults to the effects of exposure to chlorfenapyr.

F. International Tolerances

Section 408 (b)(4) of the amended FFDCA requires EPA to determine whether a maximum residue level has been established for the pesticide chemical by the Codex Alimentarius Commission.

There is neither a Codex proposal, nor Canadian or Mexican tolerances/limits for residues of chlorfenapyr in/on citrus. Therefore, a compatibility issue is not relevant to the proposed tolerance.

2. Rohm and Haas Company

PP 6G4681

EPA has received a pesticide petition (PP 6G4681) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106-2399. proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of tebufenozide, benzoic acid, 3,5-dimethyl-,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on the raw agricultural commodity pears at 1.5 (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues or milk occurred. Because apple pomace is not fed to poultry, there is no reasonable expectation that measurable residues of tebufenozide will occur in eggs, poultry meat or poultry meat by-products.

2. *Analytical method*. A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective detection have been validated for apples. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limits of quantitation is 0.02 ppm for apples.

B. Toxicological Profile

1. *Acute toxicity*. Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 milligram/kilograms (mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4-hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty*. Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli*. Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity*—i. NOELs for developmental and maternal toxicity to tebufenozide

were established at 1,000 milligram/kilograms/day (mg/kg/day) highest dose tested (HDT) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2-generation reproduction study in the rat, the reproductive/developmental toxicity (NOEL) of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149-195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9-2.3 mg/kg/day).

4. *Subchronic toxicity*— i. The NOEL in a 90-day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observed-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3-months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90-day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90-day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte

iv. A 10-week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6-weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6-week, the dogs receiving treated feed were switched to the control diet for 4-weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6-weeks treatment, after 2-weeks of recovery on the control diet and after 4-weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28-day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, (HDT). Tebufenozide did not produce toxicity in the rat when administered dermally for 4-weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity*—i. A 1-year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18-month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology*. Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure*. Use of an agricultural pesticide may result, directly or indirectly in pesticide residues in food. These residues are determined by chemical analysis. Data from field studies are evaluated to determine the appropriate level of residue that would not be exceeded if the pesticide were used according to the label use directions.

2. *Plant and animal metabolism*. The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues or milk occurred. Because apple pomace is not fed to poultry, there is no reasonable expectation that measurable residues of tebufenozide will occur in eggs, poultry meat or poultry meat by-products.

3. *Analytical methods*. A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective detection have been validated for apples. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limits of quantitation is 0.02 ppm for apples.

4. *Food*. Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import

tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482).

5. *Acute risk*—i. No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

ii. *Chronic risk*. For chronic dietary risk assessment, the tolerance and temporary tolerance values are used and the assumption that all walnuts, imported apples and pears which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing tolerances and temporary tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current tolerances and temporary tolerances (MRID 44319101) is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989-1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 4.31% of the Reference dose (RfD) for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1-year old), for which the TMRC estimate represents 20.3% of the RfD. The chronic dietary risks from these uses do not exceed EPA's level of concern.

6. *Drinking water*. An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

7. *Non-dietary exposure*. Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20-hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (*Coleopteran* species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and proposed tolerances will utilize 4.31% of the RfD for the U.S. population and 20.3% for non-nursing infants under 1-year old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and 2-generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to 1 or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2-generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2-generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149-195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9-2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide. At the 1996 Joint Meeting for Pesticide Residues, the FAO expert panel considered residue data for pome fruit and proposed an MRL (Step 3) of 1.0 mg/kg.

3. Valent U.S.A. Corporation

PP 7F4882

EPA has received a pesticide petition (PP 7F4882) from Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, CA 94596. proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine in or on the raw agricultural commodity Pome Fruits(Crop Group 11, including apples and pears) at 0.2 (ppm), Walnuts at 0.02 ppm, and Apple Pomace,wet at 0.8 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residues in cotton, apples, and animals is adequately understood. Metabolism of 14C-pyriproxyfen labelled in the phenoxyphenyl ring and in the pyridyl ring was studied in cotton, apples, lactating goats, and laying hens (and rats). The nature of the residue is defined by the metabolism studies primarily as pyriproxyfen. The major metabolic pathways in plants is hydroxylation and cleavage of the ether linkage, followed by further metabolism into more polar products by oxidation or conjugation reactions, however, the bulk of the radiochemical residues was parent. Comparing metabolites from cotton, apple, goat and hen (and rat) shows that there are no significant metabolites in plants which are not also present in the excreta or tissues of animals.

Ruminant and poultry metabolism studies demonstrated that transfer of administered 14C residues to tissues was low. Total 14C residues in goat milk, muscle and tissues accounted for less than 2% of the administered dose, and were less than 1 ppm in all cases. In poultry, total 14C residues in eggs, muscle and tissues accounted for about 2.7% of the administered dose, and were less than 1 ppm in all cases except for gizzard.

2. *Analytical method*. Practical analytical methods for detecting and measuring levels of pyriproxyfen (and relevant metabolites) have been developed and validated for the raw agricultural commodities, their respective processing fractions, and animal tissues. The methods have been independently validated in cottonseed and apples (and oranges) and the extraction methodology has been validated using aged radiochemical residue samples from metabolism studies. EPA has(personal communication) successfully validated the analytical method for analysis of cottonseed raw agricultural commodity. The limit of detection of pyriproxyfen in the methods is 0.01 ppm which will allow monitoring of food with residues at or above the levels set for the proposed tolerance.

3. *Magnitude of residues*—i. *Apples*. A total of fifteen trials were conducted in 1994, 1995, and 1996 to determine the magnitude of the residue in apples and apple processing commodities from regions representing approximately 97% of the commercial U.S. apple acreage. The mean residue of pyriproxyfen found in these samples was 0.091 ppm with a standard deviation (δ, n-1 degrees of freedom) of 0.035 ppm and a maximum residue of 0.18 ppm. Apples from two sites were processed into juice and wet pomace. The results from the processing samples show that pyriproxyfen was substantially retained with the wet pomace fraction, resulting in a 5 x concentration in this fraction. The average processing concentration factor for pyriproxyfen from fruit into apple pomace, wet, was 4.89 x. No residues of pyriproxyfen above the 0.01 LOD was detected in the juice fractions.

ii. *Pears*. A total of eight trials were conducted in 1994, 1995, and 1996 to determine the magnitude of the residue of pyriproxyfen in pears from regions representing approximately 95% of the commercial U.S. pear acreage. The mean residue of pyriproxyfen found in these samples was 0.039 ppm with a standard deviation (δ, n-1 degrees of freedom) of 0.016 ppm and a maximum residue of 0.07 ppm.

iii. *Walnuts*. A total of 4 trials were conducted in 1996 to determine the magnitude of the residue of pyriproxyfen in walnut nutmeats all in region x where 98% of the commercial walnut acreage is located. No residues of pyriproxyfen above the 0.01 ppm limit of detection were found in any walnut nutmeat collected for this study.

4. *Secondary residues*. Since low residues were detected in animal feed items (cotton gin byproducts, apple pomace, wet) and animal metabolism studies do not show potential for significant residue transfer, detectable secondary residues in animal tissues, milk, and eggs are not expected. Therefore, tolerances are not needed for these commodities.

B. Toxicological Profile

1. *Acute toxicity*. The acute toxicity of technical grade pyriproxyfen is low by all routes, classified as Category III for acute dermal and inhalation toxicity, and Category IV for acute oral toxicity, and skin/eye irritation. Pyriproxyfen is not a skin sensitizing agent.

2. *Genotoxicty*. Pyriproxyfen does not present a genetic hazard. Pyriproxyfen was negative in the following tests for mutagenicity: Ames assay with and without S9, *in vitro* unscheduled DNA synthesis in HeLa S3 cells, *in vitro* gene mutation in V79 Chinese hamster cells, and *in vitro* chromosomal aberration with and without S9 in Chinese hamster ovary cells.

3. *Reproductive and developmental toxicity*. Pyriproxyfen is not a developmental toxicant. In the rat teratology study, maternal toxicity was observed at doses of 300 mg/kg/day and greater, the NOEL for prenatal developmental toxicity was 100 mg/kg/day. A rabbit teratology study resulted in a maternal NOEL of 100 mg/kg/day, with no developmental effects observed in the rabbit fetuses.

In the study conducted with rats, technical pyriproxyfen was administered by gavage at levels of 0, 100, 300, and 1,000 mg/kg/day during gestation days 7-17. Maternal toxicity (mortality, decreased body weight gain and food consumption and clinical signs of toxicity) was observed at doses of 300 mg/kg/day and greater. The maternal NOEL was 100 mg/kg/day. A transient increase in skeletal variations was observed in rat fetuses exposed to 300 mg/kg/day and greater. These effects were not present in animals examined at the end of the postnatal period, therefore, the NOEL for prenatal developmental toxicity was 100 mg/kg/day. An increased incidence of visceral and skeletal variations was observed postnatally at 1,000 mg/kg/day. The NOEL for postnatal developmental toxicity was 300 mg/kg/day. In the study conducted with rabbits, technical pyriproxyfen was administered by gavage at levels of 0, 100, 300, and 1,000 mg/kg/day during gestation days 6-18. Maternal toxicity (clinical signs of toxicity including one death, decreased body weight gain and food consumption, and abortions or premature deliveries) was observed at oral doses of 300 mg/kg/day or higher. The maternal NOEL was 100 mg/kg/day. No developmental effects were observed in the rabbit fetuses. The NOEL for developmental toxicity in rabbits was 1,000 mg/kg/day.

Pyriproxyfen is not a reproductive toxicant. Pyriproxyfen was administered in the diet at levels of 0, 200, 1,000, and 5,000 ppm through 2- generations of rats. Adult systemic toxicity (reduced body weights, liver and kidney histopathology, and increased liver weight) was produced at the 5,000 ppm dose (453 mg/kg/day in males, 498 mg/kg/day in females during the pre-mating period). The systemic NOEL was 1,000 ppm (87 mg/kg/day in males, 96 mg/kg/day in females). No effects on reproduction were produced even at 5,000 ppm, the highest dose tested.

4. *Subchronic toxicity*. Subchronic oral toxicity studies conducted with pyriproxyfen technical in the rat, mouse and dog indicate a low level of toxicity. Effects observed at high dose levels consisted primarily of decreased body weight gain; increased liver weights; histopathological changes in the liver and kidney; decreased red blood cell counts, hemoglobin and hematocrit; altered blood chemistry parameters; and, at 5,000 and 10,000 ppm in mice, a decrease in survival rates. The NOELs from these studies were 400 ppm (23.5 mg/kg/day for males, 27.7 mg/kg/day for females) in rats, 1,000 ppm (149.4 mg/kg/day for males, 196.5 mg/kg/day for females) in mice, and 100 mg/kg/day in dogs.

In a 4-week inhalation study of pyriproxyfen technical in rats, decreased body weight and increased water consumption were observed at 1,000 mg/m3 . The NOEL in this study was 482 mg/m3.

A 21-day dermal toxicity study in rats with pyriproxyfen technical did not produce any signs of dermal or systemic toxicity at 1,000 mg/kg/day, the highest dose tested. In a 21-day dermal study conducted with KNACK Insect Growth Regulator the test material produced a NOEL of 1,000 mg/kg/day (highest dose tested) for systemic effects, and a NOEL for skin irritation of 100 mg/kg/day.

5. *Chronic toxicity*. Pyriproxyfen technical has been tested in chronic studies with dogs, rats and mice.

Pyriproxyfen technical was administered to dogs in capsules at doses of 0, 30, 100, 300 and 1,000 mg/kg/day for 1-year. Dogs exposed to dose levels of 300 mg/kg/day or higher showed overt clinical signs of toxicity, elevated levels of blood enzymes and liver damage. The NOEL in this study was 100 mg/kg/day.

Pyriproxyfen technical was administered to mice at doses of 0, 120, 600 and 3,000 ppm in diet for 78-weeks. The NOEL for systemic effects in this study was 600 ppm (84 mg/kg/day in males, 109.5 mg/kg/day in females), and a LOEL of 3,000 ppm (420 mg/kg/day in males, 547 mg/kg/day in females) was established based on an increase in kidney lesions.

In a 2-year study in rats, pyriproxyfen technical was administered in the diet at levels of 0, 120, 600, and 3,000 ppm. The NOEL for systemic effects in this study was 600 ppm (27.31 mg/kg/day in males, 35.1 mg/kg/day in females). A LOEL of 3,000 ppm (138 mg/kg/day in males, 182.7 mg/kg/day in females) was established based on a depression in body weight gain in females.

EPA has established a RfD for pyriproxyfen of 0.35 mg/kg/day, based on the rat 2-year chronic/oncogenicity study. Effects cited by EPA in the RfD Tracking Report include negative trend in mean red blood cell volume; increased hepatocyte cytoplasm and cytoplasm:nucleus ratios; and decreased sinusoidal spaces.

Pyriproxyfen is not a carcinogen. Studies with pyriproxyfen show that repeated high dose exposures produced changes in the liver, kidney and red blood cells, but did not produce cancer in test animals. No oncogenic response was observed in a rat 2-year chronic feeding/oncogenicitystudy or in a 78-week study on mice.

Pyriproxyfen's oncogenicity classification is ''E'' (no evidence of carcinogenicity for humans).

6. *Animal metabolism*. The mammalian metabolism of pyriproxyfen is understood. The absorption, tissue distribution, metabolism and excretion of 14C-labeled pyriproxyfen were studied in rats after single oral doses of 2 or 1,000 mg/kg (phenoxyphenyl and pyridyl label), and after a single oral dose of 2 mg/kg (phenoxyphenyl label only) following 14 daily oral doses at 2 mg/kg of unlabelled material.

Both the phenoxyphenyl-label and pyridyl-label studies exhibited very similar results. For all dose groups, most (88-96%) of the administered radiolabel was excreted in the urine and feces within 2-days after radiolabeled test material dosing, and 92-98% of the administered dose was excreted within 7-days. 7-days after dosing, tissue residues were generally low, accounting for no more than 0.3% of the dosed 14^{C}. 14^{C} concentrations in fat were the highest in tissues analyzed. Recovery in tissues over time indicates that the potential for bioaccumulation is minimal. There are no significant sex or dose-related differences in excretion or metabolism.

7. *Endocrine disruption*. Pyriproxyfen is specifically designed to be an insect growth regulator and is known to produce juvenile hormone-mediated effects in arthropods. However, this mechanism-of-action in target insects has no relevance to the mammalian endocrine system. While specific tests, uniquely designed to evaluate the potential effects of pyriproxyfen on mammalian endocrine systems have not been conducted, the toxicology of pyriproxyfen has been extensively evaluated in acute, sub-chronic, chronic, developmental, and reproductive toxicology studies. The results of these studies show no

evidence of any endocrine-mediated effects and no pathology of the endocrine organs. Consequently, it is concluded that Sumilarv does not possess estrogenic or endocrine disrupting properties applicable to mammals.

C. Aggregate Exposure

1. *Dietary exposure*. A chronic dietary exposure and risk assessment based on anticipated residues from samples from field residue studies was performed in cotton, apple, pear, and walnut and assumed that 100% of the crops were treated. The exposure analysis also reflected the contribution of meat and milk residues, without regard to detectability, based on commodities used for feed containing residues at anticipated residue levels.

Using mean anticipated residue values and 100% of the crop treated, exposure to the U.S. population - 48 States - all seasons is calculated to be only 0.000049 mg/kg body-wt/day. The most exposed sub-population, non-nursing infants (<1-year), is calculated to be 0.000273 mg/kg bwt./day. These calculated exposures represent, respectively, 0.014, and 0.078 percent occupancy of the RfD of 0.35 mg/kg body-wt/day. Chronic dietary risk from exposure to pyriproxyfen residues on the proposed crops may be characterized as negligible.

2. *Drinking water*. Since pyriproxyfen is to be applied outdoors to growing agricultural crops, the potential exists for the parent or its metabolites to reach ground or surface water that may be used for drinking water.

3. *Ground water*. Pyriproxyfen is extremely insoluble in water (0.367 mg/L at 25°, with high octanol/water partitioning constant (Log P O/W = 5.37 at 25°, and relatively short soil half-life (aerobic soil metabolism T ½ = 6 to 9 days). Given the low use rates, the immobility of the parent and the instability of the soil metabolites in soil, it is very unlikely that pyriproxyfen or its metabolites could leach to and contaminate potable groundwater.

4. *Surface water*. In connection with the potential for dietary exposure from surface potable water, a simulation of expected exposure concentration (EEC) values in aquatic systems has been performed using the Pesticide Root Zone Model (PRZM-3) and the Exposure Analysis Modeling System, version 2.97 (EXAMSII). The simulation was designed to approximate as closely as possible the conditions associated with the high rate proposed use on tree crops. The results of the modelingdemonstrate that the maximum upper tenth percentile concentrations modeled in water adjacent to treated fields are instantaneous, 0.36 ppb; 96-hour, 0.23 ppb; and 21-day, 0.14 ppb.

To obtain a very conservative estimate of a possible dietary exposure from drinking water, it could be assumed that all water consumed contains pyriproxyfen at the maximum upper tenth percentile concentrations modeled in aquatic systems adjacent to treated orchards. The 21-day concentration, 0.14 ppb (0.00014 mg/kg), is used because drinking water is considered to be a chronic exposure, and there are no identified acute or short term endpoints of concern. Using standard assumptions of body weight and water consumption (adult 70 kg, 2 kg water per day; child 10 kg, 1 kg water), the highest possible exposure would be 4.0 x 10-6 and 1.4 x 10-5 mg/kg bwt./day for the adult and child, respectively. This very small, but probably exaggerated, exposure would occupy 0.00114 (adult) and 0.004 (child) percent of the chronic reference dose of 0.35 mg/kg body-wt/day.

5. *Non-dietary exposure*. Pyriproxyfen has numerous registered products for household use primarily of indoor, non-food applications by consumers. The consumer uses of pyriproxyfen typically do not involve chronic exposure. Instead, consumers are exposed intermittently to a particular product (e.g., pet care pump spray) containing pyriproxyfen. Since the pharmacokinetics of pyriproxyfen indicate a relatively short elimination half-life, cumulative toxicological effects resulting from bioaccumulation are not plausible following these short-term, intermittent exposures. Further, pyriproxyfen is very short-lived in the environment and this indoor domestic use of pyriproxyfen may provide only relatively short-term reservoirs.

The most relevant exposure for non-dietary exposure assessment is short-term to intermediate average daily exposure estimates. The non-dietary exposure assessment for pyriproxyfen conservatively focuses on upper-bound estimates of potential applicator (adult) and post-application (adult and child - less than 1-year old) exposures on the day of application. Subsequent days present no applicator exposure, and a decreasing contribution to short-term total exposure.

The assessment presented herein estimates exposures for selected consumer uses that are considered representative, plausible, and reasonable worst case exposure scenarios. The scenarios selected include:

(i) Potential exposures associated with adult application (dermal and inhalation exposures) and post-application (adult and child inhalation exposures) of pyriproxyfen-containing pet care products; and

(ii) Potential adult application exposures (dermal and inhalation), and adult (inhalation) and child exposures (inhalation, dermal, incidental oral ingestion associated with hand-to-mouth behavior) post-application exposures associated with consumer use of a carpet spray product.

Using a combination of representative information from the PHED data base for applicators (adult), and surrogate data from a study of exposure to indoor broadcast applications (post-application adult and child) a series of adsorbed dose estimates were calculated for adult applicators, and post-application exposures to adults and children by dermal, inhalation, and (hand-to-mouth) oral routes. The methodology, assumptions, and estimates are presented in detail in the full FQPA exposure analysis, the table below presents the results.

SUMMARY OF ESTIMATED HUMAN APPLICATION AND POST-APPLICATION EXPOSURES ASSOCIATED WITH USE OF PET SPRAY AND CARPET SPRAY PRODUCTS CONTAINING PYRIPROXYFEN AS THE ACTIVE INGREDIENT

Product	Population	Timing of Exposure	Daily Dose (mg/kg bw/day)			
			Inhalation[1]	Dermal[2]	Oral[1]	Total
Pet Spray	Adults	Application	4.3×10^{-6}	0.085	[3]NA	0.085
		Post-Application	1.8×10^{-5}	NA	NA	1.8×10^{-5}
		TOTAL	2.2×10^{-5}	0.085	NA	0.085
	Children	Post-Application	3.7×10^{-5}	NA	NA	3.7×10^{-5}
Carpet Spray	Adults	Application	1.3×10^{-6}	5.1×10^{-4}	NA	5.1×10^{-4}
		Post-Application	5.4×10^{-6}	NA	NA	5.4×10^{-6}

SUMMARY OF ESTIMATED HUMAN APPLICATION AND POST-APPLICATION EXPOSURES ASSOCIATED WITH USE OF PET SPRAY AND CARPET SPRAY PRODUCTS CONTAINING PYRIPROXYFEN AS THE ACTIVE INGREDIENT—Continued

Product	Population	Timing of Exposure	Daily Dose (mg/kg bw/day)			
			Inhalation[1]	Dermal[2]	Oral[1]	Total
	Crawling Infant	TOTAL	6.7×10^{-6}	5.1×10^{-4}	NA	5.2×10^{-4}
		Post-Application ...	1.5×10^{-5}	1.3×10^{-3}	2.1×10^{-4}	1.5×10^{-3}

[1] 100 % adsorption.
[2] Conservatively assumes a dermal absorption factor of 50%.
[3] Exposure pathway not applicable.

It is important to emphasize that the exposures summarized in the table are based on conservative assumptions and surrogate data. Further, the exposures are calculated for the day of application. Subsequent daily exposures would be less as pyriproxyfen is adsorbed into substrate, or dissipates and becomes unavailable by other mechanisms. Exposures to applicators on non-application days would be zero.

Further, the Agency has not identified acute or short term toxicity endpoints of concern. Endpoints that could be considered for short term and intermediate exposures include a developmental toxicity no observed effect level (NOEL) of 100 mg/kg/day (rat and rabbit), a rat 21-day dermal systemic NOEL of 1,000 mg/kg/day (technical grade and end-use products), a 4-week rat inhalation toxicity NOEL of 482 mg/m3, and a 90-day rat oral toxicity NOEL of 23.5 mg/kg/day. There are no dermal absorption data for pyriproxyfen. The 1-day exposure calculated for the applicator of the pet spray (0.085 mg/kg/day) is 57-times larger than the next highest calculated exposure which is the total exposure to a crawling infant on the day of application of the carpet spray (1.5 x 10-3 mg/kg/day). Furthermore, the return frequency is much different. Label instructions allow treatment of the dog every 14-days during the flea season, while the carpet can be treated only each 120-days. The 1-day exposure can be compared to the smallest short term endpoint, that from the 90-day rat oral toxicity NOEL of 23.5 mg/kg/day, and a Margin of Exposure (MOE) can be calculated. This compares an acute exposure to a sub-chronic endpoint.

MOE = Toxicity Endpoint (mg/kg/day) ÷ Daily Short Term Exposure (mg/kg/day)

$MOE_{\text{Pet Spray Applicator, One day}} = 276$

Probably more realistic, a short term daily exposure to the adult applicator can be calculated and compared to the same endpoint.

Daily Exposure (mg/kg/day) = Applicator Exposure (mg/kg/day) ÷ Frequency (days)

$MOE_{\text{Pet Spray Applicator}} = 3900$

Based on the available toxicity data and the conservative exposure assumptions, and because infants and children are not applicators in the household, the smallest acute and short term MOE value for children is based on post-application exposures. The day of application exposure to a crawling infant is the sum of inhalation, dermal adsorption, and oral (hand to mouth) exposures. Subsequent daily exposures are not quantified, but because of dissipation of the active ingredient in the home environment but must be smaller than on the day of application.

$MOE_{\text{Carpet Spray, Crawling Infant}} = 15{,}700$

There is usually no cause for concern if margins of exposure exceed 100. All other margins of exposure that can be calculated from the non-occupational, non-dietary exposures summarized in the table above are considerably larger than that for the pet spray applicator and (post carpet spray application) crawling infant.

Summary of Aggregate Non-Occupational Exposures. Aggregate exposure is defined as the sum all non-occupational exposures to the general U.S. population and relevant sub-populations to the single active ingredient, pyriproxyfen. These exposures can be classified as acute, short term, and chronic.

Acute and Short Term Non-Occupational Potential acute and short term non-occupational exposures to pyriproxyfen are associated with household uses -- applicator, bystander, and post-application exposures. For preliminary risk analysis, these exposures, oftentimes calculated using conservative assumptions and surrogate data, are compared to appropriate acute and short term toxicity endpoints to yield margins of exposure (MOE). In general, if exposure estimates are conservative and the resulting MOE values are greater than 100, the Agency is not concerned. In contrast, if conservative MOE values are less than 100, then more refined exposure estimates and/or exposure mitigation are required.

The Agency has not identified acute or short term toxicity endpoints of concern for pyriproxyfen. Valent has identified the 90-day rat oral toxicity with a NOEL of 23.5 mg/kg/day as the short term study with the lowest exposure endpoint. Comparing this endpoint with the short term non-occupational exposures calculated for the household uses of pyriproxyfen gives MOE values all much larger than 100. These acute and short term exposures are small enough to be of little significance.

C. Chronic Exposures

Potential chronic exposures to pyriproxyfen are considered to be derived from dietary exposures to primary and secondary residues in food, and to potential residues in drinking water. To calculate the total potential chronic exposure from food and drinking water, the calculated exposures from both media can be summed. To assess risk these totals can then be compared to the chronic RfD.

Summation of the Calculated Potential Chronic Exposure to Pyriproxyfen in Food and Drinking Water and Percent Occupancy of the RfD for Two U.S. Populations

Medium(mg/kg body-wt/day)	General Population(adult)	Non-NursingInfant (1)
Food	0.000049	0.000273
Drinking Water	0.000004	0.000014

Summation of the Calculated Potential Chronic Exposure to Pyriproxyfen in Food and Drinking Water and Percent Occupancy of the RfD for Two U.S. Populations—Continued

Medium(mg/kg body-wt/day)	General Population(adult)	Non-NursingInfant (1)
Total	0.000053	0.000287
%RfD(0.35 mg/kg body-wt/day)	0.015	0.082

If the occupancy of the RfD is less than 100%, the Agency usually has little cause for concern. From the table above, it can be seen that the total potential chronic exposure to pyriproxyfen is truly insignificant, and should not be cause for concern.

D. Cumulative Effects

Valent has considered the potential for cumulative exposure to substances with a common mechanism of toxicity to pyriproxyfen. However, a cumulative exposure assessment is not appropriate at this time because there is no available information to indicate that the effects of pyriproxyfen would be cumulative with those of any other chemical compound. Therefore, Valent is considering only the potential risk of pyriproxyfen in its aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicity database, EPA has established an RfD value of 0.35 mg/kg bwt./day using the NOEL from the chronic rat feeding study and a 100-fold uncertainty factor. The aggregate chronic exposure to pyriproxyfen will utilize less than 0.1% of the RfD for the U.S. population. Because estimated exposures are far below 100 percent of the RfD, Valent concludes that there is a reasonable certainty that no harm will result from aggregate exposure to pyriproxyfen residues.

2. *Infants and children*. Using the same conservative exposure assumptions as for the general population, the percent of the RfD utilized by aggregate chronic exposure to residues of pyriproxyfen is 0.082% for non-nursing infants, the most highly exposed population subgroup. Valent concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of pyriproxyfen.

F. International Tolerances

There are presently no Codex maximum residue levels established for residues of pyriproxyfen on any crop.

[FR Doc. 98–8065 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181058; FRL–5780–4]

Triazamate; Receipt of Application for Emergency Exemption; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide triazamate (CAS 112143-82-5) to treat up to 5,000 acres of true fir Christmas trees to control root aphids.

The Applicant proposes the use of a new (unregistered) chemical. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before April 13, 1998.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP-18058 ,'' should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Division (7502), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. In person, bring comments to: Rm. 119, Crystal Mall #2 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instruction under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be included in the public record by EPA without prior notice. The public docket is available for public inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Floor 2, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-308-9362); e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:. Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of triazamate on true fir Christmas trees to control root aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, the root aphid is not new to the Northwest, but has only recently been identified as posing a serious economic threat to true fir Christmas tree plantations. Root aphids feed on the roots of true fir trees, causing stunting and color loss in the foliage, and increasing susceptibility to disease. Losses extend from the first year through the life of the plantation. Attempts to chemically control the aphids during the winged stage during migration to and from fir trees have not been successful. Foliar and soil drench applications of several insecticides have also been tested, with none being adequately successful.

Under the proposed exemption, a maximum of two applications, at least 30 days apart and when aphids are present, at a rate of 0.5 lb/acre of formulated product (0.25 lb/acre active ingredient) would be applied by ground or air. A maximum of 5,000 acres in Kitsap, Lewis, Mason and Thurston counties would be treated. Do not apply

through any type of irrigation system. No application will be permitted within 50 yards of any body of water. Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

This notice does not constitute a decision by EPA on the application itself. The regulations governing Section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), -OR- if an emergency exemption for a use has been requested in any 3 previous years, and a complete application for registration of the use and/or a tolerance petition has not been submitted to the Agency 40 CFR 166.24. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–181058] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp- docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181058]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Washinton Department of Agriculture.

List of Subject

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 19, 1998

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–8072 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5988–1]

Proposed CERCLA, RCRA, Clean Water Act, and Oil Pollution Act Prospective Purchaser Agreement for the American Western Refining, L.P. Refinery Site

AGENCY: U.S. Environmental Protection Agency (''U.S. EPA'').

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given that a proposed Prospective Purchaser Agreement (''PPA'') under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. Sections 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA''), Pub. L. 99–499, the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. Sections 6901 *et seq.*, the Clean Water Act (''CWA''), 33 U.S.C. Sections 1251, *et seq.*, the Oil Pollution Act (''OPA''), 33 U.S.C. Sections 2701 *et seq.*, and Section 22.2b of the Illinois Environmental Protection Act, 415 ILCS 5/22.2b, applying to the purchase of equipment to be dismantled and removed from the AWR refinery site (''the Site'') located in Lawrenceville, Illinois, has been signed by AWR Acquisition, LC; Clark Oil Trading Company and Blastco Services Company (''settling parties'').

Under the PPA, the settling parties agree to dismantle and remove all structures, tanks, units, drums and other equipment above the refinery's ground surface, and drain, remove, and legally dispose, recycle, or sell the contents. The settling parties will also perform asbestos abatement work on each piece of equipment containing asbestos and dispose of the asbestos in accordance with law. U.S. EPA and the United States Coast Guard are currently conducting an oil seep removal action at the Site pursuant to Section 1012 of the Oil Pollution Act, 33 U.S.C. Section 2712. Under the PPA the settling parties will fund certain environmentally beneficial work relating to this oil seep. In particular, the settling parties will provide funding for monitoring, operating, and maintaining oil/water separator and wastewater treatment systems, site security, electrical power, utility, and fire protection at the Property. In total, the PPA obtains environmentally beneficial work that is estimated to be worth more than $3.9 million.

Opportunity for Public Meeting

Commentors may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. Section 6973(d).

DATES: Comments on the proposed PPA and any request for public meeting must be received by U.S. EPA on or before April 27, 1998.

ADDRESSES: A copy of the proposed PPA is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code C–14J), Chicago, Illinois 60604. Please contact Thomas J. Martin at (312) 886–4273, prior to visiting the Region 5 office. Comments on the proposed PPA should be addressed to Mr. Martin and sent to the address listed above.

FOR FURTHER INFORMATION CONTACT: Thomas J. Martin at (312) 886–4273, of the U.S. EPA Region 5 Office of Regional Counsel, or Kevin Turner, at (312) 886–4444, of the U.S. EPA Superfund Division.

A 30-day period, commencing on the date of publication of this notice, is open for comments on the proposed PPA. Comments should be sent to the addressee identified in this notice.

Dated: March 13, 1998.

David A. Ullrich,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 98–8056 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the Paperwork Reduction Act of 1995, the Export-Import Bank of the United States (Ex-Im Bank) invites comments on the following information collection for which Ex-Im Bank intends to request approval from the Office of Management and Budget (OMB).

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank) is

announcing an opportunity for public comment on the proposed collection.

DATES: Interested persons are invited to submit comments on or before May 26, 1998.

ADDRESSES: Please address written comments to Rick McAleer, Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3958.

FOR FURTHER INFORMATION CONTACT: Copies of these submissions and any additional information may be obtained from Dan Garcia, Export-Import Bank of the United States, 811 Vermont Ave., N.W., Washington, D.C. 20571, (202) 565–3355.

SUPPLEMENTARY INFORMATION:

Abstract: OMB 3048–0005: Two applications fall under this collection. EIB–95–9 is the Ex-Im Bank Letter of Interest Application Form and EIB–95–10 is the Ex-Im Bank Preliminary Commitment and Final Commitment Application Form. There is no change to EIB–95–9 other than a three-year extension of the expiration date. EIB–95–10 is being changed to incorporate additional information requirements that had been requested later in the application process. OMB 3048–0009: Nine applications fall under this collection, only one is being changed (EIB–92–48, Ex-Im Bank Application for Medium-Term Export Credit Insurance). Like, EIB–95–10, EIB–92–48 is being changed to incorporate additional information requirements that had originally been requested later in the application process. The purpose of these application changes is to improve the processing time by requesting all necessary information up-front.

Burden Statement Summary:

Type of request: Revision and extension of expiration date.

OMB Number: 3048–0005 and 3048–0009.

Form Number: EIB–95–9; EIB–95–10; and EIB–92–48.

Title: EIB–95–9—Ex-Im Bank Letter of Interest Application Form; EIB–95–10—Ex-IM Bank Preliminary Commitment and Final Commitment Application Form; and EIB–92–48—Application for Medium-Term Export Credit Insurance.

Frequency of Use: Submission of Applications

Respondents: Any U.S. or foreign bank, other financial institution, other responsible party including the exporter or creditworthy borrowers in a country eligible for Ex-Im Bank assistance.

Estimated total number of annual responses: EIB–95–9:900, EIB–95–10: 550, EIB–92–48: 550.

Estimated total number of hours needed to fill out the form: EIB–95–9: 300, EIB–95–10: 825, EIB–92–48: 825.

Dated: March 23, 1998.

Dan Garcia,

Agency Clearance Officer.

[FR Doc. 98–8015 Filed 3–26–98; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 87–313; DA 98–484]

Accounting and Audits Division

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This Public Notice invites interested parties to comment on a proposal of numerous modifications to the ARMIS Report 43–07 Infrastructure Report. These modifications would reflect recent changes in the telecommunications industry and capture a more accurate picture of the infrastructure deployed in the public network, particularly in rural areas. The proposed modifications are organized according to each table in the ARMIS Infrastructure Report. Our goal is to improve the Commission's existing infrastructure monitoring system so that the Commission, the states, and other interested parties will have the data necessary to make informed decisions and to track the deployment of new technologies.

DATES: Comments are to be filed on or before April 24, 1998. Reply comments are due on or before May 15, 1998.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Anthony Dale, Common Carrier Bureau, Accounting and Audits Division, (202) 418–2260, or via E-mail to ''dbyrd@fcc.gov''.

SUPPLEMENTARY INFORMATION:

1. The Common Carrier Bureau (''the Bureau'') is considering modifications to the Commission's primary tool for assessing infrastructure development in the Automated Reporting Management Information System (''ARMIS''), the ARMIS 43–07 Infrastructure Report. These modifications would reflect recent changes in the telecommunications industry and capture a more accurate picture of the infrastructure deployed in the public network, particularly in rural areas. The ARMIS 43–07 Infrastructure Report illustrates the deployment of infrastructure in the networks of mandatory price cap local exchange carriers (''LECs'') by collecting four categories of data: (1) switching equipment; (2) transmission facilities; (3) call set-up time; and (4) plant additions and book costs. The ARMIS 43–07 Infrastructure Report is organized into four tables, one for each category of data.

2. The proposed modifications are organized according to each table in the ARMIS Infrastructure Report. Our goal is to improve the Commission's existing infrastructure monitoring system so that the Commission, the states, and other interested parties will have the data necessary to make informed decisions and to track the deployment of new technologies.

Table I—Switching Equipment Reporting

3. *Asynchronous Transfer Mode Switching.* Table I of ARMIS Report 43–07 provides data on the quantity, features, and number of lines served for three types of switches: (1) electromechanical switches, (2) analog stored program control switches, and (3) digital stored program control switches. Information on switches capable of transmitting the Asynchronous Transfer Mode (''ATM'') protocol is not included in this report. Because ATM is a new technology that carriers are deploying in their networks, we propose including information for ATM switches in Table I, and we seek comment on the characteristics of ATM that carriers should provide in the ARMIS 43–07 Infrastructure Report.

4. *Switched Multi-megabit Data Service and Frame Relay Service.* Switched multi-megabit data service (''SMDS'') and frame relay service are high-speed data telecommunications services built upon packet-switching technology. These services are widely offered to business customers for high-volume usage. We propose that carriers report data on SMDS and frame relay services in Table I of the ARMIS 43–07 Infrastructure Report and seek comment on which characteristics of switches used to provide SMDS and frame relay services carriers should report.

Table II—Transmission Facilities Reporting

5. Table II of the ARMIS Report 43–07 includes information about existing transmission facilities, which are components of the telecommunications network that physically link nodes in the network. Transmission facilities are used to carry voice, video, and data traffic. Carriers use either analog or digital technology on copper wire, coaxial cable, fiber, radio, and other media.

6. *Rural Transmission Facilities.* Although mandatory price cap carriers disaggregate reported data to reflect MSA and non-MSA categories in Table I of ARMIS Report 43–07, Table II does not require carriers to disaggregate data by MSA and non-MSA categories. Because the reporting carriers do not distinguish between rural and urban transmission facilities, the Commission cannot assess the deployment of advanced telecommunications infrastructure or compare rural and urban infrastructure development. Therefore, we propose modifying Table II of ARMIS Report 43–07 to require carriers to report data disaggregated by MSA and non-MSA. We seek comment on whether this level of disaggregation will assist the Commission and other interested parties in measuring the deployment of advanced telecommunications infrastructure in rural areas, or whether we should consider a greater level of detail.

7. *Coaxial Cable.* In the first section of Table II, ''Sheath Kilometers,'' carriers report data for three categories of cable: (1) twisted pair copper; (2) fiber; and (3) other. Coaxial cable is currently included in the ''Other'' category. Coaxial cable is being deployed to provide telecommunications services to the public. Our existing reporting requirements do not provide the extent of coaxial cable deployed in the network. Including coaxial cable as a separate category would allow the Commission to monitor the use of that technology in competition with traditional transmission facilities. We propose modifying Table II so that carriers report coaxial cable separately as a discrete category instead of the aggregated ''Other'' category. We seek comment on this proposal.

8. *Interoffice Working Facilities.* In the ''Interoffice Working Facilities'' section of Table II, fiber is reported under the heading ''Digital Carrier Links.'' Fiber is frequently used in metropolitan areas to transmit analog video signals. Currently, Table II does not contain a separate row that reports how much interoffice fiber is used for analog transmission. We propose including a row that would contain this information. We solicit comment on this proposal.

9. *Loop Plant-Central Office Terminations.* In the ''Loop Plant-Central Office Terminations'' section of Table II carriers report fiber used in digital mode, but not fiber used in an analog mode. Adding a category for reporting fiber used in an analog mode would provide a better picture of infrastructure development and permit benchmarking. We propose that, in addition to reporting fiber interoffice working facilities used for analog transmission as mentioned above, carriers should report on fiber loops used for analog transmission. We solicit comment on this proposal.

10. *Digital Loop Carrier.* For a number of years, carriers have been using digital loop carrier (''DLC'') systems to reduce the cost of serving subscribers. The expanding deployment of digital end office switches has fostered the development and deployment of a new version of DLC, called Integrated Digital Loop Carrier (''IDLC''), which allows carriers to serve even more subscribers with fewer transmission paths. IDLC, which is generally deployed over fiber-optic cable, provides high-capacity transmission facilities closer to subscribers, so that these subscribers can use advanced telecommunications services. We propose requiring carriers to report data about DLC and IDLC deployment in the ''Loop Plant-Central Office Terminations'' section of Table II. Information about DLC and IDLC deployment would assist the Commission and the states in monitoring the development of new technologies used in the local loop. We seek comment on this proposal and on categories of data that would provide an accurate picture of DLC and IDLC deployment without placing an undue administrative burden on the reporting LECs.

11. *Other Transmission Facility Data.* In the *Universal Service Order*, the Commission adopted rules that provide schools and libraries discounts on all commercially available telecommunications services, Internet access, and internal connections. (*See* Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, paras. 424–607 (1997)(62 FR 32862, June 17, 1997). The Commission also adopted rules that provide support to rural health care providers for toll-free Internet access and telecommunications services up to a bandwidth of 1.544 megabits per second. The Commission has noted an increasing interest in the use of the public network for transmitting data and accessing the Internet. Because there is no national standard for the performance of subscriber loops in transmitting data, our existing reporting requirements do not provide us information to assess the ability of subscribers to access the Internet and use high-speed data communications services. In order to have a more complete picture of the capabilities of the existing infrastructure and to measure the extent of access to information services, we propose that carriers should be required to report in the ''Other Transmission Facility Data'' section of Table II a count of the number of working subscriber loops capable of carrying analog data at 9.6 kilobits per second; a count of working subscriber loops capable of carrying analog data at 28.8 kilobits per second; and a count of working subscriber loops capable of carrying digital data at 64 kilobits per second. We seek comment on whether these categories will provide the necessary level of detail, or whether we should consider additional categories to illustrate data communications capabilities in the local loop. In addition, because we recognize that incumbent LECs may not currently maintain records at this level of detail, we invite interested parties to comment on the engineering methods and monitoring equipment carriers could use to accurately measure the performance capability of local loops, and the cost of obtaining this information.

Table III—LEC Set-up Time Reporting

12. Table III of the ARMIS 43–07 Infrastructure Report provides information about LEC call set-up time for calls delivered by the LEC to interexchange carriers. LEC call set-up time reporting measures the time from when the customer completes dialing until the call reaches an interexchange carrier. This table may be irrelevant given the wide deployment of new technologies, such as SS7 network capabilities and ISDN, that greatly reduce call set-up time. We propose removing this table from the ARMIS 43–07 Infrastructure report.

Table IV—Additions and Book Costs

13. In Table IV of the ARMIS 43–07 Infrastructure Report, carriers report data concerning access lines in service, access line gain, and total gross capital expenditures. Because this information is reported in other ARMIS reports, or can be extrapolated from existing reports, we propose modifying the ARMIS 43–07 Infrastructure Report to eliminate Table IV. Commission staff would still be able to ascertain this information, so eliminating this table would not inhibit the Commission's ability to monitor the development of infrastructure in the network.

14. *Paperwork Reduction Act.* As part of a continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Public Notice, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at

the same time as other comments on this Public Notice. 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.

15. *Filing Procedures.* Interested parties may file comments no later than *April 24, 1998.* Reply comments may be filed no later than *May 15, 1998.* All pleadings should reference AAD File No. 98–23. The original and six copies should be submitted to the Secretary of the Commission; one copy should be submitted to Anthony Dale, Accounting and Audits Division, Common Carrier Bureau, 2000 L Street, Suite 201, Washington, DC 20554. Comments and replies must also comply with Section 1.49 and all other applicable sections of the Commission's Rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and replies. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20037, (202) 857–3800. All pleadings are available for public inspection and copying in the Accounting and Audits public reference room.

Action by the Chief, Common Carrier Bureau, FCC.

Federal Communications Commission.

Kenneth P. Moran,

Chief, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 98–7987 Filed 3–26–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 24, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0823.

Expiration Date: 09/30/98.

Title: Pay Telephone Reclassification Memorandum Opinion and Order, CC Docket No. 96–128.

Form No.: N/A.

Respondents: Business or other for-profit entities.

Estimated Annual Burden: 400 respondents; 111.7 hours per response (avg.); 44,700 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion, monthly, quarterly, annually, one-time.

Description: In the Payphone Orders, the Commission adopted new rules and policies governing the payphone industry to implement Section 276 of the Telecommunications Act of 1996. Those rules and policies in part establish a plan to ensure fair compensation for ''each and every completed intrastate and interstate call using [a] payphone.'' Specifically, the Commission established a plan to ensure that payphone service providers (PSPs) were compensated for certain noncoin calls originated from their payphones. As part of this plan, the Commission required that by October 7, 1997, LECs provide payphone-specific coding digits to PSPs, and that PSPs provide those digits from their payphones to IXCs. The provision of payphone-specific coding digits is a prerequisite to payphone per-call compensation payments by IXCs to PSPs for subscriber 800 and access code calls. The Common Carrier Bureau, on its own motion, subsequently provided a waiver until March 9, 1998, for those payphones for which the necessary coding digits were not provided to identify calls. In a Memorandum Opinion and Order (MO&O) (released March 9, 1998), we clarify the requirements established in the Payphone Orders for the provision for payphone-specific coding digits and for tariffs that LECs must file pursuant to the Payphone Orders. We also grant a waiver of Part 69 of the Commission's rules so that LECs can establish rate elements to recover the costs of implementing FLEX ANI to provide payphone-specific coding digits for per-call compensation. The Commission in the Memorandum Opinion and Order, therefore, is effecting the following collections of information made in regard to information disclosures required in the Payphone Orders to implement Section 276 of the Act. The collection requirements are as follows: a. LEC Tariff to provide FLEX ANI to IXCs: The MO&O requires that local exchange carriers (LECs) implement FLEX ANI to comply with the requirements set forth in the Payphone Orders. LECs must provide to IXCs through their interstate tariffs, FLEX ANI service so that IXCs can identify which calls come from a payphone. LECs (and PSPs) must provide FLEX ANI to IXCs without charge for the limited purpose of per-call compensation, and accordingly, LECs providing FLEX ANI must revise their interstate tariffs to reflect FLEX ANI as a nonchargeable option to IXCs no later than March 30, 1998, to be effective no later than April 15, 1998, in those areas that it is available. (*No. of respondents:* 400; *hours per response:* 35 hours; *total annual burden:* 14,000 hours.) b. LEC Tariff to recover costs: LECs must file a tariff to establish a rate element in their interstate tariffs to recover their costs from PSPs for providing payphone-specific coding digits to IXCs. This tariff must reflect the costs of implementing FLEX ANI to provide payphone-specific coding digits for payphone compensation, and provide for recovery of such costs over a reasonable time period through a monthly recurring flat-rate charge. LECs must provide cost support information for the rate elements they propose. The Bureau will review these LEC rate element tariff filings, the reasonableness of the costs, and the recovery period. LECs will recover their costs over an amortization period of no more than ten years. The rate element charges will discontinue when the LEC has recovered its cost. (*No. of respondents:* 400; *hours per response:* 35 hours; *total annual burden* 14,000 hours.) c. LECs must provide IXCs information on payphones that provide payphone-specific coding digits for smart and dumb payphones: LECs must provide IXCs information on the number and location of smart and dumb payphones providing payphone-specific coding digits, as well as the number of those that are not. (*No. of respondents:* 400; *hours per response:* 24 hours; *total annual burden:* 9600 hours.) d. LECs must provide IXCs and PSPs information on where FLEX ANI is available now and when it is to be scheduled in the future: Within 30 days of the release of the MO&O, LECs should be prepared to provide IXCs, upon request, information regarding

their plans to implement FLEX ANI by end office. LECs must provide IXCs and PSPs information on payphones that provide payphone-specific coding digits on end offices where FLEX ANI is available, and where it is not, on a monthly basis. Pursuant to the waivers in this order, LECs must also inform IXCs and PSPs proposed dates for its availability. (*No. of respondents:* 400; *hours per response:* 16 hours; *total annual burden:* 6400 hours.) e. For a waiver granted to small or midsize LECs, a cost analysis must be provided, upon request: In the MO&O, the Bureau grants a waiver to midsize and small LECs that will be unable to recover the costs of implementing FLEX ANI in a reasonable time period. LECs must make this evaluation within 30 days of the release of the MO&O. The LEC must then notify IXCs that they will not be implementing FLEX ANI pursuant to this waiver, and provide the number of dumb payphones providing the ''27'' coding digit and the number of smart phones for which payphone-specific coding digits are unavailable. A LEC delaying the implementation of FLEX ANI pursuant to this waiver provision must be prepared to provide its analysis, if requested by the Commission. (*No. of respondents:* 20; *hours per response:* 35 hours; *total annual burden:* 700 hours.) The information disclosure rules and policies governing the payphone industry to implement Section 276 of the Act will ensure the payment of per-call compensation by implementing a method for LECs to provide information to IXCs to identify calls, for each and every call made from a payphone. The Bureau has reviewed several methods of identifying payphone calls and determined that among them, FLEX ANI is the most flexible and has the added capability of providing a number of additional coding digits, in real-time, that can uniquely identify a call as coming from a payphone. FLEX ANI is, therefore, the best method. *Obligation to respond:* required.

OMB Control No.: 3060–0512.
Expiration Date: 09/30/98.
Title: The ARMIS Annual Summary Report.
Form No.: FCC Report 43–01.
Respondents: Businesses or other for profit entities.
Estimated Annual Burden: 150 respondents; 220 hours per response (avg.); 33,000 total annual burden hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Description: The ARMIS Annual Summary Report contains financial and operating data and is used to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues on behalf of the Commission. *Obligation to respond:* Mandatory.

OMB Control No.: 3060–0395.
Expiration Date: 09/30/98.
Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.
Form No.: FCC Reports 43–02, 43–03, 43–05.
Respondents: Business or other for profit.
Estimated Annual Burden: 50 respondents; 1252.7 hours per response (avg.); 62,637 total annual hours.
Estimated Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Description: FCC Report 43–02 contains company-wide data for each account specified in the Uniform System of Accounts (USOA). It provides the annual operating results of the carriers' activities for every account in the USOA. (*No. of respondents:* 50; *hours per response:* 960 hours; *total annual burden:* 48,000 hours). FCC Report 43–05 collects data at the study area level and holding company level and is designed to capture trends in service quality under price cap regulation. It provides service quality information in the areas of interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage and total switch downtime for price cap companies. (*No. of respondents:* 12; *hours per response:* 849 hours; *total annual burden:* 10,197.4 hours). FCC Report 43–07 is designed to capture trends in telephone industry infrastructure development under price cap regulation. It provides switch deployment and capabilities data. (*No. of respondents:* 8; *hours per response:* 550 hours; *total annual burden:* 4400 hours). *Obligation to comply:* Mandatory.

OMB Control No.: 3060–0513.
Expiration Date: 09/30/98.
Title: ARMIS Joint Cost Report.
Form No.: FCC Report 43–03.
Respondents: Business or other for profit.
Estimated Annual Burden: 150 respondents; 200 hours per response (avg.); 30,000 total annual hours.
Estimated Annual Reporting and Recordkeeping: $0.
Frequency of Response: Annually.
Description: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze the regulated and nonregulated cost and revenue allocations by study area in order to prevent cross-subsidization of nonregulated operations by the regulated operations.

OMB Control No.: 3060–0511.
Expiration Date: 09/30/98.
Title: ARMIS Access Report.
Form No.: FCC Report 43–04.
Estimated Annual Burden: 150 respondents; 1,150 hours per response (avg.); 172,500 total annual hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Description: The Access Report is needed to administer the results of the FCC's jurisdictional separations and access charge procedures in order to analyze revenue requirements, joint cost allocations, jurisdictional separations and access charges. *Obligation to comply:* Mandatory.

OMB Control No.: 3060–0763.
Expiration Date: 09/30/98.
Title: The ARMIS Customer Satisfaction Report.
Form No.: FCC Report 43–06.
Respondents: Businesses or other for profit entities.
Estimated Annual Burden: 8 respondents; 7200 hours per response (avg.); 5,760 total annual burden hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Description: The Customer Satisfaction Report collects data from carrier surveys designed to capture trends in service quality. *Obligation to comply:* Mandatory.

OMB Control No.: 3060–0496.
Title: The ARMIS Operating Data Report.
Form No.: FCC Report 43–08.
Respondents: Businesses or other for profit entities.
Estimated Annual Burden: 50 respondents; 160 hours per response (avg.); 8,000 total annual burden hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: Annually.
Description: The ARMIS Operating Data Report consists of statistical schedules which are needed by the Commission to monitor network growth, usage, and reliability. *Obligation to comply:* Mandatory.

ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rate of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The information contained in the reports provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities. Automated reporting of these data greatly enhances

the Commission's ability to process and analyze the extensive amounts of data it needs to administer its rules. All the reports have been updated to reflect the new expiration date. Copies of the updated reports may be obtained from Barbara Van Hagen of the Accounting and Audits Division at 2000 L Street, N.W., Washington, D.C., Room 812. Call 202–418–0849.

OMB Control No.: 3060–0439.

Expiration Date: 03/31/2001.

Title: Regulations Concerning Indecent Communications By Telephone.

Form No.: N/A.

Respondents: Business or other for profit entities.

Estimated Annual Burden: 10,200 respondents; .16 hours per response (avg). 1,632 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: Section 223 of the Communications Act of 1934, as amended, 47 U.S.C. Section 223, as amended by the Appropriations Act of 1990, Public Law 101–166, Sections 521, 103 Stat. 1192 (November 21, 1989), imposes fines and penalties on those who knowingly use the telephone to make obscene or indecent communications for commercial purposes. The fines and penalties are applicable to those who use the telephone, or permit their telephone to be used, for obscene communications to any person and to those who use the telephone for indecent communications to persons under 18 years of age or to adults without their consent. Section 223 requires telephone companies, to the extent technically feasible, to prohibit access to indecent communications from the telephone of a subscriber who has not previously requested access. 47 C.F.R. 64.201 implements the statute. The rules and regulations establish defenses to prosecution where the defendant restricts access to the prohibited indecent communications to persons 18 years of age or older by complying with the Commission's procedures. Section 64.201 contains several information collection requirements including: (1) A requirement that certain common carriers block access to indecent messages unless the subscriber seeks access from the common carrier (telephone company) in writing (*no. of respondents:* 10,000; hours *per response:* 10 minutes; total annual burden: 1600 hours); (2) a requirement that adult message service providers notify their carriers of the nature of their programming (no. of respondents: 100; *hours per response:* 10 minutes; *total annual burden:* 16, hours); and (3) a requirement that a provider of adult message services request that their carriers identify it as such in bills to its subscribers (*no. of respondents:* 100; *hours per response:* 10 minutes; *total annual burden:* 16 hours). The information requirements are imposed on carriers, adult message service providers and those who solicit their services to ensure that minors are denied access to material deemed indecent. If the information collections were not imposed the Commission would not be able to carry out its responsibilities as mandated in Section 223 of the Act. Obligation to respond: required.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–8153 Filed 3–26–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 87–313; DA 98–483]

Accounting and Audits Division

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This Public Notice invites interested parties to comment on a proposal of numerous improvements to the ARMIS Report 43–05 Service Quality Report, which provides data regarding service quality, and the ARMIS Report 43–06 Customer Satisfaction Report, which provides data concerning customer satisfaction. The ARMIS 43–05 Service Quality Report captures important service quality trends of price cap carriers on a study area basis. The ARMIS Report 43–06 Customer Satisfaction Report, reflects the results of customer satisfaction surveys conducted by carriers.

DATES: Comments are to be filed on or before April 24, 1998. Reply comments are due on or before May 15, 1998.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Anthony Dale, Common Carrier Bureau, Accounting and Audits Division, (202) 418–2260, or via E-mail to ''dbyrd@fcc.gov''.

SUPPLEMENTARY INFORMATION:

1. In this Public Notice released March 11, 1998 (''*Notice*''), the Common Carrier Bureau (''the Bureau'') proposes a number of improvements to the ARMIS Report 43–05 Service Quality Report, which provides data regarding service quality, and the ARMIS Report 43–06 Customer Satisfaction Report, which provides data concerning customer satisfaction. The ARMIS 43–05 Service Quality Report captures important service quality trends of price cap carriers on a study area basis. ARMIS Report 43–05 contains five tables: (1) Installation and repair intervals for interexchange carriers; (2) installation and repair intervals for local access customers; (3) common trunk blockage; (4) total switch downtime and occurrences of two minutes or more duration; and (5) service quality complaints. ARMIS Report 43–06, the Customer Satisfaction Report, reflects the results of customer satisfaction surveys conducted by carriers. The report captures trends in service quality as measured by the perception of residential, small business, and large business customers. All incumbent local exchange carriers (''LECs'') subject to price cap regulation file the Service Quality Report, but only the Bell operating companies and GTE file the Customer Satisfaction Report.

A. Service Quality in Rural Areas

2. We are particularly interested in the quality of service available in rural areas. We seek additional comments on modifications to both the ARMIS 43–05 Service Quality Report and the ARMIS 43–06 Customer Satisfaction Report that would permit detailed analysis of the quality of service provided to rural areas. For ARMIS Report 43–05, carriers already disaggregate the reported data into MSA and non-MSA categories throughout most of the report. For ARMIS Report 43–06, the Customer Satisfaction Report, we propose disaggregating the reported data to reflect customer satisfaction by MSA and non-MSA categories. We seek comment on whether this level of disaggregation adequately illustrates the quality of service provided to rural areas, or whether we should consider a greater level of detail.

3. Additionally, although ARMIS Report 43–05 collects data concerning switch outages, the report does not collect data concerning facility outages caused by cable cuts, which are the primary source of network outages. Because many rural areas do not meet

the reporting threshold identified in the Commission's network outage reports, the ARMIS 43–05 Service Quality Report does not provide a complete picture of the quality of service in many rural areas. Therefore, we propose modifying ARMIS Report 43–05 to include a table for reporting facility outages resulting in a threshold number of customers out of service for longer than twelve hours. There are very few, if any, rural areas that meet the threshold number of 30,000 customers set in the Commission's rules for reporting network outages, (*See* 47 CFR 63.100) so the Commission does not collect all the information needed to monitor the quality of service in rural areas. Therefore, we propose using a percentage of subscribers in wire center serving area that are affected by the facility outage. Carriers would report facility outages affecting greater than five—or perhaps ten—percent of the subscribers served in a wire center serving area. Carriers would disaggregate this data into MSA and non-MSA categories. We seek comment on this proposal, on the recommended format of a facility outage table in ARMIS Report 43–05, and on the suggested reporting threshold necessary to provide an accurate picture of rural service quality.

B. ARMIS 43–05 Service Quality Report

1. Table I—Installation and Repair Intervals (Interexchange Access)

4. Table I of the ARMIS Service Quality Report 43–05 presents incumbent LEC installation and repair intervals for service provided to interexchange carriers. This table contains useful information regarding the number of complaints, referred to as ''trouble reports,'' received by an incumbent LEC from an interexchange carrier in a given period and percentages of service commitments met by the incumbent LECs. It does not, however, contain information regarding the total number of switched or special access lines that could trigger trouble reports. Consequently, it is difficult for the Commission and other interested parties to benchmark data for incumbent LECs of varying sizes. We propose that incumbent LECs should report the total number of switched and all special access lines provided to interexchange carriers in each study area.

2. Table II—Installation and Repair Intervals (Local Service)

5. Table II is the primary source of service quality information regarding the services provided by price cap LECs to their local customers. Table II consists of two major columns (one for residential customers and one for business customers) and five major rows (Installation Intervals, Repair Intervals, Initial Trouble Reports, Repeat Trouble Reports, No Trouble Found) that contain data on how price cap LECs perform during the reporting period in the installation and repair of basic local telecommunications services. Each column and row is further disaggregated to provide greater detail regarding the installation and repair of lines. As a whole, Table II illustrates the service quality provided by the price cap LECs to residential and business customers. This information is used by the Commission state commissions, and other interested parties to evaluate and benchmark carriers' installation and repair data.

6. Customer trouble reporting measures both the number and the types of service problems that local business and residential customers report to the reporting carrier. These trouble reports are categorized as either ''initial'' trouble reports or ''repeat'' trouble reports. A ''repeat trouble'' is a trouble reported on a line within thirty days of the disposition of a previous trouble; all other trouble reports are categorized as ''initial.'' In addition to the quantity and type of troubles, carriers also report the time needed to close out the troubles. One way for closing out a trouble is the ''no trouble found'' report. Currently, carriers are required to report only the total number of instances in which, upon investigation, no trouble was found. Analysis of existing reports shows a substantial increase in the number of troubles closed out as ''no trouble found.'' We propose that carriers should be required to disaggregate this information into two rows in Table II—one showing the total number of ''no trouble found'' reports for ''initial'' trouble reports, and one for ''repeat'' trouble reports.

7. Incumbent LECs provide local special service circuits, which are circuits other than those used for basic telephone service, to business customers. In its current format, Table II does not require incumbent LECs to report information on local (intraLATA or intrastate) special service circuits. Many types of special service circuits perform the same function as those circuits that incumbent LECs already report in Table II. We propose modifying Table II to require carriers to report data on local special service circuits and to disaggregate this data by MSA and non-MSA categories. We seek comment on this proposal and additional suggestions for the reporting format of information on local special service circuits.

C. Table IV—Switches

8. Table IV of ARMIS Report 43–05 contains information about the number of switches of various sizes and a count of those switches that experience operating downtime of two minutes or more. Switch size is reported according to the number of lines each switch serves. Currently, carriers are required to report outages by various switch sizes up to 20,000 lines with all larger switches being categorized into a single row. Because 47 CFR 63.100 requires that carriers report network outages for switches over 30,000 lines, we propose that a new row should be added to Table IV for switches over 20,000 lines but less than 30,000 lines with the last row modified to include switches with 30,000 or more lines.

9. *Paperwork Reduction Act.* As part of its continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Public Notice, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on this Public Notice. 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.

10. *Comment Filing Procedures.* Interested parties may file comments no later than *April 29, 1998.* Reply comments may be filed no later than *May 15, 1998.* All pleadings should reference AAD File No. 98–22. The original and six copies should be submitted to the Secretary of the Commission; one copy should be submitted to Anthony Dale, Accounting and Audits Division, Common Carrier Bureau, FCC, 2000 L Street, Suite 201, Washington, DC 20554. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. All pleadings will be made available for public inspection and copying in the

Accounting and Audits public reference room.

Action by the Chief, Common Carrier Bureau, FCC.

Federal Communications Commission.

Kenneth P. Moran,

Chief, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 98–7988 Filed 3–26–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:36 a.m. on Tuesday, March 24, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory, liquidation, and resolution activities.

In calling the meeting, the Board determined, on motion of Director Joseph H. Neely (Appointive), seconded by Ms. Leann Britton, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Mr. John E. Ryan, acting in the place and stead of Director Ellen S. Seidman (Director, Office of Thrift Supervision), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: March 24, 1998.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 98–8205 Filed 3–25–98; 11:25 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: March 19, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Madison County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Laurence W. Zensinger,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–8092 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: March 18, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Walton and Washington for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–8093 Filed 3–26–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 202–010714–026.

Title: Trans-Atlantic American Flag Liner Operators.

Parties:

Farrell Lines Incorporated
Lykes Lines Limited, LLC
Sea-Land Service, Inc.
American President Lines Ltd.

Synposis: The proposed modification deletes the requirement that each member post a financial guarantee and reduces the notice requirement before resigning from 180 to 60 days.

Dated: March 24, 1998.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–8038 Filed 3–26–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 13, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Donald O. Gilmer Revocable Trust, and Donald O. Gilmer, Trustee, Delano, Minnesota; to acquire voting shares of Delano State Agency, Inc., Delano, Minnesota, and thereby indirectly acquire voting shares of State Bank of Delano, Delano, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Thomas Peters and Ramona Peters, both of Walnut Springs, Texas; to acquire additional voting shares of Southwestern Bancshares, Inc., Glen Rose, Texas, and Southwestern Delaware Financial Corporation, Dover, Delaware, and thereby indirectly acquire First National Bank, Glen Rose, Texas.

Board of Governors of the Federal Reserve System, March 24, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–8037 Filed 3–26–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[ATSDR–134]

Agency for Toxic Substances and Disease Registry (ATSDR); Quarterly Public Health Assessments Completed; Correction

A notice announcing the availability of the Quarterly Public Health Assessments was published in the **Federal Register** on March 11, 1998, (63 FR 11896). This notice is corrected as follows:

On page 11897, in the first column, in the tenth line under the heading of Michigan, ''Albion—PB–105794)'' should read ''Albion—(PB–117872).''

All other information and requirements of the March 11, 1998, notice remain the same.

Dated: March 23, 1998.

Georgi Jones,

Director, Office of Policy and External Affairs Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–8123 Filed 3–26–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on April 23, 1998, 8 a.m. to 6 p.m., and April 24, 1998, 9 a.m. to 5 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: John E. Stuhlmuller, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8243, ext. 157, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 23, 1998, the committee will: (1) Discuss and make recommendations on a premarket notification submission for a vascular graft used in hemodialysis access; and (2) provide input for preclinical and clinical data requirements necessary to evaluate devices used as adjuncts to the Heimlich maneuver for treatment of foreign-body airway obstruction. On April 24, 1998, the committee will discuss, make recommendations, and vote on a premarket approval application for a transmyocardial revascularization device.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 13, 1998. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m. on April 23, 1998. Near the end of the committee deliberations, on each specific device being discussed, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Oral presentations from the public will be scheduled between approximately 9 a.m. and 9:30 a.m. on April 24, 1998. Near the end of the committee deliberations, on each specific device being discussed, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 13, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 19, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–7981 Filed 3–26–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–03]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.C.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), provider should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms. Barbara Jenkins, Air Force Real Estate Agency, Area-MI, Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; ARMY: Mr. Jeff Holste, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22315; (703) 428–6318; COE: Mr. Bob Swieconek, Army Corps of Engineers, Management & Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000; (202) 761–1749; DOT: Mr. Philip Rockmaker, Acting Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation,400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366–4246; INTERIOR: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll-free numbers).

Dated: March 19, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program, Federal Register Report for 03/27/98

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 220
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810244
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 226
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810245
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 260
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810246
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 267
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810247
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 271
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810248
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 280
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810249
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 283
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810250
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 286
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810251
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 635
Fort Richardson
Fort Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810252
Status: Excess
Comment: 10,835 sq. ft., most recent use—px/snack bar, off-site use only

Bldg. 760
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number 219810253
Status: Excess
Comment: 24,600 sq. ft., most recent use—veh. maint., off-site use only

Bldg. 45040
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number 219810257
Status: Excess
Comment: 3186 sq. ft., most recent use—veh. maint., off-site use only

Arizona

20 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 12585, 13550, 14442, 15540, 15547, 15554–15556, 16401, 22215, 30108, 30109, 30122, 30124, 30133, 84015, 84016, 84018, 87849, 91276
Landholding Agency: Army
Property Number 219810258
Status: Excess
Comment: Various sq. ft., off-site use only

13 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15335, 15339, 15372, 15553, 30023, 30026, 30027, 30103, 30128, 66050, 66052, 66053, 90310
Landholding Agency: Army
Property Number 219810259
Status: Excess
Comment: Various sq. ft., wood, off-site use only

4 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 14444, 22418, 30110, 30138
Landholding Agency: Army
Property Number 219810260
Status: Excess
Comment: Various sq. ft., block, off-site use only

California

Bldg. 4282
Presido of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number 219810378
Status: Unutilized
Comment: 2283 sq. ft., presence of asbestos/lead paint, most recent use—Office

Bldg. 4461
Presido of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number 219810379
Status: Unutilized
Comment: 992 sq. ft., presence of asbestos/lead paint, most recent use—Storage

3 Bachelor Enlisted Quarters
U.S. Coast Guard Station Humboldt Bay
Samoa CA 95564–9999
Landholding Agency: Army
Property Number 879810001
Status: Unutilized
Comment: 2550 sq. ft. each, 2-story, wood, most recent use—residential, needs rehab, off-site use only

Georgia

Bldg. T–286
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810261
Status: Excess
Comment: 5310 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. P–1622
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810262
Status: Excess
Comment: 64 sq. ft., poor condition, most recent use—gas station, off-site use only

Bldg. P–9597
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810263
Status: Excess
Comment: 324 sq. ft., Poor condition, most recent use—storage, off-site use only

Bldg. 122
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810264
Status: Unutilized
Comment: 1933 sq. ft., most recent use—admin., off-site use only

Bldg. 123
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810265
Status: Unutilized
Comment: 3590 sq. ft., most recent use—admin., off-site use only

Bldg. 124
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810266
Status: Unutilized
Comment: 227 sq. ft., most recent use—access control, off-site use only

Bldg. 214
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810267
Status: Unutilized
Comment: 26,268 sq. ft., most recent use—confinement facility, off-site use only

Bldg. 305
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810268
Status: Unutilized
Comment: 4083 sq. ft., most recent use—recreation center, off-site use only

Bldg. 318
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810269
Status: Unutilized
Comment: 374 sq. ft., poor condition, most recent use—maint. shop, off-site use only

Bldg. 1699
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810270
Status: Unutilized
Comment: 3000 sq. ft., most recent use—admin., off-site use only

Bldg. 1749
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810271
Status: Unutilized
Comment: 2044 sq. ft., most recent use—admin., off-site use only

Bldg. 1752
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810272
Status: Unutilized
Comment: 1380 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. 1756
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810273
Status: Unutilized

Comment: 2548 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. 1792
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810274
Status: Unutilized
Comment: 10,200 sq. ft., most recent use—storage, off-site use only

Bldg. 1796
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810275
Status: Unutilized
Comment: 5071 sq. ft., most recent use—recreation, off-site use only

Bldg. 1836
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810276
Status: Unutilized
Comment: 2998 sq. ft., most recent use—admin., off-site use only

Bldg. 2639
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810277
Status: Unutilized
Comment: 4720 sq. ft., most recent use—hdqtrs. bldg., off-site use only

Bldg. 2640
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810278
Status: Unutilized
Comment: 4798 sq. ft., most recent use—admin., off-site use only

Bldg. 2641
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810279
Status: Unutilized
Comment: 1336 sq. ft., most recent use—storage, off-site use only

Bldg. 2642
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810280
Status: Unutilized
Comment: 4798 sq. ft., most recent use—admin., off-site use only

Bldg. 2643
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810281
Status: Unutilized
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 4313
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810282
Status: Unutilized
Comment: 3108 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 4314
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810283
Status: Unutilized
Comment: 3108 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 4315
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810284
Status: Unutilized
Comment: 2220 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 4316
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810285
Status: Unutilized
Comment: 688 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 4373
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810286
Status: Unutilized
Comment: 409 sq. ft., poor condition, most recent use—station bldg. off-site use only

Bldg. 4628
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810287
Status: Unutilized
Comment: 5483 sq. ft., most recent use—admin., off-site use only

Bldg. 5003
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810288
Status: Unutilized
Comment: 1520 sq. ft., most recent use—storage, off-site use only

Bldg. 5006
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810289
Status: Unutilized
Comment: 1520 sq. ft., most recent use—storage, off-site use only

Bldg. 5011
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810290
Status: Unutilized
Comment: 1520 sq. ft., most recent use—storage, off-site use only

Bldg. 5014
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810291
Status: Unutilized
Comment: 1520 sq. ft., most recent use—storage, off-site use only

Kansas

Bldg. S–650
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810292
Status: Unutilized
Comment: 22,331 sq. ft., presence of asbestos, most recent use—cold storage

Bldg. P–652
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810293
Status: Unutilized
Comment: 8,167 sq. ft., presence of asbestos, most recent use—cold storage

Bldg. S–7711
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810294
Status: Unutilized
Comment: 648 sq. ft., poor condition presence of asbestos, most recent use—storage

Bldg. P–63
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810295
Status: Unutilized
Comment: 9376 sq. ft., concrete, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–323
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810297
Status: Unutilized
Comment: 720 sq. ft., most recent use—boy scout bldg., off-site use only

Bldg. T–688
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810298
Status: Unutilized
Comment: 832 sq. ft., possible lead paint, most recent use—girl scout bldg., off-site use only

Bldg. T–895
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810299
Status: Unutilized
Comment: 228 sq. ft., possible lead paint, most recent use—storage, off-site use only

Bldg. P–1032
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810300
Status: Unutilized
Comment: 728 sq. ft., most recent use—dog kennel, off-site use only

Kentucky

Bldg. 800
Louisville IAP
Louisville Co: Jefferson KY 40213–2625
Landholding Agency: Air Force
Property Number: 189810026
Status: Underutilized
Comment: 9125 sq. ft., most recent use—storage, needs rehab

Maryland

Bldg. 6294
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219810302
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—custodial, off-site use only

Bldg. 3176
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219810303
Status: Unutilized
Comment: 7670 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 00410
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219810304
Status: Unutilized
Comment: concrete, most recent use—ordnance facility

Massachusetts

Facility No. 00029
OMS Boston
Boston Co: Suffolk MA 02210–2109
Landholding Agency: Army
Property Number: 219810301
Status: Unutilized
Comment: 220 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage, off-site use only

Missouri

Bldg. 430
Fort Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810305
Status: Unutilized
Comment: 4100 sq. ft., presence of asbestos/lead paint, most recent use—Red Cross facility, off-site use only

Bldg. 758
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810306
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 759
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810307
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810308
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, off-site use only

Bldgs. 761–766
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810309
Status: Unutilized
Comment: 2400 sq. ft. each, presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1498
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810310
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1650
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810311
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2111
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810312
Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2170
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810313
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2184
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810314
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2204
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810315
Status: Unutilized
Comment: 3525 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2225
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810316
Status: Unutilized
Comment: 820 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810317
Status: Unutilized
Comment: 256 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2275
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810318
Status: Unutilized
Comment: 225 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2291
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810319
Status: Unutilized
Comment: 510 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2316
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810320
Status: Unutilized
Comment: 5774 sq. ft., presence of asbestos/lead paint, most recent use—cold storage, off-site use only

Bldg. 2317
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810321
Status: Unutilized
Comment: 6510 sq. ft., presence of asbestos/lead paint, most recent use—cold storage, off-site use only

Bldg. 2318
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810322
Status: Unutilized
Comment: 9267 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2347
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810323
Status: Unutilized
Comment: 6510 sq. ft., presence of asbestos/lead paint, most recent use—cold storage, off-site use only

Bldg. 2348
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810324
Status: Unutilized
Comment: 6510 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2579
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810325
Status: Unutilized
Comment: 176 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2580
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810326
Status: Unutilized
Comment: 200 sq. ft., presence of asbestos/lead paint, most recent use—generator plant, off-site use only

Bldg. 4199
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810327
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6030
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810328
Status: Unutilized
Comment: 1000 sq. ft., presence of lead paint, poor condition, most recent use—storage, off-site use only

New Jersey

Bldg. TO5311
Fort Dix
Ft. Dix Co: Burlington NJ 08640–5505
Landholding Agency: Army
Property Number: 219810329
Status: Unutilized
Comment: 3779 sq. ft., most recent use—cold storage, off-site use only

Bldg. 2316
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810320
Status: Unutilized
Comment: 5774 sq. ft., presence of asbestos/lead paint, most recent use—cold storage, off-site use only

New York

Bldg. T–17
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810330
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–18
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810331
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–181
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810332
Status: Unutilized
Comment: 3151 sq. ft., needs rehab, most recent use—maintenance, off-site use only

Bldg. T–213
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810333
Status: Unutilized
Comment: 1676 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–214
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810334
Status: Unutilized
Comment: 3663 sq. ft., needs rehab, most recent use—barber shop, off-site use only

Bldg. T–259
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810335
Status: Unutilized
Comment: 2360 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. T–279
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810336
Status: Unutilized
Comment: 2510 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. T–335
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810337
Status: Unutilized
Comment: 2734 sq. ft., needs rehab, most recent use—hdqts. bldg., off-site use only

Bldgs. T352, T–358
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810338
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—barracks, off-site use only

Bldgs. T360–T363, T365
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810339
Status: Unutilized
Comment: various sq. ft., needs rehab, most recent use—hdqts. bldg. off-site use only

Bldgs. T376, T476
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810340
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—barracks, off-site use only

Bldg. T520
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810341
Status: Unutilized
Comment: 2360 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. T569
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810342
Status: Unutilized
Comment: 1296 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. T729, T755
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810343
Status: Unutilized
Comment: 2360 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. T847
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810344
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—barracks, off-site use only

Bldg. S893
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810345
Status: Unutilized
Comment: 1734 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. P996
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810346
Status: Unutilized
Comment: 9602 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. P2164
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810347
Status: Unutilized
Comment: 294 sq. ft., needs rehab, most recent use—water treatment bldg., off-site use only

Bldgs. T2206, T2207
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810348
Status: Unutilized

Comment: 7670 sq. ft., needs rehab, most recent use—officers quarters, off-site use only

Bldg. S2706
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810349
Status: Unutilized
Comment: 235 sq. ft., needs rehab, most recent use—access control bldg., off-site use only

Bldg. P22461
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810350
Status: Unutilized
Comment: 64 sq. ft., needs rehab, most recent use—range support facility, off-site use only

Bldg. T22462
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 219810351
Status: Unutilized
Comment: 320 sq. ft., needs rehab, most recent use—range/target house, off-site use only

North Carolina

Bldg. P2633
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219810352
Status: Unutilized
Comment: 720 sq. ft. trailer

Oklahoma

Bldg. P841
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810353
Status: Unutilized
Comment: 192 sq. ft., possible asbestos/lead paint, most recent use—dispatch, off-site use only

Bldg. S955
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810354
Status: Unutilized
Comment: 854 sq. ft., possible asbestos/lead paint, most recent use—training, off-site use only

Bldg. P1438
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810355
Status: Unutilized
Comment: 1410 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only

Bldg. T4052
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810356
Status: Unutilized
Comment: 1650 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 4463
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810357
Status: Unutilized
Comment: 2262 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–4913
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810358
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5028
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810359
Status: Unutilized
Comment: 23 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–5204
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810360
Status: Unutilized
Comment: 3107 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–5205
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810361
Status: Unutilized
Comment: 1440 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–5206
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810362
Status: Unutilized
Comment: 1440 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–6020
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810363
Status: Unutilized
Comment: 104 sq. ft., possible asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. S–6049
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810364
Status: Unutilized
Comment: 104 sq. ft., possible asbestos/lead paint, most recent use—shelter, off-site use only

Rhode Island

Facility T
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810175
Status: Unutilized
Comment: 1610 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Facility U
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810176
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop off-site use only

Facility V
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810177
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Facility W
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810178
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—training/office, off-site use only

Facility X
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810179
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Facility Y
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810180
Status: Unutilized
Comment: 1593 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—admin., off-site use only

Facility 322
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810181
Status: Unutilized
Comment: 800 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Facility 323
Naval Education & Training Center
Coddington Park

Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810182
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Facility 324
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810183
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Facility 325
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810184
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Facility 326
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810185
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Facility 327
Naval Education & Training Center
Coddington Park
Newport Co: Newport RI 02841–1711
Landholding Agency: Navy
Property Number: 779810186
Status: Unutilized
Comment: 800 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Texas

Bldg. P–1382
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810365
Status: Unutilized
Comment: 30,082 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. P–2013
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810366
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. P–2014
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810367
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. P–2015
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810368
Status: Unutilized
Comment: 11,333 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2016
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810369
Status: Unutilized
Comment: 11,517 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2017
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810370
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. S–3897
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810371
Status: Unutilized
Comment: 4,200 sq. ft., presence of asbestos/lead paint, most recent use—instruction, off-site use only

Virginia

98 Bldgs.
New Gosport Housing Community
Naval Base, Type A
Portsmouth VA 23702–
Location: #1020–1055, 1063–1116, 1118–1125
Landholding Agency: Navy
Property Number: 779810201
Status: Excess
Comment: 725 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

63 Bldgs.
New Gosport Housing Community
Naval Base, Type B
Portsmouth VA 23702–
Location: #1140–1183, 1185–1188, 1198–1210, 1234–1236
Landholding Agency: Navy
Property Number: 779810202
Status: Unutilized
Comment: 1450 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

23 Bldgs.
New Gosport Housing Community
Naval Base, Type C
Portsmouth VA 23702–
Location: #1211–1233
Landholding Agency: Navy
Property Number: 779810203
Status: Unutilized
Comment: 1150 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. HF1
Hewitt Farms Housing Community
Naval Base
Norfolk VA 23518–
Landholding Agency: Navy
Property Number: 779810204
Status: Excess
Comment: 1224 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—office, off-site use only

15 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type A
Norfolk VA 23518–
Location: #HF3, 5, 9, 45, 49, 53, 58, 60, 64, 70, 72, 74, 76, 80, 88
Landholding Agency: Navy
Property Number: 779810205
Status: Excess
Comment: 1472 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

15 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type B
Norfolk VA 23518–
Location: #HF4, 6, 10, 39, 51, 59, 62, 65, 66, 69, 73, 77, 79, 81, 84
Landholding Agency: Navy
Property Number: 779810206
Status: Excess
Comment: 2116 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

4 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type C
Norfolk VA 23518–
Location: #HF8, 12, 82, 86
Landholding Agency: Navy
Property Number: 779810207
Status: Excess
Comment: 2116 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

17 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type D
Norfolk VA 23518–
Location: #HF2, 7, 11, 35, 37, 41, 43, 47, 55, 61, 63, 67, 68, 71, 75, 78, 90
Landholding Agency: Navy
Property Number: 779810208
Status: Excess
Comment: 3588 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. #HF57, Type D1
Hewitt Farms Housing Community
Naval Base
Norfolk VA 23518–
Landholding Agency: Navy
Property Number: 779810209
Status: Excess
Comment: 2116 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

12 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type E
Norfolk VA 23518–
Location: #HF13, 14, 18, 22, 26, 33, 38, 40, 42, 44, 46, 56
Landholding Agency: Navy
Property Number: 779810210
Status: Excess

Comment: 1625 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

8 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type F
Norfolk VA 23518–
Location: #HF21, 25, 30, 34, 48, 54, 85, 89
Landholding Agency: Navy
Property Number: 779810211
Status: Excess
Comment: 2200 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

6 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type G
Norfolk VA 23518–
Location: #HF16, 17, 23, 31, 83, 91
Landholding Agency: Navy
Property Number: 779810212
Status: Excess
Comment: 2750 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

3 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type H
Norfolk VA 23518–
Location: #HF32, 50, 87
Landholding Agency: Navy
Property Number: 779810213
Status: Excess
Comment: 2750 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

9 Bldgs.
Hewitt Farms Housing Community
Naval Base, Type I
Norfolk VA 23518–
Location: #HF15, 19, 20, 24, 27, 28, 29, 36, 52
Landholding Agency: Navy
Property Number: 779810214
Status: Excess
Comment: 1925 sq. ft. each, needs rehab, presence of asbestos/lead paint, most recent use—residential, off-site use only

Bldg. SP–3–8
Naval Air Station
Norfolk VA
Landholding Agency: Navy
Property Number: 779810215
Status: Excess
Comment: 120 sq. ft., most recent use—gate/sentry house, off-site use only

Washington

Bldgs. C0509, C0709, C0720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219810372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—residential, off-site use only

4 Bldgs.
Fort Lewis
CO511, CO710, CO711, CO719
Ft. Lewis Co: Pierce WA 98433—
Landholding Agency: Army
Property Number: 219810373
Status: Unutilized
Comment: 1,144 sq, ft., possible asbestos/lead paint, needs rehab, most recent use—dayrooms, off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433—
Location: CO528, CO701, CO708, CO721, CO526, CO527, CO702, CO703, CO706, CO707, CO722
Landholding Agency: Army
Property Number: 219810374
Status: Unutilized
Comment: 2207 sq, ft., possible asbestos/lead paint, needs rehab, most recent use—dining, off-site use only

Bldgs. 5230, 6220, 6103
Fort Lewis
Ft. Lewis Co: Pierce WA 98433—
Landholding Agency: Army
Property Number: 219810375
Status: Unutilized
Comment: 1372 sq, ft., possible asbestos/lead paint, needs rehab, most recent use—admin., off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433—
Location: 6030, 6101, 6132, 6133, 6165, 6166, 6202, CO150, CO151, CO154, CO155
Landholding Agency: Army
Property Number: 219810376
Status: Unutilized
Comment: 3108 sq, ft., possible asbestos/lead paint, needs rehab, most recent use—motor repair shop, off-site use only

4 Bldgs.
Fort Lewis
6033, 6164, 6218, CO160
Ft. Lewis Co: Pierce WA 98433—
Landholding Agency: Army
Property Number: 219810377
Status: Unutilized
Comment: 542 sq, ft., possible asbestos/lead paint, needs rehab, most recent use—oil storage, off-site use only

Land (by State)

Louisiana

Land—Wallace Lake Dam Road
Section 35
Shreveport Co: Caddo LA 71115–
Landholding Agency: GSA
Property Number: 549810006
Status: Excess
Comment: 10.6 acres, most recnet use—agriculture
GSA Number: 7–D–LA–556

Nebraska

Hastings Radar Bomb Scoring
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 189810027
Status: Unutilized
Comment: 11 acres

Washington

Spokane Satellite Tracking #1
Fairchild AFB
Portion of Site
Spokane WA 99224–
Landholding Agency: 189810028
Status: Unutilized
Comment: 1.14 acres w/water well pump house

Suitable/Unavailable Properties

Buildings (by State)

Alaska

Bldg. 808
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810254
Status: Excess
Comment: 99,927 sq. ft., most recent use—cold storage, off-site use only

Bldg. 809
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810255
Status: Excess
Comment: 5,000 sq. ft., most recent use—storage, off-site use only

Bldg. 47799
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810256
Status: Excess
Comment: 15,050 sq. ft., most recent use—confinement facility, off-site use only

Kansas

Bldg. P–295
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810296
Status: Unutilized
Comment: 3480 sq. ft., concrete, most recent use—underground storage, off-site use only

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 1551
Galena Airport
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 189810030
Status: Unutilized
Reason: Within airport runway clear zone

California

Bldgs. 2–11, 20–21
Edwards AFB
P-Area Housing
Edwards AFB Co: Kern CA 93524–
Landholding Agency: Air Force
Property Number: 189810029
Status: Unutilized
Reason: Extensive deterioration

Bldg. 110
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 219810380
Status: Unutilized
Reason: Extensive deterioration

Bldg. 418
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 219810381
Status: Unutilized
Reason: Extensive deterioration

#1124, #1545
San Gabriel Canyon

Azusa Co: Los Angeles CA 91702–
Landholding Agency: GSA
Property Number: 549810011
Status: Excess
Reason: Extensive deterioration

#1053
San Gabriel Canyon
Azusa Co: Los Angeles CA 91702–
Landholding Agency: GSA
Property Number: 549810012
Status: Excess
Reason: Extensive deterioration

Bldg. 547
Naval Station, San Diego
San Diego, CA 92136–
Landholding Agency: Navy
Property Number: 779810172
Status: Excess
Comment: Extensive deterioration

North Carolina

Bldg. BB10
Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779810173
Status: Unutilized
Reason: Secured Area Extensive deterioration

Bldg. M509
Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779810174
Status: Unutilized
Reason: Secured Area

Ohio

Toledo Federal Building
234 Summit Avenue
Toledo Co: Lucas OH 43604–
Landholding Agency: GSA
Property Number: 549810014
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material GSA Number: 1–G–H–804

Virginia

Bldg. 14
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810187
Status: Unutilized
Reason: Extensive deterioration

Bldg. 39
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810188
Status: Unutilized
Reason: Extensive deterioration

Bldg. 42
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810189
Status: Unutilized
Reason: Extensive deterioration

Bldg. 61
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810190
Status: Unutilized
Reason: Extensive deterioration

Bldg. 62
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810191
Status: Unutilized
Reason: Extensive deterioration

Bldg. 68
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810192
Status: Unutilized
Reason: Extensive deterioration

Bldg. 73
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810193
Status: Unutilized
Reason: Extensive deterioration

Bldg. 194
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810194
Status: Unutilized
Reason: Extensive deterioration

Bldg. 195
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810195
Status: Unutilized
Reason: Extensive deterioration

Bldg. 212
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810196
Status: Unutilized
Reason: Extensive deterioration

Bldg. 263
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810197
Status: Unutilized
Reason: Extensive deterioration

Bldg. 264
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810198
Status: Unutilized
Reason: Extensive deterioration

Bldg. 278
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810199
Status: Unutilized
Reason: Extensive deterioration

Bldg. 291
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779810200
Status: Unutilized
Reason: Extensive deterioration

Bldg. V–69
Naval Air Station
Norfolk VA 23511–
Landholding Agency: Navy
Property Number: 779810216
Status: Excess
Reason: Extensive deterioration

Washington

Bldgs. 1158, 1159
Hozomeen Ranger Station
Ross Lake National Recreation Area
Co: Whatcom WA
Landholding Agency: Interior
Property Number: 619810014
Status: Excess
Reason: Extensive deterioration

Bldg. 332
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 779810217
Status: Excess
Reason: Secured Area

Bldg. 2512
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 779810218
Status: Excess
Reason: Secured Area

Bldg. 2536
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 779810219
Status: Excess
Reason: Secured Area

Bldg. 2591
NAS Whidbey Island
Whidbey Island WA
Landholding Agency: Navy
Property Number: 779810220
Status: Excess
Reason: Secured Area

Land (by State)

Washington

2.95 acre encroachment parcel
155 Harrigan Lane
Mesa Co: Franklin WA 99343–
Landholding Agency: GSA
Property Number: 549810013
Status: Surplus
Reason: Other
Comment: no legal access
GSA Number: 9–B–WA–1147

West Virginia

Portion of Tract #101
Buckeye Creek
Sutton Co: Braxton WV 26601–
Landholding Agency: COE
Property Number: 319810006
Status: Excess
Reason: Other
Comment: inaccessible

[FR Doc. 98–7674 Filed 3–25–98; 8:45 am]

BILLING CODE 4210–09–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–677336

Applicant: Florida Museum of Natural History, Gainesville, FL

The applicant requests renewal of their permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant for a five year period.

PRT–840644

Applicant: International Crane Foundation, Baraboo, WI

The applicant requests a permit to export 3 Siberian crane (*Grus leucogeranus*) eggs to VogelPark Zoo, Walsrode, Germany for the purpose of enhancement to the survival and propagation of the species through isolation-rearing and re-introduction of specimens to the wild.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 23, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–8000 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Final Environmental Impact Statement for the Establishment of the Northern Tallgrass Prairie Habitat Preservation Area in Western Minnesota and Northwestern Iowa

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Final Environmental Impact Statement (FEIS) which is available for public review. The FEIS evaluates the establishment of a Northern Tallgrass Prairie Habitat Preservation Area as a means of working with individuals, groups, and governmental entities to permanently preserve remnant tracts of northern tallgrass prairie. Three alternatives, including a No Action alternative are being considered. The action alternatives are aimed at permanently protecting and enhancing prairie remnants.

The Service's preferred alternative (Alternative B) is to permanently protect and enhance prairie remnants through partnerships, incentives, education, and cooperative agreements. Any conservation easements, or acquisition of full title would be done by the Service and Service Partners. Service acquisition of easements and fee interest in lands would be on a voluntary basis from willing sellers.

DATES: A decision whether to implement the preferred alternative will be made after a 30-day waiting period from the date of this notice.

ADDRESSES: Individuals wishing copies of the FEIS for review should contact: Jane West, Project Manager, U.S. Fish and Wildlife Service, BHW Federal Building, 1 Federal Drive, Fort Snelling, MN 55111–4056.

FOR FURTHER INFORMATION CONTACT: Jane West at the address listed above or by telephone at 612/713–5314.

SUPPLEMENTARY INFORMATION: America's native grasslands are a vanishing ecosystem, and mounting evidence indicates that many species are disappearing as fast as the prairie habitats on which they depend. Few other ecosystem types have experienced as great a degree of loss and alteration. In Minnesota and Iowa, the native northern tallgrass prairie has declined to less than 1 percent of its original 25 million acres (10. 1 million hectares).

Through an integrated ecosystem approach, the Service, with its partners, proposes to protect and restore fish and wildlife habitats through holistic management strategies using a wide variety of tools, and techniques. The Service proposes to participate in public and private partnerships at many levels, complimenting other prairie projects such as those of the Iowa County Conservation Boards, Iowa and Minnesota Departments of Natural Resources, the Nature Conservancy, and others.

Dated: March 17, 1998.

Robb M. Morin,

Acting Regional Director.

[FR Doc. 98–7410 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposals To Register An Operation Breeding Appendix-I Species in Captivity for Commercial Purposes According to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service announces that it intends to submit to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) proposals to register a breeding operation for Sky-Out Falcons, a breeding facility for gyrfalcons (*Falco rusticolus*) and peregrine falcons (*Falco peregrinus*), both specific and hybrid offspring, owned and operated by David H. Jamieson, Reno, Nevada (one of each species). The registration of this facility will allow specimens to be designated as bred in captivity for commercial purposes and deemed to be specimens of species included in Appendix II, as provided for in Article VII, paragraph 4 of CITES. Public comments are solicited.

DATES: Comments will be accepted until April 27, 1998.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority, U.S. Fish and Wildlife Service, Mail stop ARLSQ 750, 4401 N. Fairfax Drive, Arlington, Virginia 22203. Fax number 703–358–2276. Copies of the full text of the registration proposals are available from the Office of Scientific Authority and will be mailed upon request. Comments and other information received are available for public inspection by appointment from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia, address.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, Chief, Office of Scientific Authority, at the address given above (telephone: 703–358–1708).

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES, is an international treaty designed to regulate international trade in animal and plant species that are or may become threatened with extinction. Authority for implementing CITES has been delegated to the Secretary of Interior through the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). Species are listed in Appendix I, II, or III of CITES, depending on the degree of threat and level of control needed. Species listed in Appendix I receive the highest level of protection and require both an import permit from the country of import and an export permit from the country of export, and imports may not be for primarily commercial purposes. However, Article VII, paragraph 4 of CITES provides that specimens of animal species included in Appendix I bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. Appendix-II species require an export permit only (no import permit) and may be imported for commercial or non-commercial purposes.

Through resolutions adopted at meetings of the Conference of the Parties to CITES, the Parties have defined criteria for registering breeding operations with the CITES Secretariat, whereby specimens of Appendix-I species from those operations would qualify as bred in captivity for commercial purposes. Resolution Conf. 10.16 adopted at the Tenth Meeting of the Conference of the Parties to CITES (which replaces Conf. 2.12 (rev.)) requires that parental breeding stock at such operations must: (a) be established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild; (b) be maintained without introduction of specimens from the wild, except for occasional augmentation to prevent or alleviate deleterious inbreeding, and for other limited purposes; and (c) have produced offspring of second (F2) or subsequent generations (F3, F4, etc.) in a controlled environment, belong to a species included in a list, established by the CITES Standing Committee, of species commonly bred to second or subsequent generations, or be managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment. Resolution Conf. 8.15 provides guidelines for registering and monitoring operations breeding Appendix-I animal species for commercial purposes, and specifies the documentation required to establish that the operation meets the criteria of Resolution Conf. 10.16.

To register a captive-breeding operation, the Management Authority of the country in which the operation is located must approve the operation, in consultation with that country's Scientific Authority. The sponsoring Management Authority must then submit a proposal to register the operation to the CITES Secretariat, which will follow the process presented in Resolution Conf. 8.15.

After a review of relevant information, including breeding records and other documentation, the Fish and Wildlife Service has prepared for submission to the CITES Secretariat the following proposals: (1) the registration of Sky-Out Falcons owned and operated by David H. Jamieson, Reno, Nevada, as a commercial captive-breeding operation for gyrfalcons (*Falco rusticolus*), an Appendix I species, and hybrids; and (2) the registration of Sky-Out Falcons for peregrine falcons (*Falco peregrinus*), an Appendix-I species, and hybrids. Although this is the first commercial captive-breeding operation proposed for registration within the United States for any species, it is not the first operation registered with the CITES Secretariat for these two species (15 operations have been registered for peregrine falcons and 10 operations for gyrfalcons). The Sky-Out Falcons operation has been breeding falcons since 1974, with a combined production of 45 gyrfalcons and 46 peregrine falcons in 1995 and 1996. All of these offspring have been second-generation captive-hatched offspring. The Service is satisfied that all breeding stock has been legally acquired and maintained under appropriate permits, as determined by the Division of Law Enforcement in Region 1 of the Fish and Wildlife Service. Mr. Jamieson has provided detailed information on current holdings, husbandry practices, enclosures, production at his operation, and breeding strategies for genetic management of his flocks so as to minimize deleterious inbreeding. (Mr. Jamieson currently holds a pair of *F. p. anatum*, a species listed as endangered under the Endangered Species Act of 1973, as amended. This pair of birds is not included in this registration process and any offspring of either member of the pair would not be considered registered under Resolution Conf. 8.15.)

Required Determination

The Service prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA), for this notice and concluded in a Finding of No Significant Impact (FONSI) based on a review and evaluation of the information contained within the EA that there would be no significant impact on the human environment as a result of this action and that the preparation of an environmental impact statement on this action is not required by Section 102(2) of NEPA or its implementing regulations. The EA and FONSI for this action are on file at the Service's Office of Scientific Authority in Arlington, Virginia, and a copy may be obtained by any interested person for review and provide comments by contacting the individual identified under the section entitled, **FOR FURTHER INFORMATION**.

Author

This notice was prepared by Mr. Timothy J. Van Norman, Wildlife Biologist, Office of Scientific Authority, U.S. Fish and Wildlife Service (703/358–1708).

Dated: March 20, 1998.

Margaret Tieger,

Acting Chief, Office of Management Authority.

[FR Doc. 98–8048 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On December 19, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 244, Page 66660, that an application had been filed with the Fish and Wildlife Service by Eugene Giscombe for a permit (PRT–837603) to import a sport-hunted polar bear trophy, taken from the McClintock Channel population, Northwest Territories, Canada for personal use.

Notice is hereby given that on February 10, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On January 6, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 3, Page 571, that an application had been filed with the Fish and Wildlife Service by Stephen C. Slack for a permit (PRT–837990) to import a sport-hunted polar bear trophy, taken prior to April 30, 1994, from the Davis Strait population, Northwest Territories, Canada for personal use.

Notice is hereby given that on March 3, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: March 23, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–7998 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 30, 1998, North Pacific Trading Company, 815 N.E. Davis Street, Portland, Oregon 97202, made application by renewal to the Drug Enforcement Administration to be registered as an importer of marihuana (7360) a basic class of controlled substance listed in Schedule I.

This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird food.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing 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 (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 13, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8083 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Joint Issuance of Permit for Marine Mammals

On October 22, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 204, Page 54851, that an application had been filed with the Fish and Wildlife Service by the American Museum of Natural History, New York, NY for a permit (FWS# 831724, NMFS# 876–1402) to import, export, re-import and re-export biological samples from all Cetacea, Pinnipedia, Sirenia, sea and marine otters for the purpose of scientific research.

Notice is hereby given that on March 2, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service in cooperation with the National Marine Fisheries Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for this application are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm. 700, Arlington, Virginia 22203, phone (703) 358–2104 or Fax (703) 358–2281.

Dated: March 11, 1998.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service.

Dated: March 13, 1998.

Art Jeffers,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–7999 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–010–1430–00; GP8–0130]

Notice of Meeting of Southeast Oregon Resource Advisory Council and Notice of Change of Designated Federal Official for Southeast Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of Southeast Oregon Resource Advisory Council, and Notice of Change of Designated Federal Official to Steve A. Ellis, District Manager, Lakeview District Office, Bureau of Land Management, PO Box 151, Lakeview, Oregon 97630 (Phone 541–947–2177).

SUMMARY: A meeting of the Southeast Oregon Resource Advisory Council will be held April 28, 1998, from 8 a.m. to 4:15 p.m. (PDT) and April 29, 1998, from 8 am to 11:45 a.m. Public comments are scheduled from 12 noon to 12:30 p.m., April 28, 1998. The Noxious Weeds subcommittee and the Fuels and Prescribed Fire Subcommittee will meet on April 29 at 1 p.m.

The meeting will be held at the Memorial Building of the Harney

County Fairgrounds, Fairgrounds Road, Burns, Oregon. On April 28, 1998, the Council will recess at an appropriate time for a lunch break of approximately one hour.

The Council is meeting to discuss the Interior Columbia Basin Ecosystem Management Draft Environmental Impact Statement.

ADDRESSES: The Southeast Oregon Resource Advisory Council will meet at the Memorial Building of the Harney County Fairgrounds, Fairgrounds Road, Burns, Oregon.

FOR FURTHER INFORMATION CONTACT: Sonya Hickman, Bureau of Land Management, Lakeview District, 1000 South 9th Street Lakeview, Oregon 97630 (Telephone 541–947–2177).

Dated: March 17, 1998.

M. Joe Tague,

Acting District Manager for the Lakeview District, BLM.

[FR Doc. 98–7925 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW130504]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW130504 for lands in Big Horn County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW130504 effective November 1, 1997, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–7989 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Policy Committee of the Minerals Management Advisory Board; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

SUMMARY: The OCS Policy Committee of the Minerals Management Advisory Board will meet at the Ramada Hotel Old Town in Alexandria, Virginia, on April 28–29, 1998.

The agenda will cover the following principal subjects:

—Report from the Environmental Forum
—20th Anniversary of the OCS Lands Act Amendments: ''What Has Worked and How Can We Make It Work Better?''
—Safety Strategy
—Oil Spill Financial Responsibility Rule
—Hard Minerals Update:
—Amboy Aggregate
—MMS Policy and Guidelines on Fees for OCS Resources Used in Shore Protection and Restoration Projects
—Subcommittee Update
—OCS Scientific Committee Update
—Year of the Ocean
—Federal/State Baseline Boundary Development Process
—Coastal Impact Assistance
—Regional Update: Alaska, Gulf of Mexico, and Pacific Regions.

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the OCS Policy Committee. Such requests should be made no later than April 17, 1998, to the Minerals Management Service, 381 Elden Street, MS–4001, Herndon, Virginia, 20170, Attention: Jeryne Bryant.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, call Jeryne Bryant at (703) 787–1211.

Minutes of the OCS Policy Committee meeting will be available for public inspection and copying at the Minerals Management Service in Herndon, Virginia.

DATES: Tuesday, April 28 and Wednesday, April 29, 1998.

ADDRESSES: The Ramada Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314—(800) 272–6232 or (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: Jeryne Bryant at the address and phone number listed above.

Authority: Federal Advisory Committee Act, P.L. No. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: March 23, 1998.

Thomas A. Readinger,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 98–7984 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

60 Day Notice of Intention To Renew Request for Clearance of Information Collection, Special Park Uses Management, Opportunity for Public Comment

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–14, 44 U.S.C. 3507) and 5 CFR, part 1320 Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comment on a request for renewal of approval for the information collection requirements. These information collections are associated with permits implementing provisions of agency regulations pertaining to the use of public lands. The uses considered under this information collection application generally include those which make commercial use of public lands (such as commercial vehicles using Park roadways or which regulate activities not available to the public at large, (such as grazing in Parks where such activity is authorized by law). The OMB control number 1024–0026. NPS forms 10–114 (Special Use Permit) is the primary form used to permit and limit such uses of public lands. Application is generally in the form of a letter.

DATES: Public comments will be accepted on or before May 26, 1998.

ADDRESSES: Send comments to: Ken Johnson, Shenandoah National Park, 3655 U.S. Highway 211 East, Luray VA. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. Copies of the above mentioned forms may be obtained by writing to the above address or by calling the telephone number below.

FOR FURTHER INFORMATION CONTACT: Ken Johnson at 540–999–3249.

SUPPLEMENTARY INFORMATION: Specific Comments Sought: NPS seeks

comments, in particular, on the necessity for this information collection, the accuracy of our burden estimates, the clarity of the information to be collected and alternative methods of collection to minimize burden and improve service to the public.

Cross References to Other OMB Approvals

This information collection approval request, in addition to renewing the approval under OMB number 1024–0026 will also replace the approvals under OMB number 1024–0015. In furtherance of recommendations found in OMB's draft implementing guidance for the Paperwork Reduction Act, NPS is bundling information collection requests which are similar in intent and burden.

Dated: March 23, 1998.

Diane Cooke,

NPS Information Collection Liaison.

[FR Doc. 98–8022 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: National Park Service Visitor Survey Card, Department of the Interior.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) Visitor Services Project—Visitor Survey Card proposes to conduct visitor surveys at all 376 National Park System Units to learn visitors' opinions about park facilities, services and recreational opportunities in each park unit. This effort is required by the Government Performance and Results Act of 1993 (GPRA) goals and standards. In addition, visitors' understanding of park significance will be measured for each National Park unit. The results of these studies will be used to measure performance toward the GPRA goals (lla1 and lib1) and standards and by park managers to improve the services they provide to visitors while better protecting park natural and cultural resources. A study package, including the proposed visitor survey card questionnaire (the same card will be used in all parks) for these proposed park studies, has been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1329, Reporting and Record Keeping Requirements, the NPS invites public comment on this proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The purpose of the proposed ICR is to document visitors' opinions about park facilities, services and recreation opportunities. In addition, visitors' understanding of park significance will be measured for each National Park System unit. Park unit performance will be evaluated according to National Park Service GPRA goals and standards. This information will be used by park managers, park planners and NPS regional and Washington office staff in priority setting for budget processes.

There were no public comments received as a result of publishing a 60 day notice of intention to request clearance of information collection for this study in the **Federal Register.**

DATES: Public comments will be accepted on or before April 27, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC, 20530; and also to: Terry Bergerson; Cooperative Park Studies Unit; Department of Forest Resources; College of Forestry, Wildlife and Range Sciences; University of Idaho; Moscow, ID 83844–1133.

FOR FURTHER INFORMATION OR A COPY OF THE QUESTIONNAIRE SUBMITTED FOR OMB REVIEW, CONTACT: Terry Bergerson, phone 208–885–4806, FAX: 208–885–4261, or email: *tberger@uidaho.edu*

SUPPLEMENTARY INFORMATION:.

Title: National Park Service (NPS) Visitor Service Project Visitor Survey Card.

Bureau From Number: Not Applicable.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The NPS needs to learn visitors' opinions about park facilities, services and recreational opportunities in each part unit to meet the requirements of the Government Performance and Results Act of 1993 (GPRA) goals and standards. In addition, visitors' understanding of park significance will be measured for each National Park unit. The proposed information, to be collected from visitors in all 376 National Park System units, is not available from existing records, sources, or observations.

Automated Data Collection: At the present time, there is no automated way to gather this information since it includes asking visitors to evaluate services and facilities that they used during their park visit. The information contained in these surveys will be processed automatically using scanning machines.

Description of Respondents: A sample of visitors to each National Park System Unit.

Estimated Average Number of Respondents: Total to represent all 376 National Park System units—67,680 respondents.

Estimated Average Burden Hours Per Response: 3 minutes.

Estimated Average Number of Responses: Each respondent will respond on one time, so the number of responses will be the same as the number of respondents.

Frequency of response: One time.

Estimated Annual Reporting Burden: Total 3,384 hours.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–8019 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Shark Valley, Everglades National Park, FL; Concession Contract Negotiations

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public Notice is hereby given that the National Park Service proposes to award a concession contract authorizing a concession to provide, operate, and maintain interpretive tram tours, bicycle rentals, limited snack items, and sundries for the public at Shark Valley located at Everglades National Park, Florida, for a period of 10 years from approximately January 1, 1999 to December 31, 2009.

EFFECTIVE DATE: Offers will be accepted for sixty (60) days under the terms described in the Prospectus. The sixty (60) day application period will begin with the release of the Prospectus, which will occur on or before April 27,

1998. The actual release date of the Prospectus shall be the date the notice is published in the ''Commerce Business Daily''.

ADDRESSES: Interested parties should contact Henry Benedetti, Chief-Concessions Management, Everglades National Park, 40001 State Road 9336, Homestead, FL, 33034 for a copy of the Prospectus.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared since the improvement program includes only replacement of existing facilities on previously disturbed land.

The existing concessioner has performed its obligation to the satisfaction of Secretary under an existing contract which expired by limitation of time on November 30, 1992, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (16 U.S.C. 20 *et seq.*), is entitled to be given preference in the renewal of the contract, and in the award of a new contract providing that the existing concessioner submits a responsive offer. Responsive means a timely offer which meets the terms and conditions of the Prospectus. This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by an existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner. If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract permit will then be awarded to the party that has submitted the best responsive offer. The Secretary will consider and evaluate all offers received as a result of this notice.

Any offer, including that of the existing concessioner, must be received by the (Superintendent), Everglades National Park, 40001 State Road 9336, Homestead, FL 33034, no later than the sixtieth (60th) day following the day notice is published in the ''Commerce Business Daily'' to be considered and evaluated.

Henry Benedetti,

Chief, Concessions Management, Everglades National Park.

[FR Doc. 98–8020 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before MARCH 21, 1998. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 13, 1998.

Patrick Andrus,

Acting Keeper of the National Register.

ARIZONA

Coconino County

DelSue Motor Inn (Historic US Route 66 MPS), 234 E US 66, Williams, 98000356

CONNECTICUT

Fairfield County

Beardsley Park, 1875 Noble Ave., Bridgeport, 98000357

Hartford County

East Windsor Academy, 115 Scantic Rd., East Windsor, 98000359

Elm Street Historic District, Along Elm St., from 18 to 191 Elm St., Rocky Hill, 98000358

New Haven County

Blakeslee, Joseph, House, 1211 Barnes Rd., Wallingford, 98000362

New London County

Alden Tavern Site, Address Restricted, Lebanon vicinity, 98000361

Commonwealth Works Site,

Address Restricted, Norwich vicinity, 98000360

MISSOURI

Henry County

St. Ludger Catholic Church, Jct. of MO K and High St., Montrose vicinity, 98000365

Miller County

Union Electric Administration Building—Lakeside, 1 Willmore Ln., Lakeside vicinity, 98000364

St. Louis Independent City American Zinc, Lead and Smelting Company Building, 20 S. Fourth St., St. Louis, 98000363

NEW YORK

New York County

Broad Exchange Building, 25 Broad St., New York, 98000366

TENNESSEE

Shelby County

Humes, L.C., High School (Public Schools in Memphis MPS), 659 N. Manassas, Memphis, 98000368

Melrose School (Public School Buildings in Memphis MPS), 843 Dallas St., Memphis, 98000367

WASHINGTON

Spokane County

Miller Block, 808 W. Sprague Ave., Spokane, 98000370

Montvale Block (Single Room Occupancy Hotel's in the Central Business District of Spokane MPS), 1001–1009 W. First Ave., Spokane, 98000369

[FR Doc. 98–8124 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Churchill County, NV in the Control of the Nevada State Office, Bureau of Land Management, Reno, NV

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Churchill County, NV in the control of the Nevada State Office, Bureau of Land Management, Reno, NV.

A detailed assessment of the human remains was made by Bureau of Land Management and Nevada State Museum professional staff in consultation with representatives of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony.

In 1940, human remains representing one individual were recovered during legally authorized excavations from a crevice burial near the Grimes Point Site. No known individuals were identified. A minimum of 4,061 associated funerary objects include a rope fragment, glass beads, and fragments of arrow shafts.

The associated funerary objects date this burial to the historic period (c. 19th century). Historical documents and ethnographic sources indicate that the Paiute people have occupied this area since precontact times. Northern Paiute oral tradition further support this evidence.

Based on the above mentioned information, officials of the Bureau of

Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Bureau of Land Management have also determined that the minimum 4,061 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Paiute-Shoshone Tribe of the Fallon Reservation and Colony.

This notice has been sent to officials of the Paiute-Shoshone Tribe of the Fallon Reservation and Colony. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Cynthia Ellis, NAGPRA Coordinator, Nevada State Office, BLM, P.O. Box 1200, Reno, NV 89520; telephone: (702) 785–6469, before April 27, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribe may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: March 23, 1998.

S. Terry Childs,

Acting Departmental Consulting Archeologist,

Archeology and Ethnography Program.

[FR Doc. 98–8016 Filed 3–26–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Office of Police Corps and Law Enforcement Education

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Police Corps interim final regulation and Police Corps service agreement.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register**. This process is conducted in accordance with 5 Code of Federal Regulation, § 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590. Written comments may also be submitted to Charlotte C. Grzebien, Assistant General Counsel, Office of Community Oriented Policing Services, 1100 Vermont Avenue NW., Washington, DC 20530, or via facsimile at (202) 616–2914.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/Component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below.

Police Corps Interim Final Regulation and Police Corps Service Agreement.

(1) *Type of information collection.* New collection.

(2) *The title of the form/collection.* Police Corps Interim Final Regulation and Police Corps Service Agreement.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.*

Form: COPS 17/01 and 17/02. Office of Police Corps and Law Enforcement Education, Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.*

Police Corps Interim Final Regulation

The Police Corps Interim Final Regulation sets forth guidance to interested States and territories and individual participants on the requirements for participations in the Police Corps, a scholarship program for students willing to provide 4 years of service in return for funding. The Regulations specifics required information on each participant.

Police Corps Service Agreement

The Police Corps Service Agreement is the written contract between the Office of Police Corps and Law Enforcement Education and selected Police Corps participants, setting forth the participants' agreement to provide 4 years of law enforcement service in exchange for scholarship or reimbursement funds for educational purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Police Corps Interim Final Regulation:

Approximately 8 respondents, at 20 hours per response (including record-keeping). Police Corps Service Agreement, approximately 144 respondents, at 10 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection.* Approximately 184 hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 24, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–8077 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Civil Division

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Reinstatement, with change, of a previously approved collection for which approval has expired: claim for damage, injury, or death.

The Department of Justice, Civil Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 6, 1997 at 62 FR 52149, allowing for an emergency review with 60-day public comment period. No comments were received by the Civil Division on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 27, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) Title of the Form/Collection: Claim for Damage, Injury, or Death.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form SF95, Claim for Damage, Injury, or Death. Civil Division.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households. Others that apply: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Government. This information is needed to present a claim against the United States Government under the Federal Tort Claims Act, 28 U.S.C. 2675(a).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 300,000 responses at 6 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,800,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Jeffrey Axelrad 202–616–4400, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Jeffrey Axelrad.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 23, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–8078 Filed 3–26–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

Office of Inspector General

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under emergency review; survey of community oriented policing services grantees.

The Department of Justice, Office of the Inspector General, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by March 23, 1998. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Dennis Marwich, (202) 395–3122, Department of Justice Desk Officer, Washington, DC 20530

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to John Antonelli (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact John Antonelli, 202–616–4666, Office of the Inspector General, Audit Division, U.S. Department of Justice, Suite 5000, 1425 New York Avenue NW., Washington, DC 20005.

Overview of this information collection:

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Survey of Community Oriented Policing Services Grantees.

(3) *The agency form number, if any, and the applicable component of the*

Department sponsoring the collection: None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: state, and local law enforcement agencies. Other: None. This collection will gather information for an Inspector General's audit on the efficiency and effectiveness on the Community Oriented Policing Services grant programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200 respondents with an average 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 400 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: March 24, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–8079 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 28, 1998, and published in the **Federal Register** on December 19, 1997, (62 FR 66666), Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, 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
Methaqualone (2565)	I
Dimethyltryptamine (7435)	I
Amephetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the above listed controlled substances for isotope labeled standards for drug analysis.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Cambridge Isotope Lab 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 CFR 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: March 12, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8087 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 23, 1998, Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, 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
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methandone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

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 above proposed application.

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, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 26, 1998.

Dated: March 16, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8084 Filed 3–36–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 28, 1997, and published in the **Federal Register** on December 19, 1997, (62 FR 66667), High Standard Products, 1100 W. Florence Avenue, #B, Inglewood, California 90301, 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
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymeth-amphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Heroin (9200)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture analytical reference standards.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of High Standard Products

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 CFR 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: March 18, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8086 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 6, 1998, Inhalon Pharmaceuticals, Inc., 3998 Schelden Circle, Bethlehem, Pennsylvania 18017, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II

The firm plans to develop a manufacturing process for these products such that the products can be ultimately formulated by the parent company.

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, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 26, 1998.

Dated: March 19, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8085 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP(BJS)–1161]

RIN 1121–ZA98

National Sex Offender Registry Assistance Program (NSOR–AP)

AGENCY: Office of Justice Programs, Bureau of Justice Statistics (BJS), Justice.

ACTION: Notice of program plan.

SUMMARY: The Bureau of Justice Statistics (BJS) is publishing this notice to announce the establishment of the National Sex Offender Registry Assistance Program (NSOR–AP) in Fiscal Year (FY) 1998. The NSOR Assistance Program is a component of the BJS National Criminal History Improvement Program (NCHIP). Copies of this announcement also can be found on the Internet at http://www.ojp.usdoj.gov/bjs/.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan at (202) 307–0759 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Program Goals

The BJS National Sex Offender Registry Assistance Program (NSOR–AP) supports the President's goal of establishing an effective national registry of convicted sex offenders. The registry will ensure that accurate and complete information about convicted sex offenders is appropriately made available to law enforcement to protect the public and prevent further victimizations. Specifically, the program will help states ensure that:

(1) State sex offender registries identify, collect, and properly disseminate relevant information that is consistent, accurate, complete, and up-to-date;

(2) States establish appropriate interfaces with the FBI's national system so that State registry information on sex offenders can be obtained and tracked from one jurisdiction to another.

Background

Establishment of an effective national sex offender registry that is capable of providing instant access to data on sex offender location on an interstate basis is a national priority.

In his Order dated June 25, 1996, President Clinton directed that Attorney General Reno develop a plan for a national sex offender registry by August 1996. In her response, submitted to the President on August 22, 1996, the Attorney General stressed the DOJ commitment to establishment of a sex offender registry and indicated that achievement of this goal would be achieved through a coordinated effort involving the FBI (the agency that will maintain and operate the National Sex Offender Registry), the National Law Enforcement Telecommunications System (NLETS) (the system through which States will communicate registry information between and among themselves and the FBI), and the States (which have primary responsibility for gathering data on sex offenders for use within the State and input into the national system). In addition, subsequent amendments to 42 U.S.C. 14072 require the establishment of such a registry and amendments to 42 U.S.C. 14071 require States to participate in the Registry as a condition of eligibility for full Byrne grant funding.

The permanent National Sex Offender Registry File will be developed as part of the FBI's NCIC–2000 project and will include a fingerprint and photo (''mugshot'') image of the registered offender. The file will be a ''hot file'' and be accessible to authorized users without submitting fingerprints. As reported in the Attorney General's August 1996 response to the President, the accelerated date for the permanent system to be in place is mid-1999.

Pending establishment of the permanent system, an interim national pointer system has been established by the FBI, that flags criminal history records of persons whom States identify as being registered as sex offenders. This is similar to the procedure used in the ''Flash'' system that identifies parolees and probationers. Inquiries that result in a ''hit'' identify the State registry that holds the full information on an offender. Inquiring criminal justice agencies may use NLETS (or phone or paper) to request more detailed information. Flags are set based on input from each of the States. As of March 4, 1998, the FBI indicates that 23 States are providing data to the interim system and that an estimated 31,590 records are currently flagged.

Available information indicates that all States operate some type of sex offender registry at this time. In order, however, for the national system to permit law enforcement in each State to have information on offenders initially released in other States, or traveling throughout the Nation, these individual

registries must be automated, accurate, and interfaced with the national system on a timely basis.

The BJS National Sex Offender Registry Assistance Program (NSOR–AP) is designed to help States ensure that State sex offender registries identify, collect, and properly disseminate relevant information that is consistent, accurate, complete and up-to-date. Additionally, the program will help States establish appropriate interfaces with the FBI's national system so that State registry information on sex offenders can be obtained and tracked from one jurisdiction to another.

The BJS NSOR–AP program will also assist States in meeting relevant requirements of current Federal legislation (*The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act , Megan's Law,* and the *Pam Lychner Sexual Offender Tracking and Identification Act* (42 U.S.C. 14071, 14072), as amended by section 115 of the general provisions of Title I of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act of 1998, P.L. 105–119) and applicable State standards.

Appropriation and Assistance Program

The FY 1998 BJS appropriation includes $25 million to support the national sex offender registry. Funds will be awarded to States under the BJS National Sex Offender Registry Assistance Program (NSOR–AP), which is a discretionary award component of the overall BJS National Criminal History Improvement Program (NCHIP). All States will be eligible for an award under the NSOR–AP program.

Application and Award Process

Only one application will be accepted from each State. The application must be submitted by the agency designated by the Governor to administer the NSOR assistance program. Where the designated agency is the same as the designated NCHIP agency, a separate application must be submitted for NSOR–AP funds and NCHIP funds. A State may choose to submit its application as part of a multistate consortium or other entity. In such case, the application should include a statement of commitment from each State and be signed by an individual designated by the Governor of each participating State. The application should also indicate specific responsibilities and include a separate budget for each State.

Timing

To be eligible for 1998 NSOR–AP funds, an application must be submitted to BJS by April 15, 1998.

Awards normally will be for 12 months, although a longer period can be approved with sufficient justification. Project activity may be initiated after July 1, 1998, but no later than September 1998. In the event that an award is made before July 1, 1998, the applicant may request an earlier start up date. Applications must contain an end date no later than December 31, 1999.

Allocation of Funds Within the State

The agency designated to apply for and receive the NSOR–AP award may allocate the funds within the State consistent with State policy and goals. Although it is anticipated that the majority of funds will be utilized at the State level to directly support development of the State registry and interfaces with the national system, funds may be directed to local agencies requiring assistance in connection with, for example, input of data. States should be particularly aware of the key role played by courts in development of registry information and of special needs of Indian tribes.

Interface With the FBI's National Sex Offender Registry System

Regular input to the FBI's national system is a key goal of this assistance program. Accordingly, States that are not currently submitting information to the FBI's national registry at the time of their application for funding are encouraged to request funding to accomplish this goal by September 30, 1998. All applications must either indicate that the State is already submitting information or specify the date(s) by which data will be provided to the FBI's interim and/or permanent system.

Program Narrative

In addition to the requirements set forth in Appendix A, the National Sex Offender Registry Assistance Program (NSOR–AP) application should include the following parts.

Part I. Background

This section should include a short description of the status of, and plans for, those aspects of the State sex offender registry that are necessary for understanding the application. In particular, the discussion should indicate whether the registry is automated in whole or in part and describe the process for data input and dissemination to law enforcement agencies within the State. The section should also indicate whether data is being sent electronically to the FBI and the categories of persons eligible to access registry data. Where funds are requested for fingerprint or mugshot equipment, the section should indicate the status of fingerprint or mugshot capability at the registry and among local agencies charged with data input. The applicant should also indicate whether any coordination arrangements exist with neighboring States or Indian tribes.

Part II. Identification of Needs

This section should identify those areas and problems that the applicant State believes should be addressed to upgrade the functioning of the State registry and its interface with the national system, consistent with Federal and State legislative requirements.

Part III. Program Description

This section should describe specific tasks to be undertaken with requested funds. Tasks to be undertaken should be listed in priority order, with intended impact, budget requirements, and estimated dates of completion. The application should indicate the means by which each task will help the State achieve the goals of the program.

Part IV. Coordination

To ensure that the NSOR program fully supports the President's goals and furthers the overall DOJ efforts to establish a national sex offender registry, BJS will closely coordinate the NSOR–AP program with relevant offices within the Department of Justice, including the Office of Justice Programs, and the FBI. Similar coordination is expected between the State's agency responsible for the State sex offender registry and other interested State and local agencies and Indian tribes.

To ensure coordination of Federal funding efforts, the application should include information on current awards or pending applications for Federal funding to support activities for which funds are being requested in the current NSOR–AP application. Where relevant, such information should indicate the amount of the other award, the grantor agency, and the program purpose.

Part V. Timetable

This section should set forth a timetable for all tasks proposed to be funded under the award. The section should also include a statement assuring that the State currently is submitting data to the FBI national sex offender registry system, or set forth a timetable by which such a link will be effectuated.

Part VI. Fund Allocation and Budget

This section should identify the agencies or governmental components that will receive funds under the award. In particular, the application should specify the level of funds or other benefits that will be directed for the courts or Indian tribes. The application should identify those agencies to receive funds under the award and indicate the fiscal arrangements to accomplish fund transfer if the recipient agency is not the implementing agency. The budget should provide details for expenses in required categories (see Appendix A, Application Content). Please note that allocation of funds to other States and local agencies is considered a contractual arrangement under federal budgeting categories.

Review and Funding Criteria

States should understand that full funding may not be possible for all proposed activities. Allocation of funds will be based on the amount requested and the following factors:

(1) The extent to which proposed tasks will ensure that the applicant State becomes a fully-functional part of the FBI's National Sex Offender Registry;

(2) The extent to which activities to be supported under the award will, by virtue of the number of sex offenders in the State, the level of technical development in the State, geographic or demographic factors, current operating procedures and requirements, or other related factors, be expected to have a major impact on availability of information about sex offenders, both within the State and nationally;

(3) The proposed use or enhancement of innovative procedures that may be of value to other jurisdictions;

(4) The technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the State's current level of system development and statutory framework;

(5) Reasonableness of the budget;

(6) Nature of the proposed expenditures; and

(7) The reasonableness of the relationship between the proposed activities and the current status of the State system in terms of technical development, legislation, current fiscal demands and future operating costs.

Funding and Allowable Costs

Funds may be used for the following purposes:

1. Automate and enhance automation of registries—Funds may be used to automate and/or upgrade the automation of the State sex offender registry. Eligible costs also include automating linkage between the registry and law enforcement agencies within the State, and developing and implementing procedures to transfer information to the FBI. Funds may only be used for procedures that are compatible with the FBI system.

2. Improve online access for law enforcement across the State—Funds may be used to create linkage with local radio dispatchers or computerized methods of dissemination as a mean of providing timely access to registry data to officers in the field. Funds may not be used for purchase of individual equipment to be used by law enforcement officers in the field.

3. Support automated input from courts, corrections and other agencies and entities responsible for transmitting registry data—Funds may be used to automate and develop procedures for automated transmission of data from courts, correctional agencies and other responsible agencies and entities to the registry. This may entail direct transfer of funds to these components of the criminal justice system. Allowable costs may include in-house automation, but only to the extent that such efforts are directly related to the transmission of sex offender data to the registry. Where funds are requested for automation of court, correctional or other records, the application should indicate the proportion of activity related to the identification and/or transmission of records for use in the sex offender registry.

4. Develop procedures and software to permit automated input to interim or permanent FBI system—Funds may be used for hardware, software and development, implementation, and training in procedures to support automated input to the FBI's interim or permanent sex offender registry system.

5. Develop procedures and provide appropriate training to persons responsible for inputting data (including registrants)—Funds may be used to purchase equipment and develop/implement technical procedures to facilitate registration of offenders. Funds may also be used to develop procedures and train personnel to ensure that complete information is inputted to the system on a timely basis. Funds may also be used to develop procedures to advise registrants of reporting responsibilities and to establish and implement protocols for them to fulfill this requirement.

6. Purchase automated fingerprint equipment and develop procedures and protocols—Funds may be used to purchase equipment, develop procedures, and implement protocols for fingerprinting registrants entering a State system from another jurisdiction (or where otherwise not identifiable within the State). This may include purchase of livescan equipment for local agencies. Where funds are to be used for this purpose, the application should demonstrate that funds can be justified on the basis of geographic, population, traffic or other related factors. Livescan can only be purchased where the State has established an Automated Fingerprint Identification System (AFIS) and either has implemented or is implementing procedures to ensure that the AFIS is compatible with FBI standards.

7. Establish mugshot identification capability—Funds may be used for purchase of equipment and development/implementation of procedures to include mugshots of registrants for use either within the State or for transmission to the FBI at such time as that capability becomes available. Mugshot support community notification and law enforcement use of the registry as a tool for identification and apprehension of suspects. States requesting funds for this use must justify the location of the equipment in terms of geography, population, traffic, and demography and ensure that equipment to be used at the local or county level includes the capability for transmission of images to the registry for use throughout the State. All equipment and software purchased or developed with funds under the award must be compatible with FBI standards.

8. Review existing records (both manual and automated) to identify previously convicted individuals for inclusion in the registry and/or develop flagging software to identify qualifying criminal history records—Where consistent with State legislation, funds may be used for review of existing records to identify, flag, and transmit data from records of previously released offenders who qualify for inclusion in the registry. This may include a review of juvenile records where consistent with State law or practice.

9. Establish operating procedures to ensure that data in the registries are accurate and complete—In order for the national registry to be reliable and beneficial to the law enforcement community, data submitted from States must be both accurate and complete. Funds may be used to develop and implement procedures and software, provide relevant training, ensure that changes in status are recorded and transmitted to the FBI, and ensure that both the State data and the data at the FBI are accurate, up to date and complete.

10. Evaluate, audit, provide training, and participate at national/regional/local conferences and training sessions—Funds may be used to audit or evaluate current operations or needs, in order to identify necessary system enhancements and/or modifications. Funds may also be used to collect data on transactions to and from the registry, utilization patterns, or any related information. States must agree to cooperate with BJS and DOJ supported evaluation efforts and with statistical analysis conducted pursuant to other awards made by BJS. Where necessary, funds may be used to meet this requirement.

Funds may also be used to sponsor training programs to support registry operations and to send up to two representatives to two workshops/meetings/conferences focusing on operation of the State or national sex offender registry. Additional funds may be used to support additional participation at meetings with prior BJS approval.

11. Make registry data available for background checks—Funds may be used to purchase equipment and develop software to permit the disclosure of registry data in connection with background checks or other purposes as authorized by State or Federal legislation.

The program does not require either ''hard'' (cash) or ''soft'' (in-kind) matching funds. Indications of State support, however, may be interpreted as expressions of commitment by the State to the program. Additionally, all applicants must agree to participate in evaluations sponsored by the Federal Government. The NSOR-AP program is intended to support the national sex offender registry by assisting States to develop and enhance State registries that feed into the national system. Costs of regular operating expenditures are not, therefore, covered under the program.

Application and Administrative Requirements

Application Content

All applicants must submit:

- Standard Form 424, Application for Federal Assistance.
- Budget Detail Worksheet (replaced the SF 424A, Budget Information).
- OJP Form 4000/3 (Rev. 1–93), Program Narrative and Assurances.
- OJP Form 4061/6 Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements.
- OJP Form 7120/1 (Rev. 1–93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds).

Applicants are requested to submit an original and two copies of the application and certifications to the following address: Application Coordinator, Bureau of Justice Statistics, 810 7th Street, NW., Washington, DC 20531; Phone: (202) 616–3500.

Standard Form 424 (SF–424). The SF–424, a one-page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. NO APPLICATION CAN BE ACCEPTED WITHOUT A COMPLETED, SIGNED ORIGINAL SF–424. Directions to complete each item are included on the back of the form.

Budget Detail Worksheet. Applicants must provide a detailed justification for all costs, including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project. Budget narrative. The budget narrative should detail costs included in each budget category for the Federal and the non-Federal (in-kind and cash) share. The purpose of the budget narrative is to relate items budgeted to project activities and to provide justification and explanation for budget items, including criteria and data used to arrive at the estimates for each budget category. The budget narrative should also indicate amounts to be made available to agencies other than the grant recipient (for example, the agency with responsibility for CCH, the courts, local agencies.) The following information is provided to assist the applicant in developing the budget narrative.

a. Personnel category. List each position by title (and name of employee if available), show annual salary rate and percentage of time to be devoted to the project by the employee. Compensation paid for employees engaged in federally assisted activities must be consistent with that paid for similar work in other activities of the applicant.

b. Fringe benefits category. Indicate each type of benefit included and explain how the total cost allowable for employees assigned to the project is computed.

c. Travel category. Itemize travel expenses of project personnel by purpose (e.g., faculty to training site, field interviews, advisory group meetings, etc.) And show basis or computation (e.g., ''Five trips for x purpose at $80 average cost—$50 transportation and two days per diem at $15'' or ''Six people to 30-day meeting at $70 transportation and $45 subsistence.'') In training projects where travel and subsistence for trainees is included, this should be separately listed indicating the number of trainees and the unit costs involved.

(1) Identify the tentative location of all training sessions, meetings, and other travel.

(2) Applicants should consult such references as the *Official Airline Guide* and the *Hotel and Motel Redbook* in projecting travel costs to obtain competitive rates.

d. Equipment. List each type of equipment to be purchased or rented with unit or monthly costs.

e. Supplies. List items within this category by major type (office supplies, training materials, research forms, postage) and show basis for computation. Provide unit or monthly estimates.

f. Contractual category. State the selection basis for any contract, subcontract, prospective contract or prospective subcontract (including construction services and equipment.) Please note, applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of $100,000.

For individuals to be reimbursed for personal services on a fee basis, list by name or type of consultant or service, the proposed fee (by day, week, or hour) and the amounts of time to be devoted to such services.

For construction contracts and organization (including professional associations and education institutions performing professional services), indicate the type of service to be performed and the estimated contract cost data.

g. Construction category. Describe construction or renovation which will be accomplished using grant funds and the method used to calculate cost.

h. Other category. Include under ''other'' such items as rent, reproduction, telephone, and janitorial or security services. List items by major type with basis of computation shown. (Provide square footage and cost per square foot for rent—provide local and long distance telephone charges separately.)

i. Indirect charges category. The Agency may accept an indirect cost rate previously approved for an applicant by a Federal agency. Applicants must

enclose a copy of the approved rate agreement with the grant application.

j. Program income. If applicable, provide a detailed estimate of the amount of program income to be generated during the grant period and its proposed application (to reduce the cost of the project or to increase the scope of the project). Also, describe the source of program income, listing the rental rates to be obtained, sale prices of publications supported by grant funds, and registration fees charged for particular sessions. If scholarships (covering, for example, registration fees) are awarded by the organization to certain conference attendees, the application should identify the percentage of all attendees that are projected as ''scholarship'' cases and the precise criteria for their selection.

Program narrative. All applications must include a program narrative that fully describes the expected design and implementation of the proposed program. OJP Form 4000/3 (Rev. 1–93) provides additional detailed instructions for preparing the program narrative.

The narrative should include a time line of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected. The application should include a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program. Assurances. OJP Form 4000/3 (Rev 1–93) must be included in the application submission. If submitting this form separate from the SF–424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace. Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 can be obtained from the BJS Application Coordinator. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, ''New Restrictions on Lobbying,'' and 28 CFR Part 67, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

Financial and Administrative Requirements

Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, in addition to the OJP Financial Guide, are available from the Office of Justice Programs. This guideline manual is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failure to comply with program guidelines and requirements will be determined at the discretion of the Department.

Civil Rights Obligations

All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime Control & Safe Streets Act of 1968, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act prohibit discrimination on the basis of disability.

The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to:

(1) Delivery of services or benefits—to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;

(2) Employment practices—to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and

(3) Program participation—to ensure members of any planning, steering or advisory board, which is an integral part of the program or activity, are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

Audit Requirement

In October 1984, Congress passed the Single Audit Act of 1984. On April 12, 1985, the Office of Management and Budget issued Circular A–128, ''Audits of State and Local Governments'' which establishes regulations to implement the Act. OMB Circular A–128, ''Audits of State and Local Governments,'' outlines the requirements for organizational audits which apply to BJS grantees.

Disclosure of Federal Participation

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, ''when issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.''

Intergovernmental Review of Federal Programs

Federal Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State ''single point of contact.''

If the State has established a ''single point of contact,'' and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State ''single point of contact'' at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's ''single point

of contact'' by the end of the review period, this will be interpreted as a ''no comment'' response.

If the State has not established a ''single point of contact,'' or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 98–8105 Filed 3–26–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission For OMB Review; Comment Request

March 24, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), on or before April 27, 1998.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Final Finding—Single, Full-Shift Respirable Dust Measurements.

OMB Number: 1219-Onew.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Cite	Respondents	Average time	Total burden hours
30 CFR 71.300	81	3 hours 10 minutes	257
30 CFR 71.301(d)	81	10 minutes	14
30 CFR 75.370 and 30 CFR 75.370(a)(3)	63	6 hours 20 minutes	210
30 CFR 75.370(e)	63	10 minutes	11
30 CFR 75.370(f)	63	15 minutes	16
30 CFR 90.300	3	3 hours 10 minutes	10
30 CFR 90.301(d)	3	20 minutes	1
Total	357		519

Total Burden Hours: 519.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $116,230.

Description: Requires mine operators to use abatement samples to demonstrate to MSHA that they have corrected the condition or practice which resulted in the citation for exceeding the applicable respirable dust standard.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–8115 Filed 3–26–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with General Services Administration (GSA), I have determined that renewal of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its subcommittees are broadly representative of union organizations of all sizes of membership, with national coverage that reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter is being filed simultaneously herewith with the Library of Congress and the appropriate congressional committees.

Interested persons are invited to submit comments regarding renewal of the Labor Research Advisory Council. Such comments should be addressed to: William G. Barron, Jr., Bureau of Labor Statistics, Department of Labor, Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone: 202–606–7802.

Signed at Washington, DC this 24th day of March, 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–8024 Filed 3–26–98; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its committees will be held on April 8, 9, and 30, 1998. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE, Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officials from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, April 8, 1998—Meeting Rooms 9 & 10

10–11:30 a.m.—Committee on Employment Projections

1. Graphic presentation of 1996–2006 projections
2. The OEP Internet: Some new information
3. Open discussion of ways to improve OEP's projections publications
4. Ongoing OEP projections
5. Discussion of items for Fall 1998 meeting

1:30–2:30 p.m.—Committee on Price Indexes

1. Update on program developments
   a. Producer Price Indexes
   b. The Consumer Price Index
2. Other business

3–4:30 p.m.—Committee on Productivity and Foreign Labor Statistics

1. Report on recent developments in the Office of Productivity and Technology
2. International comparisons of unit labor costs
3. Recent trends in productivity measures for major sectors of the U.S. economy
4. The new BLS industry productivity data set

Thursday, April 9, 1998—Meeting Rooms 9 & 10

8:30–11:30 a.m.—Committee on Employment and Unemployment Statistics

1. Update on program developments
2. Other business

10:30–12:30 p.m. Council Meeting

1. Chairperson's opening remarks
3. Discussion with the Associate Commissioner, Office of Publications
4. Chairperson's closing remarks

1:30–3 p.m. Committee on Compensation and Working Conditions

1. Factors explaining wage variation in the National Compensation Survey
2. OCWC Compensation Data on the Internet
3. Benefits in the National Compensation Survey

Thursday, April 30, 1998—Meeting Room 4

1:30–3 p.m.—Committee on Occupational Safety and Health Statistics

1. Review of industry summary news release for the 1996 Survey of Occupational Injuries and Illnesses
2. Review of the worker demographics and case characteristics news release for the 1996 Survey of Occupational Injuries and Illnesses.
3. Update on Occupational Safety and Health Administration plans for revising its recordkeeping guidelines.

The meetings are open to the public. Persons with disabilities and those wishing to attend these meetings as observers should contact Nancy Sullivan, Bureau of Labor Statistics, at (202) 606–5903, for appropriate accommodations.

Signed at Washington, DC the 23rd day of March 1998.

William G. Barron, Jr.,

Deputy Commissioner.

[FR Doc. 98–8023 Filed 3–26–98; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decision thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Ave., N.W., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Jersey
NJ980002 (Feb. 13, 1998)

Volume II

Pennsylvania
PA980023 (Feb. 13, 1998)
PA980024 (Feb. 13, 1998)
PA980029 (Feb. 13, 1998)
PA980040 (Feb. 13, 1998)
PA980052 (Feb. 13, 1998)
PA980060 (Feb. 13, 1998)
PA980063 (Feb. 13, 1998)
West Virginia
WV980002 (Feb. 13, 1998)
WV980003 (Feb. 13, 1998)
WV980006 (Feb. 13, 1998)

Volume III

Florida
FL980045 (Feb. 13, 1998)
Georgia
GA980083 (Feb. 13, 1998)
North Carolina
NC980050 (Feb. 13, 1998)
South Carolina
SC980036 (Feb. 13, 1998)

Volume IV

Illinois
IL980018 (Feb. 13, 1998)
IL980033 (Feb. 13, 1998)
IL980035 (Feb. 13, 1998)
IL980036 (Feb. 13, 1998)
IL980039 (Feb. 13, 1998)
IL980044 (Feb. 13, 1998)
IL980056 (Feb. 13, 1998)
Michigan
MI980007 (Feb. 13, 1998)
MI980066 (Feb. 13, 1998)
MI980068 (Feb. 13, 1998)
MI980071 (Feb. 13, 1998)
MI980074 (Feb. 13, 1998)
MI980078 (Feb. 13, 1998)
MI980080 (Feb. 13, 1998)

Volume V

Oklahoma
OK980013 (Feb. 13, 1998)
OK980014 (Feb. 13, 1998)
OK980016 (Feb. 13, 1998)
OK980017 (Feb. 13, 1998)
OK980028 (Feb. 13, 1998)
OK980034 (Feb. 13, 1998)
OK980035 (Feb. 13, 1998)
OK980036 (Feb. 13, 1998)
OK980037 (Feb. 13, 1998)
OK980038 (Feb. 13, 1998)
OK980043 (Feb. 13, 1998)

Volume VI

Washington
WA980001 (Feb. 13, 1998)
WA980002 (Feb. 13, 1998)
Wyoming
WY980009 (Feb. 13, 1998)

Volume VII

California
CA980009 (Feb. 13, 1998)
CA980029 (Feb. 13, 1998)

General Wage Determination Publication

General Wage Determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The General Wage Determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 20th day of March 1998.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–7719 Filed 3–26–98; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–043)]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee, Task Force on NASA's Aviation Environmental Compatibility Research; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Task Force on NASA's Aviation Environmental Compatibility Research.

DATES: Wednesday, April 22, 1998, 8:00 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Darlene Boykins, Office of Aeronautics and Space Transportation Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4743).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The purpose of the meeting is to review actions related to the Task Force Charter listed below:.

—Based on examining past application of NASA research, recommend ways to improve effectiveness of environmental technology transfer.
—Evaluate process being used to assess and recommend NASA research plans in noise and emissions relative to the ''Three Pillars'' environmental goals.
—Recommend ways to ensure the appropriate use of research in regulatory considerations.
—Recommend ways of improving the relationship of NASA with the air carrier community, aircraft and engine manufacturers, other environmental research and technology organizations, and regulatory agencies with regard to environmental research and technology.
—Identify critical interdependencies of environmental goals with the other related ''Three Pillar'' goals.

It is imperative that the meeting be held on these dates to accommodate the

scheduling priorities of the key participants.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–8125 Filed 3–26–98; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determinatlon, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would (1) update the Technical Specification heatup and cooldown rate curves and extend their reactor fluence limit from the current 20 effective full power years (EFPY) to a new value of 35 EFPY, (2) incorporate into Technical Specifications the use of a Pressure and Temperature Limits Report (PTLR), and (3) change the power-operated relief valves (PORVs) temperature requirement for operability.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to update the Prairie Island pressure and temperature limits curves and the Over Pressure Protection System (OPPS) setpoints for reactor vessel fluence to 35 EFPY is based upon measurements and calculations that were performed in accordance with an NRC approved methodology for performing reactor vessel fracture analysis to meet 10CFR50 Appendix G and H requirements. These calculations made application of American Society of Mechanical Engineers (ASME) Code Case N–514, ''Low Temperature Overpressure Protection,'' in determining the acceptable OPPS setpoint for Prairie Island Units 1 and 2. This permits the OPPS pressure relief setpoint to be established such that the maximum pressure at the reactor vessel material's most limiting location is limited to 110% of the pressure determined to satisfy ASME Section XI, Appendix G, Article G–2215. As detailed in the exemption request to apply this ASME Code Case, the development of the Appendix G pressure/temperature limit curves incorporates numerous conservatisms. For this reason the ASME code committee approved this code case. Application of this code case with the approved methodology does not produce a significant increase in the probability or magnitude of brittle fracture of the reactor vessel.

The proposed change to relocate the pressure and temperature limits curves and the Over Pressure Protection System (OPPS) setpoints to a Pressure and Temperature Limits Report is an administrative change. It does not affect any system which is a contributor to initiating events for previously evaluated anticipated operational occurrences and therefore does not involve any significant increase in the probability or consequence of an accident previously evaluated.

The proposed change in PORV operability temperature from 310 °F to a new value of 350 °F does not affect any system which is a contributor to initiating events for previously evaluated anticipated operational occurrences and therefore does not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed change to update the Prairie Island pressure and temperature limits curves and the Over Pressure Protection System (OPPS) setpoints for a reactor fluence limit of 35 EFPY does not introduce a new mode of operation or testing, or make physical changes to the plant. (The new Technical Specification requirement to isolate the accumulators whenever the RCS [reactor coolant system] temperature is less than the OPPS enable temperature does not introduce a new mode of operation since Unit Shutdown procedures close the accumulator discharge valves and tag out their breakers when RCS pressure falls below 1000 psig.) The general methods employed to develop this change are well understood and have been previously reviewed and approved. Updating the operating restrictions, OPPS setpoints, and reactor fluence limit for operation do not create a possibility of a new or different kind of accident from those previously analyzed.

The proposed change to relocate the pressure and temperature limits curves and the Over Pressure Protection System (OPPS) setpoints to a Pressure and Temperature Limits Report is an administrative change. The proposed change does not alter the design, function, or operation of any plant component, therefore a possibility of a new or different kind of accident from those previously analyzed has not [been] created.

The proposed change in the PORV operability temperature from 310 °F to a new value of 350 °F does not involve a physical alteration of the plant. Since no new or different type of equipment will be installed, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

Although neutron irradiation reduces the material fracture toughness of the reactor vessel, deterministic analyses have demonstrated that proposed P/T [pressure/temperature] curves, OPPS setpoints and reactor vessel fluence limits for operation will preserve the required margin of safety in the RCS boundary during postulated low temperature pressurization events.

The proposed change to use the PTLR is administrative in nature and does not impact the operation of the Prairie Island Nuclear Generating Plant in a manner that would result in any significant reduction in any margin of safety.

The proposed change in the PORV operability temperature from 310 °F to a new value of 350 °F does not impact any systems that are relied upon for core cooling or RCS pressure relief at RCS temperatures below 350 °F. Setting the PORV operability temperature back to 350 °F aligns the PORVs with the Pressurizer Safety Valve operability requirement so the PORVs are still available to limit challenges to the Pressurizer Safety Valve settings during conditions of higher RCS pressure and energy when pressure surges become more significant. (In Amendment[s] 91/84 this temperature was changed for operational flexibility from its previous value of 350 °F to a new value of 310 °F to be coincident with the OPPS Enable Temperature. This change was not done to establish a larger margin of safety.) For RCS temperatures below 350 °F both the pressure and core energy are sufficiently decreased that pressure surges become less significant. For RCS temperatures below 350 °F the RHR [residual heat removal] system is capable of removing the reactor decay heat and thereby controlling RCS pressure and temperature. In the unlikely event that a significant pressure surge were to occur in this temperature range with neither RHR nor the PORVs in service, one pressurizer safety valve would be operable to mitigate potential overpressure transients. Thus this change does not involve

a significant reduction in the margin of safety associated with either the RCS boundary or fuel cladding.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by close of business within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 6, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, MD, this 24th day of March 1998.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager. Project Directorate III–1, Division of Reactor Projects–III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–8029 Filed 3–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company, (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station, Units 1 and 2, located in Somervell County, Texas.

The proposed amendment would provide a temporary Technical Specification change for Surveillance Requirements (SRs) 4.8.1.1.2f.4(b) and 4.8.1.1.2f.6(b) to allow the verification of the auto connected shut-down loads through the load sequencer to be performed at power for fuel cycle 6 on Unit 1 and fuel cycle 4 on Unit 2. The temporary change is requested as a result of the discovery that some of the safety injection (SI) and blackout (BO) sequencer block contacts had not been tested in accordance with the above SRs. These surveillances were performed during the last refueling outage for each unit as part of the integrative tests. However, it was subsequently discovered that some of the sequencer loads had parallel starting paths such that it could not be determined, based only on the observation that the equipment had successfully started, that the specific contacts required to be tested had in fact operated. In addition, verification of testing of certain contacts was missing. This was reported promptly to the NRC at the time of discovery and prompt action to remedy the situation was taken.

The licensee requested a Notice of Enforcement Discretion (NOED) by letter dated March 10, 1998. The NRC orally issued the NOED at 9:25 a.m. EST on March 11, 1998, to allow the facility to continue operation while the TS is processed. Pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c, of the ''General Statement of Policy and Procedures for NRC Enforcement Actions'' (Enforcement Policy), NUREG–1600, the letter documenting the issuance of the NOED was dated March 13, 1998. The NOED was to be effective for the period of time it takes the NRC staff to process the proposed change to the TSs on an exigent bases.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Crediting the power performance of the portions of surveillance testing necessary to demonstrate the OPERABILITY of the SI and BO Sequencer block contacts, will not increase the probability or consequences of an accident previously evaluated. The conclusion has been reached that the probability of initiating a perturbation in the A.C. electrical distribution system is not created via the crediting of the tests. As the testing is conducted on only one train per unit at a given time, no increase in consequences, other than those previously postulated, are considered credible.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Perturbations in the A.C. electrical distribution system have been fully considered within the Final Safety Analysis Report. No new or different kind of perturbation or accident is deemed credible from crediting the performance of the testing.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Crediting the required testing at power does not create any new failure scenarios or A.C. electrical distribution perturbations, no associated margin is expected to be reduced. As such, there is no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 13, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, PO Box 19497, Arlington, TX 76019. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 12, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, PO Box 19497, Arlington, TX 76019.

Dated at Rockville, MD, this 23rd day of March 1998.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–8027 Filed 3–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station (VY) located in Windham County, Vermont.

The proposed amendment would modify the licensing basis by limiting the time the large (18″) purge and vent valves may be open to containment.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

No physical change is being made to any systems or components that are credited in the safety analysis, therefore there is no change in the probability or consequences of any accident analyzed in the Final Safety Analysis Report.

The proposed change will not affect the ability of the purge and vent valves to isolate primary containment. The ability to isolate primary containment remains unaffected by the proposed amendment.

VY's current licensing basis allows for unlimited purge and vent operations, but this does not ensure the integrity of the [standby gas treatment] SBGT system. The proposed change will assure the integrity and operability of the SBGT system if a design basis accident occurs. This is accomplished by restricting the use of each 18 inch containment vent and purge flow path during any period that primary containment integrity is required. The restrictions imposed by the license amendment request on the opening of the purge and vent valves will limit the period of time that a potential off-site release flow path exists. Consequently, the probability that a potential release path exists coincident with a breach of the primary coolant system will be reduced, providing additional assurance that a release of radioactive gases to the environment will be avoided.

Allowing limited use of the purge and vent valves during periods when primary containment integrity is required reduces the probability of an accident by allowing personnel access to primary containment for the maintenance and inspection of equipment. In addition, it will allow performance of rated temperature and pressure inspections of the reactor coolant system (RCS) during plant startups which provide additional margin for safe operation of the unit by verifying all RCS boundaries that have been interrupted during the refueling outage have been returned to an operable condition.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not establish a new mode of operation for the purge and vent valve system, only the extent to which the system may be used. The proposed change imposes additional restrictions on the operations of the containment purge and vent valves. Additional restrictions for operation of these valves does not create the possibility for a new or different kind of accident from any accident previously evaluated.

Additionally, the proposed change does not affect the ability of the containment purge and vent valves to mitigate previously evaluated accidents during the modes they are credited. The purge and vent valves, if open during an accident will maintain the ability to close against the postulated differential pressure.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

Currently, [the technical specification] TS allows unlimited use of containment purge and vent isolation valves. The proposed change will assure the integrity and operability of the SBGT system. This is accomplished by restricting the use of each 18 inch containment purge and vent flow path during periods when primary containment integrity is required. The more restrictive requirements reduce the probability of an accident concurrent with purge and vent operations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10

CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 20, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, MD, this 23rd day of March 1998.

For the Nuclear Regulatory Commission.

Richard P. Croteau,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–8028 Filed 3–26–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on April 16, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, April 16, 1998—8:30 a.m. Until the Conclusion of Business

The Subcommittee will continue its review of matters related to elevation of core damage frequency to a fundamental goal and possible revision to the Commission's Safety Goal Policy Statement. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the

meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: March 23, 1998.

Medhat M. El-Zeftawy,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 98–8026 Filed 3–26–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF COMMERCE

Bureau of the Census

Procedures for Reconciling and Appealing Address List Information for the 2000 Census

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, and Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: As part of their implementation of the Census Address List Improvement Act of 1994, the Office of Management and Budget (OMB) and the Bureau of the Census (Bureau) request public comment on proposed processes for developing the address information that will be used in conducting the 2000 Census. The Bureau is proposing a Reconciliation process that would seek to resolve disagreements between the Bureau and participating local or tribal governments, or their designated representatives, regarding specific addresses or groups of addresses. For any disagreements that are not resolved, OMB is proposing an Appeal process that would be available to local and tribal governments, or their designated representatives, that wish to appeal the decisions made by the Bureau of the Census with respect to their suggestions for the Census 2000 address list.

In conducting the Census 2000 enumeration the Bureau will include all addresses added to or corrected in the census address list as a result of the Reconciliation and/or Appeal processes, using the same procedures used for all other addresses on the list. Inclusion of an address on the list does not mean that a housing unit or its inhabitants are actually at the address, or that the address will be included in the final Census 2000 data summaries. The census-taking process will determine the inclusion status of the address—whether or not it is actually a housing unit—and the final population and housing unit status for each address.

DATES: Comments must be received on or before May 26, 1998.

ADDRESSES: *Comments:* Please send comments concerning these proposed procedures to: Katherine K. Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10201, 725 17th Street NW, Washington DC 20503; fax: (202) 395–7245.

Electronic availability and addresses: This **Federal Register** Notice is available electronically from the OMB Homepage on the World Wide Web: <<http://www.whitehouse.gov/WH/EOP/OMB/html/fedreg.html>>. **Federal Register** notices also are available electronically from the U.S. Government Printing Office web site: <<http://www.access.gpo.gov/su__docs/aces/aces140.html>> Questions about accessing the **Federal Register** online via GPO Access may be directed to telephone (202) 512–1530 or toll free at (888) 293–6498; to fax (202) 512–1262; or to email <<gpoaccess@gpo.gov>>

This notice is available in paper copy from the OMB Publications Office, NEOB, Room 2200, 725 17th Street NW, Washington DC 20503; telephone (202) 395–7332; fax (202) 395–6137.

FOR FURTHER INFORMATION CONTACT: Nancy Kirkendall, Office of Management and Budget, NEOB, Room 10201, 725 17th Street NW, Washington, DC 20503; telephone: (202) 395–7313; fax (202) 395–7245.

SUPPLEMENTARY INFORMATION:

The Census Address List Improvement Act of 1994

The Census Address List Improvement Act of 1994 (P.L. 103–430) changed the Bureau's decennial census address list development procedures to improve the accuracy of, and resolve disagreements concerning, address information. In addition to requiring that the United States Postal Service provide address information to the Bureau (Section 4), the Act also increased the role of local and tribal governments in the development of Bureau address information. Section 2 of the Act requires the Bureau to develop a process under which it would receive, review, and respond to recommendations by these governments regarding address information. To resolve any disagreements that may remain after this process, Section 3 of the Act requires the Administrator of OMB's Office of Information and Regulatory Affairs (OIRA), acting through the Chief Statistician and in consultation with the Bureau, to develop an appeal process through which local and tribal governments, or their designated representatives, may administratively appeal the decisions by the Bureau under 13 U.S.C. 16.

The Bureau's LUCA Process

The Bureau is attempting to develop the most accurate and comprehensive address information practicable for all jurisdictions in the country in cooperation with the United States Postal Service and local and tribal governments, as required by the Census Address List Improvement Act of 1994. The Bureau's address list partnerships with these governments will be undertaken via the program entitled the ''Local Update of Census Addresses'' (LUCA), during which the Bureau will provide portions of its census address list to participating local and tribal governments for their review. For those areas that do not have city-style addresses (i.e., rural route, post office box number, or general delivery addresses), the Bureau will provide the most recent address and location information available from field activities.

Jurisdictions that participate in the LUCA program may respond with address change suggestions including corrections, additions, deletions, and address location information. The Bureau issued its standards for addresses in the **Federal Register**, 60 FR 58326, November 27, 1995. These standards described the components of acceptable city-style addresses, including apartment numbers for each

unit address in a multi-unit building, a current 5-digit ZIP code, and the distinction between residential and commercial addresses.

The LUCA process began in early 1998 with the mailing of invitations to local and tribal governments to participate in the program. As jurisdictions notify the Bureau of their desire to participate in the program, appropriate materials will be generated and delivered. Once a jurisdiction receives its materials, it has 3 months in which to conduct its review and provide suggested changes back to the Bureau. Jurisdictions with city-style mail delivery areas will conduct the review of their portion of the Bureau's address list in 1998. The Bureau will conduct listing activities to prepare the address list for jurisdictions with noncity-style addresses in the last half of 1998. As these listings are completed, they will be delivered to participating jurisdictions for their review. The three month review period for jurisdictions with noncity-style addresses will extend into the second quarter of 1999.

The Bureau will conduct field canvassing operations to verify the existence and accuracy of the address information provided via the LUCA program. The Bureau, as part of its address list development process, will conduct a field canvass of all blocks in the city-style address mail delivery areas. Updates from local and tribal governments will be verified at that time. Since this canvass covers approximately 94 million addresses, the operation will be conducted in three waves, each of six-week duration. The first wave is scheduled to begin in January 1999, and the operation will be completed with the end of the third wave in May 1999. For areas that do not have city-style mail delivery, a separate field verification will be conducted soon after receiving suggestions from local and tribal governments. In all areas, the Bureau will provide timely written feedback to a participating jurisdiction after all their suggested changes have been reviewed and evaluated. For each jurisdiction, the LUCA program will be officially completed at the time the Bureau provides feedback.

The Proposed Reconciliation Process

After receiving the LUCA feedback from the Bureau, a participating local or tribal government may ask the Bureau to reconsider its determination during the Reconciliation process. (The Bureau's proposal for the Reconciliation process follows at Exhibit 1.) The goal of the Reconciliation process is to resolve disagreements regarding specific addresses or groups of addresses, and to reach concurrence between the Bureau and the participating government. This concurrence relates both to the existence of addresses and to the location of each address. As in the LUCA process, the Reconciliation process will conclude with a written determination by the Bureau regarding the existence of addresses or the location of addresses provided by the participating government. The Census Bureau is using 30 days as a standard for completing the Reconciliation process for a jurisdiction. The standard should be achievable for all jurisdictions but those with a large number of disputed addresses. The wave approach to canvassing in city-style address areas imparts a waved implementation to both the Reconciliation and the Appeal processes. The first wave of canvassing will be completed by late February, 1999. The Bureau will begin accepting requests for Reconciliation from these jurisdictions in March. The final wave of canvassing will be completed by late May. The Bureau will begin accepting requests for Reconciliation from these jurisdictions in June. The Reconciliation process for both city-style and noncity-style address areas will be complete by August 31, 1999.

The Proposed Appeal Process

If, at the end of the Reconciliation process, the participating government disagrees with the Bureau's determination regarding the address information or the location of addresses, it may formally seek an outside review of the Bureau's decision via the Appeal process. During the Appeal process, a participating government will have the opportunity to ask a Federal official, designated by OMB and outside the Bureau and the Department of Commerce, to review the Bureau's determination and issue a final decision. Jurisdictions may file an appeal only upon completion of the Reconciliation process. Thus, those jurisdictions scheduled for the first block canvassing wave will enter the Appeal process before those in the later waves. Appeals for all jurisdictions will be filed during the period April through September 1999. The Appeal process will be concluded by January 14, 2000. (The OIRA Administrator's proposal for the Appeal process follows at Exhibit 2.)

The Next Stages in Developing the Reconciliation and Appeal Processes

Comments are sought on all aspects of the Reconciliation and Appeal processes. After these comments are reviewed and considered, the Bureau and the OIRA Administrator plan to issue a notice, by July 1998, outlining the final Reconciliation and Appeal processes.

Donald R. Arbuckle,

Deputy Administrator, Office of Information and Regulatory Affairs.

James Holmes,

Acting Director, Bureau of the Census.

Exhibit 1

Proposed Reconciliation Process

Reconciliation will be conducted by the Bureau of the Census (Bureau) at the request of the participating local or tribal government, or its designated representative. The process will begin when a participating government formally disagrees with the Bureau's decision regarding the inclusion, exclusion, or geographic placement of specific addresses on the census address list that the participating government recommended during the Local Update of Census Addresses (LUCA) process.

1. When To File a Reconciliation Request

The participating government must file a Request for Reconciliation, in writing, within 21 calendar days of receiving the LUCA feedback (i.e., the information provided by the Bureau in response to materials submitted by the participating government; the feedback may be in the form of a paper listing or a computer file, as requested by the participating government).

''Receipt'' as used herein shall be defined as the date the Bureau transmits the document in question to the participating government plus three (3) calendar days. The Bureau may transmit documents via first class mail, via overnight delivery service, via facsimile, or via electronic mail, as appropriate, but must keep an accurate record of the date it transmits documents.

2. What Documentation To File

Requests for Reconciliation must be printed or typed. Documentation must include: (1) the name of the participating government; (2) the name, address, and telephone number of that government's contact person; (3) the list of addresses or groups of addresses that are being questioned; and (4) any supporting evidence.

With respect to the list of questioned addresses (or groups of addresses), separate lists should be provided for addresses (a) which are believed to exist but are not included on the census address list, (b) which are believed to be incorrectly included on the census address list, or (c) which are believed to be correctly included but not correctly located on the census address list.

Specific recommendations should be provided for how addresses and their locations should appear on the Census 2000 address list.

The supporting evidence should establish the validity of the addresses and their locations. Two types of supporting evidence are recommended below. The first specifically reflects the validity of any address or map reference sources; the second describes other useful sources of supporting evidence. The participating government may submit any documentation it deems relevant in support of its claim.

a. Quality of address or map reference sources.

(1) The date of the address source.

(2) How often the address source is updated.

(3) The methods used to update the source.

(4) Quality assurance procedures that are used in maintaining the address source.

(5) How the address source is used by the participating government and/or by the originator of the source.

b. Other useful supporting evidence.

(1) On-site inspection and/or interview of resident.

(2) Issuance of recent occupancy permit for unit. (Building permits are not acceptable as they do not ensure that the units have been built and/or are occupied.)

(3) Provision of utilities (electricity, gas, sewer, water, telephone, etc.) to the residence. The utility record should show that this is not service to a commercial unit, or an additional service to an existing residence (such as a second telephone line).

(4) Provision of other governmental services (housing assistance, welfare, etc.) to residents of the unit.

(5) Issuance of demolition permits.

(6) Aerial photography and/or standard photography.

(7) Land use maps.

(8) Local 911 emergency lists, with flags distinguishing residential from commercial units.

(9) Tax assessment records with flags distinguishing residential from commercial units.

3. Where To File the Request for Reconciliation

A Request for Reconciliation must be filed with the Bureau's Regional Census Center for the region in which the participating government is located.

4. Reconciliation Review

Bureau staff will review materials submitted by the participating government and will contact local or tribal participants to provide them an opportunity to discuss their questions and concerns with Bureau staff. This dialogue with the local or tribal participants may include meetings in person, telephone conversations, written correspondence, site inspections to view addresses, or a combination of these approaches as determined by the Bureau.

Following this dialogue, the participating government will be notified in writing of the Bureau's final determination and the basis for it. Accepted addresses will be added to or corrected in the census address list. The participating government also will be informed of its right to an Appeal, and may proceed to the Appeal stage if it is not satisfied with the resolution provided by the Bureau during the Reconciliation phase.

In conducting the Census 2000 enumeration the Bureau will include all addresses added to or corrected in the census address list as a result of the Reconciliation and/or Appeal process, using the same procedures used for all other addresses on the list. Inclusion of an address on the list does not mean that a housing unit or its inhabitants are actually at the address, or that the address will be included in the final Census 2000 data summaries. The census-taking process will determine the inclusion status of the address—whether or not it is actually a housing unit—and the final population and housing unit status for each address.

5. Time for Completion of Reconciliation Process

The Census Bureau is using 30 days as a standard for completing the Reconciliation process for a jurisdiction. The standard should be achievable for all jurisdictions but those with a large number of disputed addresses. The Reconciliation review shall be completed and a participating government shall be notified in writing of the Bureau's determination no later than August 31, 1999. From the date a participating government receives the Bureau's final determination, it will have 30 calendar days in which it may file an Appeal on any or all of the addresses (see the proposed Appeal Process issued by the Administrator of the Office of Information and Regulatory Affairs).

Exhibit 2

Proposed Appeal Process

Following receipt of the Bureau's determination from the Reconciliation process, the participating local or tribal government, or its designated agent, may file an Appeal if it disagrees with the Bureau's Reconciliation determination. The Appeal process will be based solely on a review of written documentation provided by the participating government and the Bureau.

1. When May a Participating Government File an Appeal

An Appeal must be filed by the participating government within 30 calendar days of that government's receipt of the Bureau's final determination from the Reconciliation process (see 3, below, regarding what the participating government must file within 30 days). An appeal may be filed only with respect to addresses for which the participating government had previously sought Bureau review during the LUCA program and its Reconciliation process.

''Receipt'' as used herein shall be defined as the date the Bureau transmits the document in question to the participating government plus three (3) calendar days. The Bureau may transmit documents via first class mail, via overnight delivery service, via facsimile, or via electronic mail, as appropriate, but must keep an accurate record of the date it transmits documents.

2. Who Will Review and Decide the Appeal

The Appeal process will be administered by a Consortium of Federal agencies outside the Department of Commerce. Appeal Officers will be selected from a roster of Federal employees who have been trained in the procedures for an appeal and in the examination and analysis of address information, locations of addresses, supporting documentary evidence, and written position statements. Appeal Officers also will be trained in the preparation of a written determination. The addresses and telephone numbers of Consortium offices participating in the Appeal process will be made public when they are selected.

3. What Documentation Shall the Participating Government File With an Appeal

Each Appeal must be submitted to the Consortium, and must be printed or typed. The appeal documentation must include: (1) the name of the participating government; (2) the name, address, and telephone number of that government's contact person; (3) the list of addresses or groups of addresses that are being appealed; (4) a copy of the Bureau's Reconciliation determination regarding those addresses; (5) the date on which the participating government received the Bureau's determination;

and (6) any supporting evidence for the position taken by the participating government in its Appeal.

In its Appeal documentation, the participating government should specifically respond to the explanation that accompanied the Bureau's Reconciliation determination. With respect to the list of questioned addresses (or groups of addresses), separate lists should be provided for addresses (a) which are believed to exist but are not included on the census address list, (b) which are believed to be incorrectly included on the census address list, or (c) which are believed to be correctly included but not correctly located on the census address list. Specific recommendations should be provided for how addresses and locations should appear on the census address list.

The supporting evidence should demonstrate the basis for the participating government's position concerning the disputed addresses. Supporting evidence may include the material submitted in support of the Reconciliation review for the disputed addresses and any additional information. Two types of supporting evidence were recommended by the Bureau in its issuance regarding the Reconciliation process; the first specifically reflects the validity of any address or map reference sources; the second describes other useful sources of supporting evidence:

a. Quality of address or map reference sources.

(1) The date of the address source.

(2) How often the address source is updated.

(3) The methods used to update the source.

(4) Quality assurance procedures that are used in maintaining the address source.

(5) How the address source is used by the participating government and/or by the originator of the source.

b. Other useful supporting evidence.

(1) On-site inspection and/or interview of resident.

(2) Issuance of recent occupancy permit for unit. (Building permits are not acceptable as they do not ensure that the units have been built and/or are occupied.)

(3) Provision of utilities (electricity, gas, sewer, water, telephone, etc.) to the residence. The utility record should show that this is not service to a commercial unit, or an additional service to an existing residence (such as a second telephone line).

(4) Provision of other governmental services (housing assistance, welfare, etc.) to residents of the unit.

(5) Issuance of demolition permits.

(6) Aerial photography and/or standard photography.

(7) Land use maps.

(8) Local 911 emergency lists, with flags distinguishing residential from commercial units.

(9) Tax assessment records with flags distinguishing residential from commercial units.

All of the Appeal documentation must be received by the Consortium within 30 calendar days of the participating government's receipt of the Bureau's final Reconciliation determination; at the same time, the participating government shall send a complete copy of the Appeal documentation to the Bureau. Except in response to a written request from the Appeal Officer (see 6, below), the participating government may not submit any materials to the Consortium after the 30-day period.

4. Assignment of an Appeal Officer and Notification of Appeal Status

Upon receipt of an Appeal, the Consortium will assign an Appeal Officer to the case and notify the Bureau, in writing, that the Appeal has been filed; a copy of the notification also will be sent to the participating government. This notification will identify the participating government and provide a list of the disputed addresses.

5. Submission by the Bureau of Written Documentation and Supporting Evidence

Upon receipt of the notification that an Appeal has been filed, the Bureau will have 14 calendar days in which to submit written documentation briefly summarizing its position as well as any supporting evidence concerning the disputed addresses to the Appeal Officer. Except in response to a written request from the Appeal Officer (see 6, below), the Bureau may not submit any materials to the Appeal Officer after the 14-day period. At the same time the Bureau must send to the participating government a complete copy of the Bureau's submission to the Appeal Officer.

6. The Appeal Review and Determination

The Appeal Officer will review the written documentation and supporting evidence submitted by the participating government and the Bureau. No testimony or oral argument will be received by the Appeal Officer. If the Appeal Officer determines that he or she requires additional information or clarification, the Appeal Officer may request it in writing, with notice to both parties, and the relevant party(ies) shall respond in writing. Appeal Officers will apply the following principles in conducting their review:

(1) The Appeal Officer shall consider the quality of the map or address reference source as the basis for determining the validity of an address or group of addresses and their locations.

(2) For those addresses for which the Appeal Officer determines that the quality of the supporting evidence submitted by both parties is generally of comparable value, the Appeal Officer shall decide in favor of the participating government.

At the conclusion of reviewing a disputed address (or group of addresses), the Appeal Officer will issue a written determination and provide it to both the participating government and the Bureau. The written determination will include a brief summary explanation of the Appeal Officer's decision, and will specify how the disputed addresses and/or block numbers should appear on the Census 2000 address list. Each written determination shall become part of the administrative record of the Appeal process.

An Appeal Officer's decision on a disputed address is final. In conducting the Census 2000 enumeration the Bureau will include all addresses added to or corrected in the census address list as a result of the Appeal process, using the same procedures used for all other addresses on the list. Inclusion of an address on the list does not mean that a housing unit or its inhabitants are actually at the address, or that the address will be included in the final Census 2000 data summaries. The census-taking process will determine the inclusion status of the address—whether or not it is actually a housing unit—and the final population and housing unit status for each address.

7. Time for Completion of Appeal Review

Appeal Reviews shall be completed and written determinations issued to the concerned parties as soon as possible, and in any event no later than January 14, 2000.

[FR Doc. 98–7959 Filed 3–26–98; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, April 2,1998.

The meeting will start at 10:00 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: March 18, 1998.

Phyllis G. Heuerman,

Acting Chair, Federal Prevailing Rate Advisory Committee.

[FR Doc. 98–7985 Filed 3–26–98; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Computer Matching and Privacy Protection Act of 1988 Notice of RRB Records Used in Computer Matching

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of records used in computer matching programs; notification to individuals who are beneficiaries under the Railroad Retirement Act.

SUMMARY: As required by the Computer Matching and Privacy Protection Act of 1988, RRB is issuing public notice of its use and intent to use, in ongoing computer matching programs, civil service benefit and payment information obtained from the Office of Personnel Management (OPM).

The purpose of this notice is to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by RRB of this information obtained from OPM by means of a computer match.

ADDRESSES: Interested parties may comment on this publication by writing to Ms. Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Mr. LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, telephone number (312) 751–4548.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988, P.L. 100–503, requires a Federal agency participating in a computer matching program to publish a notice regarding the establishment of a matching program.

Name of Participating Agencies

Office of Personnel Management and Railroad Retirement Board.

Purpose of the Match

The purpose of the match is to enable the RRB to (1) identify affected RRB annuitants who are in receipt of a Federal public pension benefit but who have not reported receipt of this benefit to the RRB and (2) receive needed Federal public pension benefit information for affected RRB annuitants more timely and accurately. Previously the RRB relied on the affected annuitant to report adjustments in the amount of such public pension benefits.

Authority for Conducting the Match

Sections 3(a)(1), 4(a)(1) and 4(f)(1) of the Railroad Retirement Act require that the RRB reduce the Railroad Retirement benefits or certain beneficiaries entitled to Railroad Retirement employee and/or spouse/widow benefits who are also entitled to a government pension based on their own noncovered earnings. This reduction is referred to as Public Service Pension offset. Section 224 of the Social Security Act provides for the reduction of disability benefits when the disabled worker this also entitled to a public disability benefit (PDB). This reduction is referred to as PDB offset. As civil service disability benefit is considered a PDB. Section 224(h)(1) requires any Federal agency is provide RRB with information in its possession that RRB may require for the purposes of making a timely determination of the amount of reduction under section 224 of the Social Security Act. Pursuant to 5 U.S.C. Section 552a(b)(3) OPM has established routine uses to disclose the subject information to RRB.

Categories or Records and Individuals Covered

The records to be used in the match and the roles of the matching participants are described as follows: OPM will provide RRB twice a year with a magnetic tape file extracted from its annuity and survivor master file of its Civil Service Retirement and Insurance Records. The Privacy Act System of Records designation is OPM/Central-1. The following information from this OPM Privacy Act System of Records with be transmitted to RRB for the approximately 2.3 million records in the system: name, social security number, date of birth, civil service claim number, first potential month and year of eligibility for civil service benefits, first month, day, year of entitlement to civil service benefits, amount of gross civil service benefits, and effective date (month, day, year) of civil service amount, and where applicable, civil service disability indicator, civil service FICA covered month indicator, and civil service total service months. The RRB will match the Social Security number, name, and date of birth contained in the OPM file against the same fields in its Mater Benefit Files. The Privacy Act

System of Records designations for these files are: RRB–15, ''Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act,'' and RRB–26, ''Research Master Record for Retired Railroad Employees and Their Dependents.'' For records that are matched, the RRB will extract the civil service payment information.

Inclusive Dates of the Matching Program

The matching program will become effective 40 day after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register,** , whichever date is later. This matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

The notice we are giving here is in addition to any individual notice.

A copy of this notice has been or will be furnished to both Houses of Congress and the Office of Management and Budget.

Dated: March 20, 1998.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 98–7991 Filed 3–26–98; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Computer Matching and Privacy Protection Act of 1988 Notice of RRB and SSA Records Used in Computer Matching

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of records used in computer matching programs; notification to individuals who are railroad employees, or applicants and beneficiaries under the Railroad Retirement Act or who are applicants or beneficiaries under the Social Security Act.

SUMMARY: As required by the Computer Matching and Privacy Protection Act of 1988, RRB is issuing public notice of its use and intent to use, in ongoing computer matching programs, information obtained from the Social Security Administration (SSA) of the amount of wages reported to SSA and the amount of benefits paid by that agency. The RRB is also issuing public notice, on behalf of the Social Security Administration, of SSA's use and intent to use, in ongoing computer matching programs, information obtained from the RRB of the amount of railroad earnings reported to the RRB.

The purposes of this notice are (1) to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by RRB of this information obtained from SSA by means of a computer match and (2) to advise individuals applying for or receiving benefits under the Social Security Act of the use made by SSA of this information obtained from RRB by means of a computer match.

ADDRESSES: Interested parties may comment on this publication by writing to Ms. Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Mr. LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, telephone number (312) 751–4548.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988, Pub.L. 100–503, requires a Federal agency participating in a computer matching program to publish a notice regarding the establishment of a matching program. This notice relates to a consolidation of two existing matching programs. Under one of these programs (referenced by RRB for convenience as RRB/SSA 1–2–3), SSA furnishes to RRB information needed by RRB to administer the Railroad Retirement Act. Under the other program (referenced by RRB for convenience as RRB/SSA–4), RRB furnishes to SSA information needed by SSA to administer the Social Security Act. For RRB/SSA 1–2–3, the required notice covering the current and fourth cycle of the program which began July 6, 1997, was published at 62 FR 25679 (May 9, 1997); for RRB/SSA–4, the required notice covering the current and fourth cycle of the program which began August 28, 1997, was published at 62 FR 40563 (July 29, 1997).

Name of Participating Agencies

Social Security Administration and Railroad Retirement Board.

Purpose of the Match

The RRB will, on a daily basis, obtain from SSA a record of the wages reported to SSA for persons who have applied for benefits under the Railroad Retirement Act and a record of the amount of benefits paid by that agency to persons who are receiving or have applied for benefits under the Railroad Retirement Act. The wage information is needed to compute the amount of the tier I annuity component provided by sections 3(a), 4(a) and 4(f) of the Railroad Retirement Act (45 U.S.C. 231b(a), 45 U.S.C. 231c(a) and 45 U.S.C. 231c(f). The benefit information is needed to adjust the tier I annuity component for the receipt of the Social Security benefit. This information is available from no other source.

In addition, the RRB will receive from SSA the amount of certain social security benefits which the RRB pays on behalf of SSA. Section 7(b)(2) of the Railroad Retirement Act (45 U.S.C. 231f(b)(2)) provides that the RRB shall make the payment of certain social security benefits. The RRB also requires this information in order to adjust the amount of any annuity due to the receipt of a social security benefit. Section 10(a) of the Railroad Retirement Act (45 U.S.C. 231i(a)) permits the RRB to recover any overpayment from the accrual of social security benefits. This information is not available from any other source.

Thirdly, the RRB will receive from SSA once a year a copy of SSA's Master Benefit Record for earmarked RRB annuitants. Section 7(b)(7)) of the Railroad Retirement Act (45 U.S.C. (b)(7) requires that SSA provide the requested information. The RRB needs this information to make the necessary cost-of-living computation quickly and accurately for those RRB annuitants who are also SSA beneficiaries.

SSA will receive from RRB weekly RRB earnings information for all railroad employees. SSA will match the identifying information of the records furnished by the RRB against the identifying information contained in its Master Benefit Record and its Master Earnings File. If there is a match, SSA will use the RRB earnings to adjust the amount of Social Security benefits in its Annual Earnings Reappraisal Operation (AERO). This information is available from no other source.

SSA will also receive from RRB on a daily basis RRB earnings information on selected individuals. The transfer of information may be initiated either by RRB or by SSA. SSA needs this information to determine eligibility to Social Security benefits and, if eligibility is met, to determine the benefit amount payable. Section 18 of the Railroad Retirement Act (45 U.S.C. 231(q)(2)) requires that earnings considered as compensation under the Railroad Retirement Act be considered as wages under the Social Security Act for the purposes of determining entitlement under the Social Security

Act if the person has less than 10 years of railroad service or has 10 or more years of service but does not have a current connection with the railroad industry at the time of his/her death.

Authority for Conducting the Match

Section 7(b)(7) of the Railroad Retirement Act (45 U.S.C. 231f(h)(7)) provides that the Social Security Administration shall supply information necessary to administer the Railroad Retirement Act.

Sections 202, 205(o) and 215(f) of the Social Security Act (42 U.S.C. 402, 405(o) and 415(f) relate to benefit provisions, inclusion of railroad compensation together with wages for payment of benefits under certain circumstances, and the recomputation of benefits.

Categories of Records and Individuals Covered

All applicants for benefits under the Railroad Retirement Act and current beneficiaries will have a record of any social security wages and the amount of any social security benefits furnished to the RRB by SSA. In addition, all persons who ever worked in the railroad industry after 1936 will have a record of their service and compensation furnished to SSA by RRB. The applicable Privacy Act Systems of Records used in the matching program are as follows: RRB–5, Master File of Railroad Employees' Creditable Compensation; RRB–22, Railroad Retirement, Survivor, Pensioner Benefit System; SSA/OSR, 09–60–0090, Master Beneficiary Record (MBR); and SSA/OSR, 09–60–0059, Master Earnings File (MEF).

Inclusive Dates of the Matching Program

The consolidated matching program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

The notice we are giving here is in addition to any individual notice.

A copy of this notice will be or has been furnished to the Office of Management and Budget and the designated committees of both houses of Congress.

Dated: March 20, 1998.

By authority of the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 98–8080 Filed 3–26–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26846]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 20, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public References.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 13, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will received a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–9147)

Allegheny Energy, Inc. (formerly, Allegheny Power System, Inc.) (''Allegheny''), 10435 Downsville Pike, Hagerstown, Maryland 21740, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, and 80–92 under the Act, in connection with a proposed combination with DQE, Inc. (''DQE''), a holding company exempt under sections 3(a)(1) by rule 2 from all provisions of the Act except section 9(a)(2).

As described in more detail below, Allegheny proposes: (1) to acquire, by means of the mergers described below all of the issued and outstanding common stock of DQE (''DQE Common Stock); and, through this acquisition, (i) all of the issued and outstanding common stock of DQE's direct electric utility subsidiary company, Duquesne Light Company (''Duquesne Light''), and all of the issued and outstanding common stock of Duquesne Light's three electric utility subsidiary companies, Allegheny Development Corporation (''ADC''), DH Energy, Inc. and MT Energy, Inc. and (ii) all of the issued and outstanding common stock of DQE's two direct holding company subsidiaries, Duquesne Enterprises (''DE'') and DQE Energy Services (''DES''), each of which is currently exempt under section 3(a)(1) by rule 2 from all provisions of the Act except section 9(a)(2); (2) to form and capitalize a special purpose subsidiary and issue Allegheny common stock (''Allegheny Common Stock'') to effect the proposed transactions; (3) to add DQE and certain of its subsidiaries to the Allegheny money pool (''Money Pool''); (4) to provide loans and guarantees to DQE's nonutility subsidiaries; and (5) to authorize Allegheny Power Service Corporation (''AP Services'') to render services to DQE's utility and nonutility subsidiaries.

Allegheny, through subsidiaries, is engaged principally in the generation, transmission, distribution and sale of electricity throughout a 29,000 square mile service area covering parts of Maryland, Ohio, Pennsylvania, Virginia and West Virginia. Allegheny has three wholly electric operating companies, Monongahela Power Company (''Monongahela''), The Potomac Edison Company (''Potomac Edison'') and West Penn Power Company (''West Penn''). The three utility subsidiaries jointly own Allegheny Generating Company (''AGE''), a Virginia corporation. AGC's only asset is a 40% undivided interest in a pumped-storage hydroelectric generating facility located in Bath County, Virginia and its connecting transmission facilities. AGC's 840-megawatt share of the capacity of the station is sold to its three parents.

Monongahela, an Ohio corporation, is engaged in the generation, transmission and distribution of electricity to 350,062 retail customers and eight wholesale customers in an area of approximately 11,900 square miles with a population of approximately 710,000 in northern West Virginia and an adjacent portion of

Ohio.[1] In the fiscal year ended December 31, 1996, Monongahela provided approximately 24% of Allegheny's consolidated revenues. Monongahela is subject to regulation by the Public Utilities Commission of Ohio and the Public Service Commission for West Virginia.

Potomac Edison, a Virginia corporation, is engaged in the generation, transmission and distribution of electricity to 375,432 retail customers and ten wholesale customers in an area of approximately 7,300 square miles with a population of approximately 782,000 in portions of Maryland, Virginia and West Virginia.[2] In the fiscal year ended December 31, 1996, Potomac Edison provided approximately 31% of Allegheny's consolidated revenues. Potomac Edison is subject to regulation by the State Corporation Commission of Virginia, the West Virginia Commission and the Maryland Public Service Commission.

West Penn, a Pennsylvania corporation, is engaged in the generation, transmission and distribution of electricity to 662,881 retail customers and 15 wholesale customers in an area to approximately 9,900 square miles with a population of approximately 1.399 million in southwestern and north and south central Pennsylvania.[3] In the fiscal year ended December 31, 1996, West Penn provided approximately 45% of Allegheny's consolidated revenues. West Penn is subject to regulation by the Pennsylvania Public Utility Commission (''Pennsylvania Commission'').

Wholesale rates for electric energy sold in interstate commerce, wheeling rates for energy transmission in interstate commerce, and certain other activities of Allegheny system companies, including the operation of hydroelectric plants, are subject to the jurisdiction of the Federal Energy Regulatory Commission (''FERC'').

Allegheny also owns directly all the issued and outstanding stock of two nonutility companies, AYP Capital, Inc. (''AYP Capital'') and AP Services. Allegheny conducts its nonutility business through AYP Capital, which has three wholly owned subsidiaries, AYP Energy, Inc., an exempt wholesaler generator and a power marketer; Allegheny Communications Connect, Inc., an exempt telecommunications company; and Allegheny Energy Solutions, Inc., formed as an unregulated subsidiary to provide electric energy and related services to retail customers as retail energy and service are opened to competition.[4]

For the twelve months ended September 30, 1997, Allegheny's total revenue on a consolidated basis was $2.3 billion. Consolidated assets of Allegheny and its subsidiaries as of September 30, 1997, were approximately $6.5 billion, consisting of $5.2 billion in net electric utility property, plant and equipment and $1.3 billion in other corporate assets.

DQE's sole utility subsidiary, Duquesne Light, is engaged in the production, transmission, distribution and sale of electric energy. Duquesne Light serves an area of approximately 800 square miles, including Pittsburgh and municipalities, in Allegheny, Beaver and (to a limited extent) Westmoreland Counties, Pennsylvania, having a population of approximately 1.51 million of which 370,000 reside in Pittsburgh. Duquesne Light also sells electricity to other utilities. Duquesne Light owns undivided interests as tenant-in-common in two nuclear facilities and leases an undivided interest in a third (''Nuclear Facilities'').[5] Duquesne Light is subject to regulation by the Pennsylvania Commission. The FERC has jurisdiction over wholesale rates for electric energy sold in interstate commerce, wheeling rates for energy transmission in interstate commerce, and certain other activities of Duquesne Light. DQE's electric utility operations are also subject to regulation by the Nuclear Regulatory Commission with respect to the operation of the Nuclear Facilities.

DQE has five direct nonutility subsidiaries. DE makes strategic investments related to DQE's core energy business. DES is a diversified energy services company that offers a wide range of energy solutions for industrial, utility and consumer markets worldwide. DQEnergy Partners, Inc. was formed in December 1996 to align DQE with strategic partners to capitalize on opportunities in the energy services industry. Montauk, Inc. is a financial services company that makes long-term investments. It was established to provide financing for DQE's unregulated businesses and their customers. Brighter Light Corporation has no active operations.

For the twelve months ended September 30, 1997, DQE's total revenue on a consolidated basis was approximately $1.22 billion. Consolidated assets of DQE and its subsidiaries as of September 30, 1997, were approximately $4.7 billion, consisting of $3.7 billion in net electric utility assets and $1 billion in nonutility assets.

An Agreement and Plan of Merger, dated as of April 5, 1997 (''Merger Agreement''), among DQE, Allegheny and AYP Sub, Inc., a wholly owned subsidiary that Allegheny will incorporate under Pennsylvania law (''Merger Sub''), provides for a combination of Allegheny and DQE in which Merger Sub will be merged with and into DQE (''Merger''), with DQE as the surviving corporation.

To effectuate the Merger, Allegheny requests authority to form and capitalize Merger Sub. Merger Sub will be incorporated solely for the purpose of effectuating the Merger and, prior to the consummation of the Merger, Merger Sub will have no operations other than those contemplated by the Merger Agreement. The authorized capital stock of Merger Sub will consist of 1,000 shares of common stock, $.01 par value, all of which will be issued to Allegheny at the price of $1.00 per share.

Allegheny requests authority to issue up to 90,557,682 shares of Allegheny Common Stock to consummate the Merger. Each share of DQE Common Stock[6] issued and outstanding immediately prior to the effective date of the Merger will be converted into the right to receive, and become exchangeable for, 1.12 shares of Allegheny Common Stock. Upon consummation of the Merger, holders of DQE Common Stock immediately prior to the Merger will own approximately 42% of the outstanding shares of Allegheny Common Stock after the Merger, based on the number of shares of Allegheny Common Stock and DQE

[1] Monongahela also owns generating capacity in Pennsylvania.

[2] Potomac Edison also owns generating capacity in Pennsylvania.

[3] West Penn also owns generating capacity in West Virginia.

[4] Through its utility subsidiaries, Allegheny also owns three other small nonutility companies. Allegheny Pittsburgh Coal Company, which is jointly owned by Monongahela, Potomac Edison and West Penn, owns coal rights in a tract of land in Pennsylvania. West Virginia Power and Transmission Company (''West Virginia Power''), a wholly owned subsidiary of West Penn, and West Penn West Virginia Water Power Company, a wholly owned subsidiary of West Virginia Power, each own tracts of land in West Virginia and Pennsylvania, respectively.

[5] Specifically, Duquesne Light owns a 13.74% interest in Perry Power Station Unit 1 and a 47.5% interest in Beaver Valley Power Station Unit 1, and leases a 13.74% interest in Beaver Valley Power Station Unit 2.

[6] Other than shares owned by Allegheny, Merger Sub and any other subsidiary of Allegheny and shares of DQE Common Stock that are owned by DQE or any subsidiary of DQE, in each case not held on behalf of third parties and which are not shares of DQE Common Stock held by Duquesne Light to provide for redemption of the subsidiary's preference shares under the terms of the subsidiary's 401(k) plan or to provide benefits under another employee benefit plan of Duquesne Light (collectively, ''Excluded Shares'').

Common Stock outstanding as of September 30, 1997.

After the Merger, DQE will be a wholly owned subsidiary of Allegheny. Allegheny's utility and nonutility subsidiaries will remain subsidiaries of Allegheny. DQE's utility and nonutility subsidiaries will become indirect subsidiaries of DQE. Upon consummation of the Merger, DQE will be a wholly owned subsidiary of Allegheny.

The applicants request authority for certain of DQE's direct and indirect subsidiaries to participate in the Money Pool under the same terms and conditions as Monongahela, Potomac Edison and West Penn (i.e., be permitted to both invest in and borrow from the Money Pool), as stated in the Commission order dated April 18, 1996 (HCAR No. 26506).

The applicants also request authorization for DQE's nonutility subsidiaries to borrow or obtain guarantees from Allegheny under the same terms and conditions as the nonutility subsidiaries of Allegheny, as stated in the Commission order dated October 9, 1996 (HCAR No. 26590).

AP Services is a service company subsidiary. It provides various technical, engineering, accounting, administrative, financial, purchasing, computing, managerial, operational and legal services to Allegheny's subsidiaries, including AYP Capital and its subsidiaries, at cost.

AP Services proposes to enter into service agreements (''Service Agreements'') with certain utility and nonutility subsidiaries of DQE (including Duquesne Light), which will become effective upon the consummation of the Merger. The Service Agreements are similar in all material respects to those service agreements which AP Services has signed with its client companies. Under the terms of the Service Agreements, AP Services will render to DQE's subsidiaries, at cost, various technical, engineering, accounting, administrative, financial, purchasing, computing, managerial, operational and legal services. AP Services will account for, allocate and charge its costs of the services provided on a full cost reimbursement basis under a work order system consistent with the Uniform System of Accounts for Mutual and Subsidiary Service Companies. The time AP Services employees spend working for the subsidiaries of DQE will be billed to and paid by the applicable subsidiary on a monthly basis, based upon time records. Each DQE subsidiary that is party to a Service Agreement will maintain separate financial records and detailed supporting records.

Gulf Power Co., et al. (70–9171)

Gulf Power Company (''Gulf''), 500 Bayfront Parkway, Pensacola, Florida, 32501, and Mississippi Power Company (''Mississippi''), 2992 West Beach, Gulfport, Mississippi, 39501, wholly owned subsidiaries of The Southern Company, a registered holding company, have filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Gulf and Mississippi propose to issue and sell in one or more series through March 31, 2003 senior debentures, senior promissory notes or other senior debt instruments (''Senior Notes'') governed by an indenture or other document. The amount of Senior Notes would not exceed $350 million outstanding for Gulf or $400 million outstanding for Mississippi.

The provisions of each series of Senior Notes and related instruments would be determined when the sale of each series of Senior Notes occurs. However, Gulf and Mississippi request authority to issue and sell Senior Notes whose terms fall within certain parameters described below.

First, the effective cost of money on Senior Notes will not exceed the greater of 300 basis points over U.S. Treasury securities having comparable maturities or a gross spread over those Treasury securities that is consistent with comparable securities. Second, the maturity of the Senior Notes will not exceed approximately 50 years.

Third, the interest rate on the Senior Notes will be either fixed or adjusted on a periodic basis, either by auction or remarketing procedures that use one or more formulas based on certain reference rates, or by other predetermined methods. Fourth, the Senior Notes will be direct, unsecured and unsubordinated obligations of Gulf or Mississippi ranked equally with all other unsecured and unsubordinated obligations of Gulf or Mississippi.

The proceeds from the issuance and sale of Senior Notes will be used principally (i) to finance capital expenditures, (ii) to acquire, retire or redeem securities, (iii) to repay outstanding short-term borrowings, (iv) to provide working capital and/or (v) for other general corporate purposes.

American Electric Power Company, Inc., et al. (70–9181)

American Electric Power Company, Inc. (''AEP''), a registered holding company, and its wholly owned nonutility subsidiary, American Electric Power Service Corporation (''AEPSC''), both of 1 Riverside Plaza, Columbus, Ohio 43215, have filed a declaration under sections 6(a), 7, and 12(b) of the Act and rules 45 and 54 under the Act requesting authorization for AEP to guarantee certain payment obligations of AEPSC.

AEPSC will issue unsecured long-term promissory notes (''Notes'') to one or more commercial banks, financial institutions or other institutional investors under the terms and conditions of one or more term-loan agreements (''Proposed Loan Agreement''). The Proposed Loan Agreement and the Notes will have a term of not less than nine months and no more than ten years from the date of borrowing.

The Notes will bear interest at a fixed, fluctuating or combination fixed and fluctuating rate. If the interest rate is fixed, interest on the Notes at the time of issuance will not be greater than 250 basis points above the yield to maturity of United States Treasury obligations which have maturities similar to the maturity date of the Notes. If the interest rate is fluctuating, interest on the Notes will be not be greater than 200 basis points above the rate of interest announced publicly by a major bank from time to time as its base or prime rate. The actual rate of interest on the Notes will be as further determined by AEPSC and the lender.

AEPSC intends to use proceeds from the Notes to pay long-term debt at, or prior to, maturity, to repay short-term debt, for working capital or other corporate purposes.[2]

AEP proposes to issue guarantees (''Guarantees'') in support of the Notes in an aggregate amount not to exceed $20 million outstanding at any one time, through December 31, 2003. Under the Guarantees, AEP will be unconditionally obligated to pay amounts due and unpaid by AEPSC in connection with the Notes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8002 Filed 3–26–98; 8:45 am]

BILLING CODE 8010–01–M

[2] AEPSC currently has a term loan in the principal amount of $10 million, which will mature on October 14, 1998.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3066, Amdt. 1]

State of Alabama

In accordance with a notice from the Federal Emergency Management Agency dated March 17, 1998, the above-numbered Declaration is hereby amended to include Barbour, Butler, Conecuh, Crenshaw, Henry, and Randolph Counties in the State of Alabama as a disaster area due to damages caused by severe storms and flooding beginning on March 7, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bullock, Chambers, Clay, Cleburne, Lowndes, Montgomery, Russell, Tallapooga, and Wilcox in the State of Alabama may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is May 8, 1998 and for economic injury the termination date is December 9, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 19, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–8041 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3045, Amdt. 6]

State of Florida

In accordance with notices from the Federal Emergency Management Agency dated March 11 and March 13, 1998, the above-numbered Declaration is hereby amended to include the following counties in the State of Florida as a disaster area due to damages caused by severe storms, high winds, tornadoes, and flooding beginning on December 25, 1997 and continuing: Calhoun, Collier, Escambia, Franklin, Gadsden, Glades, Gulf, Holmes, Jackson, Liberty, Okaloosa, Okeechobee, Santa Rosa, Sarasota, Walton, and Washington.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bay, Holmes, Lee, Leon, Martin, Monroe, St. Lucie and Wakulla in the State of Florida may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is April 6, 1998 and for economic injury the termination date is October 6, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 19, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–8040 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3072]

State of Florida

Lee County and the contiguous Counties of Charlotte, Collier, Glades, and Hendry in the State of Florida constitute a disaster area as a result of damages caused by severe storms that occurred February 2–4, 1998. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 18, 1998 and for economic injury until the close of business on December 18, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 307211 and for economic injury the number is 977100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 18, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–8044 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3069]

State of Georgia

As a result of the President's major disaster declaration on March 11, 1998, and amendments thereto on March 12, 14, and 16, I find that the following counties in the State of Georgia constitute a disaster area due to damages caused by severe storms and flooding beginning on March 7, 1998 and continuing: Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bleckley, Brooks, Burke, Calhoun, Candler, Clay, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Emanuel, Haralson, Heard, Irwin, Jeff Davis, Jefferson, Jenkins, Johnson, Laurens, Lee, Macon, McIntosh, Miller, Mitchell, Monroe, Montgomery, Pike, Pulaski, Quitman, Randolph, Screven, Seminole, Stewart, Sumter, Talbot, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Ware, Webster, Wheeler, Wilcox, and Worth. Applications for loans for physical damages may be filed until the close of business on May 10, 1998, and for loans for economic injury until the close of business on December 11, 1998 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bibb, Brantley, Bulloch, Butts, Carroll, Charlton, Chattahoochee, Clinch, Cobb, Coweta, Effingham, Evans, Fulton, Glascock, Glynn, Grady, Harris, Houston, Jasper, Jones, Lamar, Lanier, Liberty, Long, Lowndes, Marion, McDuffie, Meriwether, Muscogee, Paulding, Peach, Pierce, Polk, Richmond, Schley, Spalding, Tattnall, Taylor, Troup, Turner, Twiggs, Upson, Warren, Washington, Wayne, and Wilkinson Counties in Georgia; Baker, Gadsden, Jackson, Jefferson, Leon, and Madison Counties in Florida; and Aiken, Allendale, Barnwell, and Hampton Counties in South Carolina.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared

under a separate declaration for the same occurrence.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 306906. For economic injury the numbers are 976700 for Georgia, 976800 for Florida, and 977200 for South Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 18, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–8043 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3052, Amdt. 2]

State of Maine

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster to April 15, 1998.

All other information remains the same, i.e., the deadline for filing applications for economic is October 15, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 19, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–8042 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3064, Amendment. 1]

State of New Jersey

In accordance with a notice from the Federal Emergency Management Agency dated March 10, 1998, the above-numbered Declaration is hereby amended to include Ocean County, New Jersey as a disaster area due to damages caused by a severe winter coastal storm, high winds, and flooding that occurred February 4–9, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Monmouth, New Jersey may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the deadline for filing applications for physical damage is May 2, 1998 and for economic injury the termination date is December 3, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 18, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–8039 Filed 3–26–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice #2765]

Determination on U.S. Support for Multilateral Assistance to Bosnia-Herzegovina

Pursuant to the authority vested in me by section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, Pub. L. 105–118 (''FOAA''), I hereby waive the application of section 573(b) of the FOAA with regard to loan projects offered by the World Bank's International Finance Corporation (IFC), the European Bank for Reconstruction and Development (EBRD), and the World Bank's International Development Association (IDA) to Bosnia-Herzegovina; and a loan project offered by the IDA to the Republika Srpska (RS).

I hereby determine that the IFC, EBRD and the two IDA loans directly support the implementation of the Dayton Agreement and its Annexes.

This Determination shall be published in the **Federal Register**.

Dated: March 12, 1998.

Madeleine Albright,

The Secretary of State.

[FR Doc. 98–7994 Filed 3–26–98; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF STATE

[Public Notice #2764

Determination on U.S. Bilateral Assistance to the Republika Srpska

Pursuant to the authority vested in me by section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998, Pub. L. 105–118 (''FOAA''), I hereby waive the application of section 573(a) of the FOAA with regard to the following U.S. bilateral assistance programs in the Republika Srpska: support for civilian police restructuring; USIA programs promoting democratization, reconciliation, and free and independent media; OSCE-supervised elections and human rights activities; and Trade and Development Agency (TDA) activities designed to assist U.S. businesses in Bosnia.

I hereby determine that these U.S. bilateral assistance programs directly support the implementation of the Dayton Agreement and its Annexes.

This Determination shall be published in the **Federal Register**.

Dated: March 2, 1998.

Madeleine Albright,

Secretary of State.

[FR Doc. 98–7993 Filed 3–26–98; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–98–3553]

Marine Transportation System; Waterways, Ports, and Their Intermodal Connections

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings; correction.

SUMMARY: This document contains corrections to the notice of meetings [USCG–98–3553] which was published March 18, 1998 (63 FR 13295). The notice announced the dates and locations of 6 listening sessions to gather data and opinions for a development of a customer-based strategy for waterways, ports, and their intermodal connections.

DATES: This correction is effective on March 27, 1998.

FOR FURTHER INFORMATION CONTACT:

For information on the public docket, contact Carol Kelley, Coast Guard Dockets Team Leader or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329; for information concerning the notice of meeting contact Joyce Short, U.S. Coast Guard (G–M–2), 2100 Second St., SW., Washington, DC 20593–0001, telephone 202–267–6164.

SUPPLEMENTARY INFORMATION:

Need for Correction

The Coast Guard published a document in the **Federal Register** of March 18, 1998 (63 CFR 13295), which announced the dates and locations of 6 listening sessions to gather data and opinions for a development of a customer-based strategy for waterways, ports, and their intermodal connections. That document published an incorrect address for the public meeting in Oakland, CA. This document corrects that address.

In notice FR Doc. 98–7034 published on March 18, 1998 (63 CFR 13295), make the following corrections:

1. On page 13296, first column, under **ADDRESSES**: correct the address for Oakland, CA to read: ''Oakland, CA—Port of Oakland, Board Room, 2nd Floor, 530 Water Street, Oakland, CA 94607''.

Dated: March 23, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–8119 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Clark County, Indiana and Jefferson County, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed construction of two new Ohio River Crossings on new alignments including approaches, and connections to existing roadway systems.

FOR FURTHER INFORMATION CONTACT: Jesse A. Story, Division Administrator, Federal Highway Administration, John C. Watts Federal Building and U.S. Courthouse, 330 W. Broadway, Frankfort, Kentucky 40601. Telephone: (502) 223–6720, Fax: (502) 223–6735.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Indiana Department of Transportation (INDOT) and the Kentucky Transportation Cabinet (KYTC) will prepare an EIS for the construction of two new river crossings in the vicinity of Jeffersonville and Utica, Clark County, Indiana, and Louisville and Prospect, Jefferson County, Kentucky.

The study will build upon the purpose and need and alternatives analysis resulting from the Ohio River Major Investment Study (ORMIS) Final Report (April 1997). The EIS will discuss environmental, social and economic impacts associated with the development of the proposed action.

Several public meetings have been held in conjunction with the ORMIS study. Notification of future public meetings and hearings will be advertised. Public notice will be given of the time and place of the public hearing. The Draft Environmental Impact Statement will be available for public and agency review and comment. The scoping process will build upon ORMIS's public and agency involvement and will be used to identify significant issues to be addressed in the EIS.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to the program)

Issued on: March 18, 1998.

Jesse A. Story,

Division Administrator, Frankfort, Kentucky.

[FR Doc. 98–8103 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplementary to the Draft Environmental Impact Statement: Crawford and Perry Counties, IN

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the pubic that a Supplementary to the Draft Environmental Impact Statement will be prepared for the proposed construction of a new road section of State Road 145 from Interstate 64 near the town of St. Croix northward to the existing intersection of State Road 145 and State Road 64 for an approximate distance of 8.3 to 9.6 miles depending on the alternate selected. The project is located in the southern Indiana counties of Crawford and Perry. The Draft Environmental Impact Statement was accepted by the FHWA on April 1, 1996 and was circulated for comments. The Supplement will better define the purpose and need of the proposed action. Additionally, another alternate will be discussed to fully cover the proposed improvement area.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas N. Head, Program Operations Engineer, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana, 46204. Telephone (317) 226–5353.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the Indiana Dept of Transportation, will prepare a supplement to the Draft Environmental Impact Statement on these additional items covering the proposed State Road 145 and its alternatives in Crawford and Perry counties. The discussions of proposed alignments in the Draft Environmental Impact Statement are still valid. The Supplement will provide a revised purpose and need of the planned improvement as well as another alternate not discussed in the Draft Environmental Impact Statement.

Since the additional alternate is being developed to consider all feasible alternates, additional coordination will be done with appropriate agencies. No formal scoping meetings are planned for these alterations to the approved Draft Environmental Impact Statement. An additional public hearing will be scheduled to discuss the additional information being developed for the proposed action. The Supplemental Draft Environmental Impact Statement will be made available for public and agency review and comment.

To ensure that the full ranges of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Supplemental EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research,

Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to the program)

Douglas N. Head,

Program Operations Engineer, Indianapolis, Indiana.

[FR Doc. 98–7992 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RST–97–5]

Petition for Exemption or Waiver of Compliance With the Requirements of Section 213.233(c) of the Federal Track Safety Standards; New Jersey Transit Rail Operations, Inc.

In accordance with 49 CFR 211.41, notice is hereby given that the New Jersey Transit Rail Operations, Incorporated, (NJT) has submitted a petition, dated December 3, 1997, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards.

The purpose of the petition is to request of the Federal Railroad Administration (FRA) relief from compliance with the provisions of 49 CFR 213.233(c) of the Federal Track Safety Standards. The petitioner requests approval to eliminate one of two weekly visual track inspections required by this section for track carrying passenger traffic. Petitioner proposes, in the interest of equivalent safety, to substitute for the eliminated visual inspection the operation of a track geometry measuring vehicle over the affected main track and sidings on a quarterly basis. Such equipment does not operate over the tracks of the petitioner today.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number RST–97–5 and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) in Room 7051, 1120 Vermont Avenue, NW., Washington, DC 20005.

Issued in Washington, DC on March 24, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–8101 Filed 3–26–98; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Actions on Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of actions on exemption applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in JULY–DECEMBER 1997. The modes of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions. It should be noted that some of the sections cited were those in effect at the time certain exemptions were issued.

Issued in Washington, DC, on March 18, 1998.

Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Modification Exemptions				
5749–M	DOT–E 5749	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.315(a)	Authorizes the use of an insulated nickel steel DOT Specification MC–331 cargo for transportation of a certain flammable gas. (Mode 1.)
6922–M	DOT–E 6922	Solvay Fluorides, Greenwich, CT.	49 CFR 173.314(c), 179.300–15.	Authorizes the use of a DOT Specification 106A500–X multi-unit tank car tank, for shipment of certain compressed gases. (Modes 1, 2, 3.)
7657–M	DOT–E 7657	Welker Engineering Co., Sugar Land, TX.	49 CFR 173.119, 173.302(a) (1), 173.304(a) (1), 173.304(b) (1), 175.3, 178.42.	Authorizes the manufacture, marking and sale of non-DOT specification cylinders, for transportation of certain compressed gases. (Modes 1, 2, 3, 4.)
7765–M	DOT–E 7765	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 173.302(a) (4), 175.3.	Authorizes the use of nonrefillable, non-DOT specification cylinders, for transportation of a Division 2.2 material. (Modes 1, 2, 3, 4.)
8723–M	DOT–E 8723	Dyno Nobel Inc., Salt Lake City, UT.	49 CFR 172.101, 173.114a(h) (3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (Modes 1, 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8723–M	DOT–E 8723	Dyno Nobel Inc., Salt Lake City, UT.	49 CFR 172.101, 173.114a(h) (3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (Modes 1, 2.)
9758–M	DOT–E 9758	Suunto, Carlsbad, CA	49 CFR 173.304(d) (3) (ii), 178.33.	Authorizes the shipment of certain Division 2.1 gases in a nonrefillable, non-DOT inside container conforming with the DOT–2P except for diameter and capacity. (Modes 1, 2, 3, 4, 5.)
10511–M	DOT–E 10511	Schlumberger Technology Corporation, Houston, TX.	49 CFR 173.304	To authorize shipment of Sulfur Hexafluoride classed as a nonflammable gas in a non-DOT specification device contained in a specially designed shipping vessel. (Modes 1, 2, 3, 4, 5.)
10798–M	DOT–E 10798	Olin Corp., Stamford, CT	49 CFR 174.67 (i) and (j)	Authorizes tank cars, containing chlorine, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)
10974–M	DOT–E 10974	International Paper, Erie, PA.	49 CFR 174.67 (i) and (j)	Authorizes tank cars, containing chlorine, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)
11055–M	DOT–E 11055	Environmental Transport Systems, Inc., Fargo, ND.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	Authorizes the transportation of specifically identified hazardous materials that meet criteria for Division 6.1, PG I, Hazard Zone A in combination packages and provides relief from certain labeling and segregation requirements. (Modes 1, 2, 3.)
11244–M	DOT–E 11244	Aerospace Design & Development, Inc., Niwot, CO.	49 CFR 173.316(c), 178.57.	Authorizes manufacture, marking and sale of non-DOT specification titanium alloy cylinders for transportation of air, refrigerated liquid. (Mode 1.)
11248–M	DOT–E 11248	Hazmatpac, Houston, TX	49 CFR 173.3(a), 175.3, 177.848(b), 49 CFR 172 Subpart E & Subpart F, and Subpart H, Part 173, Subpart D, Subpart E, Subpart F.	Authorizes the manufacture, mark and sale of specially designed combination type packaging for transporting certain hazardous materials without required labelling and placarding in limited quantities. (Modes 1, 2, 3, 4, 5.)
11262–M	DOT–E 11262	Caire, Inc., Burnsville, MN	49 CFR 173.316(c) (2), 175.3, 178.57–8(c).	Authorizes the manufacture, marking and sale of a non-DOT specification cylinder comparable to DOT Specification 4L to be used for the transportation of oxygen. (Mode 1.)
11344–M	DOT–E 11344	Dupont SHE Excellence Center, Wilmington, DE.	49 CFR 174.67(i) and (j) ..	Authorizes tank cars, containing acetic acid, glacial, to remain standing with unloading connections attached when no product is being transferred, provided that a minimal level of monitoring is maintained. (Mode 2.)
11380–M	DOT–E 11380	Western Atlas Logging Services Houston, TX.	49 CFR 173.34(d), 178.37–13, 178.37–15, 178.37–5.	Authorizes the transportation of certain compressed hydrocarbon gases in non-DOT specification cylinders. (Modes 1, 2, 3, 4.)
11489–M	DOT–E 11489	TRW Vehicle Safety Systems, Queen Creek, AZ.	49 CFR 172.320, 173.56(b).	Authorizes the transportation by private carriage, of certain unapproved or unidentified items as approved, air bag inflators or air bag modules or seat belt pretensioners or seat belt modules as Division 1.4C explosives articles. (Mode 1.)
11512–M	DOT–E 11512	Alaska Eskimo Whaling Commission (AEWC), Barrow, AK.	49 CFR 172.101, Column (9B), 175.30.	Authorizes the transportation of approximately 150 pounds of black powder, Division 1.1D, by cargo aircraft only. (Mode 4.)
11512–M	DOT–E–11512	Alaska Eskimo Whaling Commission, Barrow, AK.	49 CFR 172.101, Column (9B), 175.30.	Authorizes the transportation of approximately 150 pounds of black powder, Division 1.1D, by cargo aircraft only. (Mode 4.)
11536–M	DOT–E 11536	Huges Space & Communications Co., Los Angeles, CA.	49 CFR 173.159, 173.302, 173.304, 173.62.	Authorizes the transportation of a spacecraft in a special sealed packaging (shipping container). The spacecraft contains Division 2.2 gases and Class 8 corrosive liquids in non-DOT specification packagings and limited quantities of Division 1.4S explosives secured within the spacecraft. (Mode 4.)
11580–M	DOT–E 11580	The Columbi ana Boiler Co., Columbiana, OH.	49 CFR 173.158(b) (g) & (h), 173.192(a), 173.201, 173.202, 173.203, 173.226, 173.227, 173.336, 173.40(a).	To authorize the manufacture, mark and sale of non-DOT specification stainless steel cylinders comparable to DOT Specification 4BW to be used for the transportation of various hazardous materials. (Modes 1, 2, 3, 4, 5.)
11725–M	DOT–E 11725	Swales Aerospace, Beltsville, MD.	49 CFR 173.301, 173.302(a), 173.304(a) (2), 173.34(d), 173.40, 175.3.	To authorize the transportation in commerce of certain non-DOT specification containers containing certain Division 2.1, 2.2, and 2.3 liquefied and compressed gases. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11787–M	DOT–E 11787	Bayer Corp., Pittsburgh, PA.	49 CFR 173. 226(b)(1)	To authorize the emergency transportation of Toxic liquid, flammable, organic n.o.s. Division 6.1, PIH, Zone A material in 6HA1 drums that have not been hydrostatic tested to 80 psig. (Modes 1, 2.)
11799–M	DOT–E 11799	Cryonix, Inc., Rockville, MD.	49 CFR 173.196	To authorize the transportation in commerce of alternative secondary packaging consisting of heat sealed, plastic sleeve, packed in small quantities with absorbent material to be transported inside commercial freezer, for use in transporting Infectious substances, Division 6.2. (Mode 1.)
11836–M	DOT–E 11836	HCI USA Distribution Companies, Inc., Greensboro, NC.	49 CFR 173.203, 173.24 ..	To authorize the emergency transportation of polyethylene drums for use in transporting non-bulk quantities of ammonia solutions, Class 8. (Mode 1.)
11856–M	DOT–E 11856	Olin Corporation, Chandler, AZ.	49 CFR 173.304(a) (2), 173.34(d), 175.3.	To authorize the emergency transportation in commerce of a satellite system containing Division 2.3 and Class 8 materials. (Modes 1, 4.)
11888–M	DOT–E 11888	Day & Zimmerman, Inc. Parsons, KS.	49 CFR 172.101	Request for an emergency exemption in order to transport an explosive 1.1A in a solution of ethanol and water. (Mode 1.)
11902–M	DOT–E 11902	Eurotainer USA, Inc., Somerset, NJ.	49 CFR 173.225(e) (3)(c)	Request for an emergency exemption from 173.225(e)(3)(c) concerning portable tank pressure relief device setting and capacity requirements for certain organic peroxides. (Modes 1, 2, 3.)
11932–M	DOT–E 11932	PEPCO Manufacturing Co., Inc., Portland, OR.	49 CFR 172.101(i) (3)	To authorize the transportation in commerce of oxygen generators in passenger service units in bulk non-DOT specification packaging. (Mode 1.)
11937–M	DOT–E 11937	Puritan-Bennett Aero Systems Co., Lexena, KS.	49 CFR 172.102(c) (1)	To authorize the transportation in commerce of an oxygen generator, chemical, with one of the two positive means of preventing unintentional actuation of generator consisting of a packaging feature. (Modes 1, 2, 3, 4.)
11955–M	DOT–E 11955	Scott Aviation, Lancaster, NY.	49 CFR 172.102(c)	To authorize the emergency transportation in commerce oxygenators which utilize which utilize special packaging as secondary means of preventing actuation. (Modes 1, 2, 3, 4.)
11988–M	DOT–E 11988	COFAP of America, Inc, Dayton, OH.	49 CFR parts 100–180 except as provided in the exemption.	Request for an emergency exemption to manufacture, mark and sell shock absorbers and struts containing non-flammable gas as accumulators. (Modes 1, 2, 3, 4, 5.)
		New Exemptions		
9743–N	DOT–E 9743	Allied-Signal, Inc., Morristown, NJ.	49 CFR 173.420(a) (2)	To authorize shipment of uranium hexafluoride classed as radioactive material in cylinders not manufactured in accordance with ANSI N14.1–1982 standard. (Modes 1, 2, 3.)
10664–N	DOT–E 10664	EFIC Corporation, San Jose, CA.	49 CFR 173.302(a) (1), 173.304(a) (1), 175.3.	To manufacture, mark and sell fully overwrapped high pressure cylinders consisting of aluminum liners overwrapped in carbon and glass fibers for transportation of nonliquified compressed gases. (Modes 1, 2, 3, 4, 5.)
10915–N	DOT–E 10915	Luxfer Gas Cylinders—Composite Cylinder Division, Riverside, CA.	49 CFR 173.302(a) (1), 173.304(a) (d), 175.3.	To authorize the manufacture, mark and sell of non-DOT specification fiber reinforced plastic cylinders built to DOT FRP–1 standard for use in transporting various flammable and non-flammable gases. (Modes 1, 2, 3, 4, 5.)
10945–N	DOT–E 10945	Structural Composites Industries, Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3.	To authorize the manufacture, mark and sale of non-DOT specification fiber reinforced plastic full composite cylinders constructed of seamless 6061–T6 aluminum pressure vessel fully overwrapped with filament windings for use in transporting various material classed as flammable and non-flammable gases, Class 2. (Modes 1, 2, 3, 4, 5.)
11194–N	DOT–E 11194	Carleton Technologies Inc., Glen Burnie, MD.	49 CFR 173.304(a), 175.3, 49 CFR 173.302(a).	To authorize the manufacture, mark and sell of non-DOT specification fiber reinforced plastic full composite cylinder for shipment of certain Division 2.1 and 2.2 gases. (Modes 1, 2, 3, 4, 5.)
11443–N	DOT–E 11443	Hercules Inc., Wilmington, DE.	49 CFR 173.225(e)	To authorize the transportation of Division 5.2 organic peroxides in intermediate bulk containers equipped with the same pressure release system as DOT–57 portable tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11465–N	DOT–E 11465	Monsanto Co., St. Louis, MO.	49 CFR 173.240(c)	To authorize the transportation in commerce of solid hazardous waste, Class 9, to be transported in non-DOT specification bulk fiberboard boxes. (Mode 1.)
11559–N	DOT–E 11559	Japan Oxygen, Inc., Long Beach, CA.	49 CFR 173.318	To authorize the transportation of non-DOT specification insulated cargo tanks for use in transporting helium, Division 2.2. (Modes 1, 3.)
11578–N	DOT–E 11578	General Alum & Chemical Co., Searsport, MA.	49 CFR 174.67(j)	To authorize tank cars to remain connected during unloading process of sulfuric acid without the physical presence of an unloader. (Mode 2.)
11592–N	DOT–E 11592	Amtrol Inc., West Warwick, RI.	49 CFR 173.306(g)	To authorize an alternative design equation in the manufacture, market and sale of cylinders of deep-draw dome design for use in transporting compressed air or compressed nitrogen. (Modes 1, 2, 3.)
11606–N	DOT–E 11606	Safety-Kleen Corp., Elgin, IL.	49 CFR 173.28(b) (2)	To authorize the transportation in commerce of re-used non-DOT specification steel drums to ship waste combustible liquid and tetrachloroethylene sludges. (Mode 2.)
11613–N	DOT–E 11613	Solutia Inc., St. Louis, MO	49 CFR 174.67(i)	To authorize rail cars to remain connected during entire unloading process without the physical presence of an unloader. (Mode 2.)
11621–N	DOT–E 11621	Aerojet Industrial Products, North Las Vegas, NV.	49 CFR 172.101(i), 173.301(h), 173.302(a), 173.34(e).	To authorize the manufacture, mark and sale of non-DOT Specification cylinders as permanently mounted equipment for use in transporting non-liquefied compressed gases Division 2.2 (Mode 1.)
11654–N	DOT–E 11654	Hoechst Celanese Corp., Dallas, XT.	49 CFR 172.203(a), 173.31(c) (1), 179.13, Appendix B to Subpart B, Par. (2),.	To authorize the transportation in commerce of certain class 3 material in DOT 105J tank cars with a maximum gross weight greater than 184,000. (Mode 2.)
11662–N	DOT–E 11662	FIB Technologies, Inc, Westboro, MA.	49 CFR 173.304(a) (2)	To authorize the transportation in commerce of hexafluorethane, Division 2.2, in DOT–3T 2400 cylinders. (Mode 1, 2, 3.)
11668–N	DOT–E 11668	Allied-Signal, Inc., Morristown, NJ.	49 CFR 173.420(2) (d)	To authorize the one time shipment of space defective Model 48 OM cylinder containing uranium hexafluoride, Class 7. (Mode 1.)
11692–N	DOT–E 11692	SCM Technologies, Tilbury, ON.	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize the manufacture, mark and sale of a non-DOT specification cylinder similar to DOT 3T, except with a lower minimum allowable wall thickness for use in transporting certain Division 2.1, 2.2, and 2.3 material. (Modes 1, 2, 3, 4.)
11701–N	DOT–E 11701	Dept. of Defense, Falls Church, VA.	49 CFR 173.34(e) (13)(i) & (iii).	To provide for a 3-year hydrostatic pressure test and to extend the life of non-DOT specification cylinders used in the missile program to 30 years. (Modes 1, 2, 4.)
11721–N	DOT–E 11721	The Coleman Co., Inc., Wichita, KS.	49 CFR 178.65–4(c) (1) ...	To authorize the elimination of 100% internal visual inspection of cylinders for use in transporting Division 2.1 material. (Modes 1, 2, 3, 4.)
11768–N	DOT–E 11768	Flotec Inc., Indianapolis, IN.	49 CFR 173.302(a) (5)(1)	To authorize the transportation in commerce of oxygen, Division 2.2, in aluminum cylinders equipped with specially designed aluminum valves. (Mode 1.)
11773–N	DOT–E 11773	West Coast Air Charter, Ontario, CA.	49 CFR 171.11, 172.101, 172.204(c) (3), 173.27, 175.30(a) (1), 175.320(b), Part 107, Appendix B.	To authorize the transportation of Class 1 explosives presently forbidden or in quantities greater than those authorized for shipment by air. (Mode 4.)
11780–N	DOT–E 11780	Hewlett-Packard Co., Washington, DC.	49 CFR 173.304(a) (2), 175.3.	To authorize the transportation in commerce of certain x-ray systems containing sulfur hexafluoride, Division 2.2. (Modes 1, 2, 3, 4, 5).
11786–N	DOT–E 11786	Dow Corning Corp., Midland, MI.	49 CFR 174.67(i) & (j)	To authorize tank cars to remain connected during unloading of various hazardous materials without the physical presence of an unloader. (Mode 2.)
11800–N	DOT–E 11800	General Fire Extinguisher Corp., Northbrook, IL.	49 CFR 173.309	To authorize the transportation in commerce of fire extinguishers, that exceed quantity limitation, for use in transporting liquefied compressed gas. (Modes 1, 2, 3, 4, 5.)
11808–N	DOT–E 11808	Trinity Industries, Inc., Dallas, TX.	49 CFR 179.300–19(a)	To authorize the foreign inspection of certain multi-unit tank cars (one ton containers) manufactured in Mexico for use in transporting chlorine. (Mode 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11814–N	DOT–E 11814	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 178.245	To manufacture, mark and sell non-DOT specification steel portable tanks permanently fitted within an ISO frame similar to DOT-51 portable tanks for use in transporting those hazardous materials as authorized in DOT-Specification 51 portable tanks. (Modes 1, 2, 3.)
11824–N	DOT–E 11824	The Dow Chemical Co., Freeport, TX.	49 CFR 172.203(a), 172.302(c), 180.509(6)(e).	To authorize the use of alternative testing method for tank car structural re-certification, extend the internal visual tank and service equipment inspection cycle to 15 years and provide relief from the shipping paper and marking requirements. (Mode 2.)
11825–N	DOT–E 11825	Bevill Meter Service, Homer, LA.	49 CFR 173.304, 173.315	To authorize the transportation of a non-DOT specification container described as a meter prover for use in transporting various hydrocarbon products. (Mode 1.)
11834–N	DOT–E 11834	Ashland Chemical Co., Dublin, OH.	49 CFR 173.173, 173.202	To authorize the transportation of Division 3 and 5.1 material in UN 1A2/Y1.4/100 openhead steel drums as part of a mechanical application system. (Modes 1, 2.).
11839–N	DOT–E 11839	Williams Field Services, Opal, WY.	49 CFR 177.834(i)	To authorize loading of cargo tank containing Class 3 and Division 2.1 material without the physical presence of an unloader. (Mode 1.)
11850–N	DOT–E 11850	Air Transportation Association & Members, Washington, DC.	49 CFR 173.34(e)	To provide for an alternative testing method for DOT-Specification 4DA and 4DS cylinders used as components of aircraft systems. (Modes 4, 5.)
11859–N	DOT–E 11859	Carleton Technologies Inc., Orchard Park, NY.	49 CFR 178.65	To authorize the manufacture, mark and sale of non-DOT specification cylinders as part of a gas bottle system consisting of two cylindrical/spherical halves fabricated from stainless steel for use in transporting Division 1.4S material. (Modes 1, 2, 3.)
11860–N	DOT–E 11860	GATX, Chicago, IL	49 CFR 173,31(b)(3)	To authorize the transportation in commerce of DOT111A60ALW–2 aluminum tank cars without head shields to be used in transporting hydrogen peroxide, Division 5.1. (Mode 2.)
11865–N	DOT–E 11865	ACCU Conversion, Inc., City of Industry, CA.	49 CFR 174.67(i)&(j)	To authorize rail cars containing Class 8 and Division 5.1 material to remain connected during loading and unloading operations without the physical presence of an unloader. (Mode 2.)
11866–N	DOT–E 11866	Sea-Land Service, Inc., Charlotte, NC.	49 CFR 176.905	To authorize transportation in commerce of cars and other motor vehicles, with batteries connected with some fuel in the fuel tank with required ventilation of each hold or compartment of a vessel. (Mode 3.)
11871–N	DOT–E 11871	Biotech Research Laboratories, Rockville, MD.	49 CFR 173.196, 178.609	To authorize the transportation in commerce of infectious clinical samples and various other biological fluids in mechanical freezers. (Mode 1.)
11873–N	DOT–E 11873	Incendere Inc., West Chester, PA.	49 CFR 172.101, 172.101(8).	To authorize the transportation in commerce of regulated medical waste in plastic bags in non-DOT specification steel roll-off containers as outer packaging (Mode 1.)
11879–N	DOT–E 11879	Cardone Industries, Inc., Philadelphia, PA.	49 CFR 100–180	To authorize the manufacture, mark, and sale of certain shock absorbers and struts, containing a Division 2.2 material for transportation in commerce as accumulators, not subject to the Hazardous Materials Regulations. (Modes 1, 2, 3, 4, 5.)
11880–N	DOT–E 11880	International Catalyst Corp., Loydminister, CN.	49 CFR 173.241, 173.242	To authorize the transportation in commerce of Division 4.2 material in modified covered hopper railcars. (Mode 2.)
11886–N	DOT–E 11886	Standard Chlorine of Delaware, Inc., Delaware City, DE.	49 CFR 173.213(c)	To authorize the transportation in commerce of Environmentally Hazardous Substance, Solid n.o.s., Class 9, in 5M1 bags. (Mode 1.)
11891–N	DOT–E 11891	Aldrich Chemical Co., Milwaukee, WI.	49 CFR 171 to 178	To authorize the one-time transportation in commerce of certain hazardous materials in various classes and divisions, contained in specific type packagings, as essentially non-regulated. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11892–N	DOT–E 11892	Van Vool HV, B–2500 Lier, Koningshooikt, BE.	49 CFR 178.245, Part 173	To authorize the manufacture, mark and sale of non-DOT specification steel portable tanks, similar to DOT–51 steel portable tanks, permanently fitted within an ISO frame for use in transporting those hazardous material authorized in a DOT–51. (Modes 1, 2, 3.)
11900–N	DOT–E 11900	Osmose Wood Preserving, Inc., Buffalo, NY.	49 CFR 173.4(a) (1)(iii)	To authorize the transportation in commerce of methylisothiocyanate, Division 6.1 in containers which exceed the quantity limitations authorized by the small quantity exceptions. (Mode 1.)
11912–N	DOT–E 11912	Florida Power Light, Jensen Beach, FL.	49 CFR 173.403, 173.427	To authorize the transportation in commerce of steam generators to be classified as surface contaminated objects and transported in non-specification packaging. (Mode 2.)
11926–N	DOT–E 11926	The Dow Chemical Co., Midland, MI.	49 CFR 173.221	To authorize the transportation in commerce of polystrene beads, expandable, Class 9, in UN1H2 plastic drums not to exceed 200 pounds. (Modes 1, 2, 3, 4.)
11903–N	DOT–E 11903	Comptank Corporation, Ontario, CN.	49 CFR 107.503(b), 172.102(c) (3), SP B15, B23, B30, B32, 173.241, 173.242, 173.243, 178.340, 178.342, 178.343, 180.405, 180.413(d).	To authorize the use of non-DOT specification cargo tanks manufactured from glass fiber reinforced plastics for use in transporting variouis hazardous materials classed as Division 6.1, Class 3, 8 or 9. (Mode 1.)
11910–N	DOT–E 11910	San Esters Corp., New York, NY.	49 CFR 172.102(c) (7)(i), T15.	To authorize the transportation in commerce of allyl methacrylate, Division 6.1, in IMO Type 1 tanks with a minimum test pressure of 4 bar, equipped with prohibited bottom outlets. (Modes 1, 3.)
11933–N	DOT–E 11933	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 173.3, 173.304	To authorize the manufacture, mark and sale of a non-DOT specification cylinder (pressure vessel) for the transportation in commerce of chlorine, Division 2.3. (Modes 1, 2, 3.)
		Emergency Exemptions		
EE 11826–N	DOT–E 11826	MG Industries-Gas Technology & Services Group, Morrisville, PA.	49 CFR 173.302(a) (5)	To authorize the transportation in commerce of DOT–3AL aluminum cylinders for use in transporting various mixtures of gases. (Modes 1, 2, 3, 4.)
EE 11902–N	DOT–E 11902	Eurotainer USA, Inc., Somerset, NJ.	49 CFR 173.225(e) (3)(c)	Request for an emergency exemption from 173.225(e)(3)(c) concerning portable tank pressure relief device setting and capacity requirements for certain organic peroxides. (Modes 1, 2, 3.)
EE 11931–N	DOT–E 11931	Mine Safety Appliances Co., Pittsburgh, PA.	49 CFR 172.101, SP 60 ...	To authorize the transportation of personal breathing apparatus without two independent means of preventing actuation. (Modes 1, 2, 3, 4.)
EE 11932–N	DOT–E 11932	PECO, Portland, OR	49 CFR 172.101(i) (3)	To authorize the transportation in commerce of oxygen generators in passenger service units in bulk non-DOT specification packaging. (Mode 1.)
EE 11937–N	DOT–E 11937	Puritan-Bennett Aero Systems Co., Lexena, KS.	49 CFR 172.102(c) (1)	To authorize the transportation in commerce of an oxygen generator, chemical, with one of the two positive means of preventing unintentional actuation of generator consisting of a packaging feature. (Modes 1, 2, 3, 4.)
EE 11949–N	DOT–E 11949	Drager Aerospace Oxycrew (PBE), Lubeck, GE.	49 CFR 172.102(c) (1), SP 60.	To authorize the transportation in commerce of protective breathing equipment (PBE), containing chemical oxygen generators which utilize special integra packaging as a secondary means of preventing actuation. (Modes 1, 2, 3, 4.)
EE 11951–N	DOT–E 11951	Van Waters & Rogers, Inc, Anchorage, AK.	49 CFR 172.101 col. 9(b)	Emergency exemption request from the quantity limitation per package provisions, concerning hypochlorite solutions, which limits the quantity per package to 60 L on cargo aircraft only. The request states that this would be a one-time shipment of the material in quantitites of 53 gallons net product per package. (Mode 4.)
EE 11952–N	DOT–E 11952	Department of Defense (DOD), Falls Church, VA.	49 CFR 173.306(a)	To authorize the emergency transportation in commerce of specially designed packaging consisting of a cylinder containing less than 7.22 cubic inches of nitrogen, compressed, Division 2.2 overpacked in container weighing approximately 89 pounds. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11955–N	DOT–E 11955	Scott Aviation, Lancaster, NY.	49 CFR 172.102(c)	To authorize the emergency transportation in commerce oxygen genators which utilize speical packaging as secondary means of preventing actuation. (Modes 1, 2, 3, 4.)
EE 11956–N	DOT–E 11956	Scott Aviation, Lancaster, NY.	49 CFR 172.102(c) (1)	To authorize the emergency transportation in commerce of protective breathing equipment (PBE), containing chemical oxygen generators which utilize special packaging as a secondary means of preventing actuation. (Modes 1, 2, 3, 4.)
EE 11958–N	DOT–E 11958	Nucor Steel, Darlington, SC.	49 CFR 173.24b(d) (2)	To authorize the emergency transportation in commerce of Hazardous Waste Solid, n.o.s. in a hopper type rail car. (Mode 2.)
EE 11959–N	DOT–E 11959	Nucor Steel, Mount Pleasant, SC.	49 CFR 173.24b(d) (2)	Request for an emergency exemption to authorize the movement of a hopper type rail car overloaded with hazardous waste solid. (Mode 2.)
EE 11960–N	DOT–E 11960	Russell-Stanley Corp. Red Bank, NJ.	49 CFR 172.101, 173.201	Request for an emergency exemption to transport material in drums that are not marked with the correct UN performance rating. (Mode 1.)
EE 11961–E	DOT–E 11961	Vulcan Chemicals, Birmingham, AL.	49 CFR 173.24(b), 173.31(b) (1)(3), 179–300–12(b), 179.300–13, 179.300–14.	Request for an emergency exemption to transport of a one ton tank container with chlorine. The tank has leakage around one of the product valves and is equipped with a B kit. The tank will be moved approximately 200 miles in order to determine why the leak developed. (Mode 1.)
EE 11962–N	DOT–E 11962	Bayer Corp., Pittsburgh, PA.	49 CFR 173.212	Bayer is requesting an emergency exemption to transport pure sodium in a chemical process vessel (accumulator). (Mode 1.)
EE 11964–N	DOT–E 11964	Matec, Inc., Lake Oswego, OR.	49 CFR 173.158	MATEC, INC. is requesting an emergency exemption to permit 60 drums of 70% nitric acid to be transported from Portland Oregon to Eugene Or. The drums are not authorized to be used under 49 CFR. (Mode 1.)
EE 11969–N	DOT–E 11969	Advanced Environmental Technical Services, Flanders, NJ.	49 CFR 173.304(a) (2)	Request for an emergency exemption to permit the transportation of anhydrous ammonia in cylinders that are not authorized for anhydrous ammonia. (Mode 1.)
EE 11973–N	DOT–E 11973	UXB International, Ashburn, VA.	49 CFR 173.3, 173.320, 173.54, 173.56, 173.57.	Request for an emergency exemption to transport materials (including waste explosives) in packaging that is not authorized for the material. (Mode 1.)
EE 11974–N	DOT–E 11974	Laidlaw Environmental Services, Columbia, SC.	49 CFR 173.21	Request for an emergency exemption to transport a forbidden material from Illinois to Nebraska. (Mode 1.)
EE 11975–N	DOT–E 11975	Solutia, Inc., St. Louis, MO.	49 CFR 172.101, special provision B59, 173.242.	Request for an emergency exemption to transport phosphorus pentasulfide in a water-tight, sift-proof closed top metal hopper truck. (Mode 1.)
EE 11978–N	DOT–E 11978	Radian International Research, Triangle Park, NC.	49 CFR 172.202, 172.203, 172.301.	Request for an emergency exemption for the one-time shipment of approximately 1,700 chemicals using generic proper shipping names without the technical names associated with the general description. (Mode 1.)
EE 11979–N	DOT–E 11979	InLiner USA, Houston, TX	49 CFR 173.242	To authorize the emergency one-time transportation in commerce of resin solution, injected into a polyester felt liner configuration which is shipped in a refrigerated trailer containing dry ice to maintain temperature control. (Mode 1.)
EE 11985–N	DOT–E 11985	Shell Chemical Co., Lakeland, FL.	49 CFR 173.242	Request for the one-time transportation of a tank containing solid sulphuric acid to a disposal site. (Mode 1.)
EE 11986–N	DOT–E 11986	DOD/MTMC, Falls Church, VA.	49 CFR 176.136 (a) and (b).	Request for emergency exemption to authorize the stowage of Division 1.2, comp. group L explosives in a freight container below deck aboard large, med. speed rollon/roll off vessels. (Mode 3.)
EE 11988–N	DOT–E 11988	COFAP of America, Inc., Dayton, OH.	49 CFR parts 100–180 except as provided in the exemption..	Request for an emergency exemption to manufacture, mark and sell shock absorbers and struts containing non-flammable gas as accumulators. (Modes 1, 2, 3, 4, 5.)
EE 11989–N	DOT–E 11989	DOD/MTMC, Falls Church, VA.	49 CFR 172.504, 172.504, 176.83(9b), 176.83(9b), 176.83(9d), 176.83(9d), 176.83(9f).	Request for an emergency exemption from segregation requirements aboard vessels for explosive materials. (Mode 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11911–N	DOT–E 11991	Cabot Performance Materials.	49 CFR 174.427	Request for an emergency exemption to transport containers that have leaks to be shipped back to their origin for reprocessing, in order to prevent significant injury to persons or property. (Modes 1, 2.)
EE 11995–N	DOT–E 11995	Stolt Nielsen, Houston, TX	49 CFR Special Provision T15.	Request for an emergency exemption to permit the movement of an intermodal tank container of toxic liquid flammable. The tank is not authorized under 49 CFR. (Mode
EE 11996–N	DOT–E 11996	Van Waters & Rogers, Carencro, LA.	49 CFR 173.24, 173.304, 173.34.	Request for an emergency exemption to transport a cylinder containing sulfur dioxide with an emergency capping kit (Kit A) applied. (Mode 1.)
EE 11997–N	DOT–E 11997	Howard Industries, Columbus, OH.	49 CFR 171.2, 173.212(a)	Request for an emergency exemption to use packagings that are not authorized to transport lithium hydroxide. (Mode 1.)
EE 11998–N	DOT–E 11998	Safety-Kleen Oil Recovery, East Chicago, IN.	49 CFR 172.102, SP B74	To authorize the emergency transportation of seventeen (17) DOT Specification 105J200W tank cars transporting RQ Waste Toxic Liquids, corrosive, Inorganic, n.o.s., Division 6.1 and Class 8, Poison Inhalation hazard zone B not meeting SP B74. (Mode 2.)
EE 12006–N	DOT–E 12006	Delta Chemical Corp., Baltimore, MD.	49 CFR 173.24(b), 173.31, 179.300–12(b), 179.300–13, 179.300–14.	Request to transport a leaking clorine one ton container equipped with an emergency kit ''b''. (Mode 1.)
EE 12007–N	DOT–E 12007	Soils Chem. Corp., Hollister, CA.	49 CFR 173.40	Request for packaging not authorized for Chloropicrin (Mode 1.)
EE 12008–N	DOT–E 12008	ASARCO Inc., New York, NY.	49 CFR 173.31(a) (3), 180.509(c) (3)(iii).	To authorize the emergency transportation of Corrosive Liquid, n.o.s., Class 8, in rubber lined tank cars. (Mode 2.)
EE 12009–N	DOT–E 12009	Drug Enforcement Administration, Washington DC.	49 CFR 173.304	Request for an emergency exemption to transport anhydrous ammonia in cylinders that are not authorized or exceed the maximum storage density. (Mode 1.)
EE12012–N	DOT–E 12012	Waste Management Federal Services, Richland, WA.	49 CFR 173.24(b), 179–300–12(b), 179.300–13(a), 179.300–14.	Request for emergency exemption to transport sulfuric acid in tank cars for a period of 90 days beyond the period of tank test requirements. (Mode 1.)
EE12016–N	DOT–E 12016	Cytec Industries, Inc., West Patterson, NJ.	49 CFR 1	Request for emergency exemption to transport sulfuric acid in tank cars for a period of 90 days beyond the period of tank test requirements. (Mode 2.)
EE12017–N	DOT–E 12017	A.H. Marks, West Yorkshire, England.	49 CFR 172.102(c) (7)(i)	Request for emergency exemption to permit the one-time shipment of a 6.1 material in an IM 101 portable tank equipped with bottom outlets. (Mode 1.)
EE12019–N	DOT–E 12019	Lockheed Martin Skunk Work, Palmdale, Ca.	49 CFR 173.62	To authorize one-time transportation in commerce of an explosive device installed into a guided missile test vehicle. The device is installed in such a way that it cannot be removed at this stage of assembly. (Mode 1.)

DENIALS

10020–M	Request by Allwaste, Inc. Houston, TX to authorizes the use of a non-DOT specification roll-on/roll-off container, for transportation of Class 8 solids denied September 17, 1997.
11579–M	Request by Dyno Nobel Inc. Salt Lake City, UT to authorize the transportation in commerce of certain Class 8 acidic material on the same motor vehicle with Division 1.5D explosives denied November 26, 1997.
11748–N	Request by Frank W. Hake Associates Memphis, TN to authorize the transportation in commerce of steam generators from pressurized water nuclear power plants without the use of overpack denied October 15, 1997.
11816–N	Request by The Scotts Co. Marysville, OH to authorize the transportation in commerce of certain hazardous materials across a public road, from one part of a plant to another, as essentially not subject to the hazard communication requirements in Part 172 denied December 11, 1997.
11823–N	Request by Dyno Nobel Inc. Salt Lake City, UT to authorize the emergency transportation of explosive components to a waste disposal site denied November 12, 1997.
11843–N	Request by Shell Chemical Co. Houston, TX to authorize an exemption from the requirement to modify, reassign, retire, or remove at least 50 percent of in-service tank car fleet used for the transportation of a hazardous substance denied August 19, 1997.
11943–N	Request by ICI Americas Inc. Wilmington, DE to authorize the transportation of co-loading of materials meeting Packing Group III toxic (poison) class, bearing ''harmful—keep away from food'' labels denied August 1, 1997.

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11653–N	Phillips Petroleum Co., Bartlesville, OK.	49 CFR 174.9	To authorize the transportation in commerce of a empty tank car with defective heater coils (PSPX 517) last contained a Class 8 material. (Mode 2.)
11671–N	Matheson Gas Products, Secaucus, NJ.	49 CFR 172.101, Col (9B)	To authorize the transportation in commerce of arsine and phosphine, Division 2.3 in DOT specification cylinders by cargo only aircraft. (Mode 4.)
11678–N	Air Transport Association, Washington, DC.	49 CFR 172.200, 172.201, 172.202, 172.203, 172.204, 172.300, 172.301, 172.415, 172.600–604, 173.29 & 175.33.	To authorize the transportation in commerce of DOT approved cylinders, not to exceed 7.5 cu. ft., used in connection with calibration devices for alcohol testing units for flight crews, containing Division 2.2 material to be transported without required marking, labelling, shipping paper, and notification of pilot in command. (Modes 4, 5.)
11830–N	North Coast Container Corp., Cleveland, OH.	49 CFR 178.3(a)(5), 178.503(a)(10).	To authorize the transportation of 55 gallon full removable head and non-removable head steel drums with alternative markings. (Mode 1.)
11852–N	McKenzie Tank Lines, Inc., Tallahassee, FL.	49 CFR 173.315(A) Note 24 ...	To authorize transportation in commerce of methylamine, anhydrous, Division 2.1, in MC330 and 331 cargo tanks and the manufacture, mark and sale of new 331 cargo tanks that do not meet the container specification requirements. (Mode 1.)
11869–N	Driscoll Children's Hospital, Corpus Christi, TX.	49 CFR 172.101 9(a)	To authorize the transportation in commerce of nitric oxide, Division 2.3, with a subsidiary risk of Division 5.1 and Class 8 in aluminum cylinders weighing no more than 11 lbs. for use as part of a emergency medical transport of critically ill newborns and infants care system. (Mode 5.)
11940–N	Dept of Defense, Falls Church, VA.	49 CFR 172.301	DOD requests an emergency exemption to transport boxes containing 1.4S materials inadvertently marked with the incorrect shipping name. (Mode 1.)

[FR Doc. 98–8100 Filed 3–26–98; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33407]

Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation of New Rail Facilities in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to prepare an environmental impact statement (EIS), request for comments on the proposed EIS scope, and notice of scoping meetings.

SUMMARY: On February 20, 1998, the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) filed an application with the Surface Transportation Board (Board) for authority to construct and operate new rail line facilities in east-central Wyoming, southwest South Dakota, and south-central Minnesota. The project involves a total new construction of 280.9 miles of rail line. Additionally, DM&E proposes to rebuild 597.8 miles of existing rail line along its current system to standards acceptable for operation of unit coal trains. Because the construction and operation of this project has the potential to result in significant environmental impact, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. SEA will hold agency and public scoping meetings as part of the EIS process, at the dates and locations described below. The exact locations of the meetings will be advertised two weeks prior to the meeting dates.

Dates and Locations

Agency Scoping Meetings

April 29, 1998, Cheyenne, Wyoming 9–11 am
May 14, 1998, St. Paul, Minnesota 1–3 pm
June 17, 1998, Pierre, South Dakota 9–11 am

Public Scoping Meetings

April 29, 1998, Wright, Wyoming 4–7 pm
April 30, 1998, Edgemont, South Dakota 4–7 pm
May 1, 1998, Hot Springs, Wyoming 4–7 pm
May 12, 1998, Mankato, Minnesota 4–7 pm
May 13, 1998, Rochester, Minnesota 4–7 pm
June 16, 1998, Wall, South Dakota 4–7 pm
June 17, 1998, Pierre, South Dakota 4–7 pm
June 18, 1998, Huron, South Dakota 4–7 pm
June 29, 1998, Brookings, South Dakota 4–7 pm
June 30, 1998, Springfield, Minnesota 4–7 pm

Both the agency and public scoping meetings will be informal meetings during which interested persons may ask questions about the proposal and the Board's environmental review process, and advise the Board's representative about potential environmental effects of the project. SEA will make available to the public a draft scope of the EIS before the first meeting. SEA will also provide time for the public to submit written comments on the draft scope. That period will run concurrently with the agency and public meetings. SEA will issue a final scope shortly after the final meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Rutson, SEA Project Manager, Powder River Basin Expansion Project, (202) 565–1545.

SUPPLEMENTARY INFORMATION:

Background

The proposed rail construction project, referred to as the Powder River Basin Expansion Project, would involve the construction and operation of 280.9 miles of new rail line by the Dakota,

Minnesota & Eastern Railroad Corporation (DM&E), Brookings, South Dakota. The project would provide access for a third rail carrier to serve the region's coal mines and transport coal eastward from the Powder River Basin. New rail construction would include 262.03 miles of rail line extending off DM&E's existing system near Wasta, South Dakota, extending generally southwesterly to Edgemont, South Dakota and then westerly into Wyoming to connect with existing coal mines located south of Gillette, Wyoming. This portion of the new construction would traverse portions of Custer, Fall River, Jackson, and Pennington Counties, South Dakota and Campbell, Converse, Niobrara, and Weston Counties, Wyoming.

New rail line construction would also include a 13.31 mile line segment around Mankato, Minnesota within Blue Earth and Nicollet Counties. DM&E currently has trackage on both sides of Mankato, accessed by trackage rights on rail line operated by Union Pacific Railroad (UP). The proposed Mankato construction would provide DM&E direct access between its existing lines, avoid operational conflicts with UP, and route rail traffic around the southern side of Mankato, avoiding the downtown area.

The final proposed segment of new rail construction would involve a connection between the existing rail systems of DM&E and I&M Rail Link. The connection would include construction and operation of 2.94 miles of new rail line near Owatonna, Steele County, Minnesota. The connection would allow interchange of rail traffic between the two carriers.

In order to transport coal over the existing system, DM&E proposes to rebuild 597.8 miles of rail line along its existing system. The majority of this—584.95 miles—would be along DM&E's mainline between Wasta, South Dakota, and Winona, Minnesota. An additional 12.85 miles of existing rail line between Oral and Smithwick, South Dakota would also be rebuilt. Rail line rebuilding would include rail and tie replacement, additional sidings, signals, grade crossing improvements, and other systems.

DM&E plans to transport coal as its principle commodity. However, shippers desiring rail access could ship other commodities in addition to coal over DM&E's rail line. Existing shippers along the existing DM&E system would continue to receive rail service.

Environmental Review Process

At this time, the Board's SEA is requesting information and general comments on the scope of environmental issues to be addressed in the EIS for the proposed project. The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. The first stage of the EIS process is scoping. Scoping is an open process for determining the scope of environmental issues to be addressed in the EIS and their potential for significance. SEA will soon develop and make available a draft scope of study for the EIS and provide a period for the submission of written comments on it. Concurrently, scoping meetings will be held as noted above to provide opportunities for public involvement and input into the scoping process. Following the issuance of a draft scope and the comment period, SEA will issue a final scope of study for the EIS.

After issuing the final scope of study, SEA will prepare a Draft EIS (DEIS) for the project. The DEIS will address those environmental issues and concerns identified during the scoping process and detailed in the scope of study. It will also contain SEA's preliminary recommended environmental mitigation measures. The DEIS will be made available upon its completion for public review and comment. A Final EIS (FEIS) then will be prepared reflecting SEA's further analysis and the comments to the DEIS. In reaching its decision in this case, the Board will take into account the DEIS, FEIS, and all environmental comments that are received.

Filing Environmental Comments

SEA encourages broad participation in the EIS process. Interested persons and agencies are invited to participate in the scoping phase by reviewing the scope of study, attending the scoping meetings, and submitting written comments SEA. A signed original and 10 copies of comments should be submitted to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33407, Surface Transportation Board, 1925 K Street, NW., Washington, D.C. 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

By following this procedure, your comments will be placed in the formal Public Record for this case. In addition, SEA will add your name to its mailing list for distribution of the final scope of study for the EIS, the DEIS, and FEIS.

Issued: March 27, 1998.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 98–8117 Filed 3–26–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–492 (Sub-No. 1X)]

Fillmore Western Railway Company—Abandonment Exemption—in Fillmore, Jefferson, Saline and Thayer Counties, NE

On March 9, 1998, Fillmore Western Railway Company (FWRY) filed with the Surface Transportation Board (Board) a corrected petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon the following lines of railroad: (1) the Bruning Line extending from railroad milepost 10.0 near Geneva, to railroad milepost 24.5 near Bruning; (2) the Daykin Line extending from railroad milepost 35.8 at East Strang Junction to railroad milepost 23.2/28.4 at Tobias and continuing to the end of the line at railroad milepost 36.2 at Daykin; and (3) the Shickley Line extending from railroad milepost 37.5 near West Strang Junction to railroad milepost 45.0 at Shickley, a total distance of 42.40 miles in Fillmore, Jefferson, Saline and Thayer Counties, NE.[1] The lines traverse U.S. Postal Service Zip Codes 68146, 68406, 68361, 68436, 68444, 68322, 68453 and 68338. The lines include the stations of Shickley (milepost 45.0), Bruning (milepost 24.5), Ohiowa (milepost 29.8), Tobias (milepost 23.2/28.4), and Daykin (milepost 36.2).

The lines do not contain federally granted rights-of-way. Any documentation in FWRY's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding

[1] FWRY's original petition for exemption, filed January 26, 1998, included incorrect milepost designations. In an errata to its petition, FWRY corrected the milepost designations and amended the total mileage. Also, petitioner certified that it served corrected information in its environmental and historic reports to the proper parties and published the corrections in a newspaper of general circulation as required. The dates reflected in this notice are based on the date the errata was received, which is the official filing date.

pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 26, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the lines, the lines may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 16, 1998. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–492 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) T. Scott Bannister, 1300 Des Moines Bldg., 405 Sixth Ave., Des Moines, IA 50309.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: March 17, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–7619 Filed 3–25–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8849

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8849, Claim for Refund of Excise Taxes.

DATES: Written comments should be received on or before May 26, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Claim for Refund of Excise Taxes

OMB Number: 1545–1420

Form Number: 8849

Abstract: Internal Revenue Code sections 6402 and 6404, and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 8849 is used by taxpayers to claim refunds of excise taxes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and not-for-profit institutions.

Estimated Number of Respondents: 125,292

Estimated Time Per Respondent: 7 hr., 7 min.

Estimated Total Annual Burden Hours: 890,507

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7974 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6406

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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

comments concerning Form 6406, Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

DATES: Written comments should be received on or before May 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

OMB Number: 1545–0229.

Form Number: 6406.

Abstract: Form 6406 is used to apply for a determination for a minor amendment for an employee benefit plan if that plan has already received a favorable determination letter that takes into account the requirements of the Tax Reform Act of 1986. The information gathered will be used to decide whether the plan is qualified under Internal Revenue Code section 401(a).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 16,000.

Estimated Time Per Respondent: 12 hr., 59 min.

Estimated Total Annual Burden Hours: 207,840.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7975 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5578

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.

DATES: Written comments should be received on or before May 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.

OMB Number: 1545–0213.

Form Number: 5578.

Abstract: Every organization that claims exemption from Federal income tax under Internal Revenue Code section 501(c)(3) and that operates, supervises, or controls a private school must file a certification of racial nondiscrimination. Such organizations, if they are not required to file Form 990, must provide the certification on Form 5578. The Internal Revenue Service uses the information to help ensure that the school is maintaining a nondiscriminatory policy in keeping with its exempt status.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 4 hr., 45 min.

Estimated Total Annual Burden Hours: 4,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: March 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7976 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3520–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3520–A, Annual Information Return of Foreign Trust with a U.S. Owner.

DATES: Written comments should be received on or before May 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Information Return of Foreign Trust with a U.S. Owner.

OMB Number: 1545–0160.

Form Number: 3520–A.

Abstract: Internal Revenue Code section 6048(b) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return. Form 3520–A is used to report the income and deductions of the foreign trust and provide statements to the U.S. owners and beneficiaries. IRS uses Form 3520–A to determine if the U.S. owner of the trust has included the net income of the trust in its gross income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other-for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 43 hr., 2 min.

Estimated Total Annual Burden Hours: 21,515.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7977 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8857

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8857, Request for Innocent Spouse Relief.

DATES: Written comments should be received on or before May 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Innocent Spouse Relief.

OMB Number: 1545–1596.

Form Number: 8857.

Abstract: Section 6013(e) of the Internal Revenue Code allows taxpayers to request, and IRS to grant, ''innocent spouse'' relief when: the taxpayer filed a joint return with tax substantially understated; the taxpayer establishes no knowledge of, or benefit from, the understatement; and it would be inequitable to hold the taxpayer liable. Form 8857 is used to request relief from liability of an understatement of tax on a joint return resulting from a grossly erroneous item attributable to the spouse.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 11,667.

Estimated Time Per Respondent: 1 hr., 5 min.

Estimated Total Annual Burden Hours: 12,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7978 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[TD 8172]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, TD 8172, Qualification of Trustee or Like Fiduciary in Bankruptcy (§ 301.6036–1).

DATES: Written comments should be received on or before May 26, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualification of Trustee or Like Fiduciary in Bankruptcy.

OMB Number: 1545–0773.

Regulation Project Number: TD 8172.

Abstract: Internal Revenue Code section 6036 requires that receivers, trustees in bankruptcy, assignees for the benefit of creditors, or other like fiduciaries, and all executors shall notify the district director within 10 days of appointment. This regulation provides that the notice shall include the name and location of the Court and when possible, the date, time, and place of any hearing, meeting or other scheduled action. The regulation also eliminates the notice requirement under section 6036 for bankruptcy trustees, debtors in possession and other fiduciaries in a bankruptcy proceeding.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 18, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–7980 Filed 3–26–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''An Expressionist in Paris: The Paintings of Chaim Soutine'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Jewish Museum, New York, New York, from on or about April 26, 1998, to on or about August 16, 1998, the Los Angeles County Museum of Art, Los Angeles, California, from on or about September 17, 1998 to on or about January 3, 1999, and the Cincinnati Art Museum, Cincinnati, Ohio, from on or about February 14, 1999 to on or about May 2, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

[1] A copy of this list may be obtained by contacting Ms. Lorie Nierenberg, Assistant General Counsel, at 202/619–6084; the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Dated: March 23, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–8033 Filed 3–26–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Friday
March 27, 1998

Part II

Environmental Protection Agency

40 CFR Parts 9 and 63

Aerospace Manufacturing and Rework Facilities; National Emission Standards for Hazardous Air Pollutants and Control Techniques Guideline Document for Source Categories; Final and Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[AD–FRL–5978–4]

RIN 2060–AE02

National Emission Standards for Hazardous Air Pollutants and Control Techniques Guideline Document for Source Categories: Aerospace Manufacturing and Rework Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and release of final control techniques guideline (CTG) document.

SUMMARY: This action finalizes several amendments to the national emission standards for hazardous air pollutants (NESHAP) for aerospace manufacturing and rework facilities proposed in the **Federal Register** on October 29, 1996 (61 FR 55842). The amendments include: Corrections to several references in the rule; revisions and additions to definitions; clarification of the applicability of the cleaning operations standards; clarification of the applicability of the rule to space vehicles; addition of standards for Type I chemical milling maskants; addition of a test method for determining the filtration efficiency of dry particulate filters; revision of standards for new and existing sources using dry particulate filters to control emissions from topcoat and primer application and depainting operations; addition of an exemption for certain water-reducible coatings; addition of an exemption from inorganic HAP requirements for hand-held spray can applications; addition of an essential use exemption for cleaning solvents; clarification of compliance dates; clarification of the applicability of new source MACT to spray booths; clarification and addition of emissions averaging provisions; revision of the requirements for new and existing primer and topcoat application operations; clarification of monitoring requirements for dry particulate filter usage; revision of the standard for depainting operations; addition of a cross reference to requirements in the General Provisions in subpart A of part 63; addition of appendix A to this subpart containing definitions for specialty coatings; miscellaneous changes to the proposed amendatory language; and minor technical corrections, including correction of the OMB tracking number in 40 CFR part 9 (Section 9.1), that were not part of the October 29, 1996 proposal. Today's action takes final action on all of these amendments.

EFFECTIVE DATE: March 27, 1998.

ADDRESSES: *Control Techniques Guideline.* Copies of the final CTG may be obtained from the U. S. EPA Library (MD–35), Research Triangle Park, NC 27711; telephone (919) 541–2777.

An electronic version of documents from the Office of Air and Radiation (OAR) are available through EPA's OAR Technology Transfer Network Web site (TTNWeb). The TTNWeb is a collection of related Web sites containing information about many areas of air pollution science, technology, regulation, measurement, and prevention. The TTNWeb is directly accessible from the Internet via the World Wide Web at the following address, ''http://www.epa.gov/ttn''. Electronic versions of this preamble and rule are located under the OAR Policy and Guidance Information Web site, ''http://www.epa.gov/ttn/oarpg/'', under the Recently Signed Rules section. If more information on the TTNWeb is needed, contact the Systems Operator at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice and analyses performed in developing this rule, contact Ms. Barbara Driscoll, Policy Planning and Standards Group, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541–0164. For implementation issues (guidance documents), contact Ms. Ingrid Ward, Program Review Group, Information Transfer and Program Integration Division (MD–12), U. S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0300. For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA regional representative. For a listing of EPA regional contacts, see the following **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are owners or operators of facilities that are engaged, either in part or in whole, in the manufacturing or rework of commercial, civil, or military aerospace vehicles or components and that are major sources as defined in § 63.2 of this part. Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities that are major sources of hazardous air pollutants and manufacture, rework, or repair aircraft such as airplanes, helicopters, missiles, rockets, and space vehicles.
Federal Government	Federal facilities that are major sources of hazardous air pollutants and manufacture, rework, or repair aircraft such as airplanes, helicopters, missiles, rockets, and space vehicles.

This table is not intended to be exhaustive, but rather it provides a guide for readers regarding entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility [company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in § 63.741 of the NESHAP for aerospace manufacturing and rework facilities promulgated in the **Federal Register** on September 1, 1995 (60 FR 45948). If you have questions regarding the applicability of this action to a particular entity, contact the appropriate regional representative:

Region I

NESHAP (MACT) Coordinator, U.S. EPA Region I, John F. Kennedy Federal Building, One Congress Street, Boston, MA 02203–001, (617) 565–3438

Region II

Umesh Dholakia or Yue-On Chiu, U.S. EPA Region II, 290 Broadway Street, New York, NY 10007–1866, (212) 637–4023 (Umesh), (212) 637–4065 (Yue-On)

Region III

Bernard Turlinski, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–2150

Region IV

Leonardo Ceron, U.S. EPA Region IV, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303–3104, (404) 562–9129

Region V

Emmett Keegan, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 886–0678

Region VI

Elvia Evering, U.S. EPA Region VI, First Interstate Bank Tower, @ Fountain Place, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202–2733, (214) 665–7575

Region VII

Richard Tripp, U.S. EPA Region VII, Air Toxics Coordinator, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7566

Region VIII

Heather Rooney, U.S. EPA Region VIII, Air Toxics Coordinator, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6971

Region IX

Nikole Reaksecker, U.S. EPA Region IX, Air Division-6, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1187

Region X

Andrea Wullenweber, U.S. EPA Region X, Air Toxics Coordinator, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–8760

These amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants to the level reflecting application of the maximum achievable control technology.

In addition, the EPA announces the availability of a final control techniques guideline (CTG) document for control of volatile organic compound (VOC) emissions from aerospace manufacturing and rework facilities. This document has been prepared in accordance with section 183(b)(3) of the Clean Air Act Amendments of 1990 (the ''Act'') to assist States in analyzing and determining reasonably available control technology (RACT) for stationary sources of VOC emissions located within ozone national ambient air quality standard nonattainment areas. The final document recommends RACT for industries included in, but not limited to, 10 Standard Industrial Classification (SIC) codes: SIC 3720, Aircraft and Parts; SIC 3721, Aircraft; SIC 3724, Aircraft Engines and Engine Parts; SIC 3728, Aircraft Parts and Equipment; SIC 3760, Guided Missiles, Space Vehicles, and Parts; SIC 3761, Guided Missiles and Space Vehicles; SIC 3764, Space Propulsion Units and Parts; SIC 3769, Space Vehicle Equipment; SIC 4512, Scheduled Air Transportation; and SIC 4581, Airports, Flying Fields, and Services.

(As of January 1, 1997, a new numerical coding system for classifying industries has been implemented by the U.S. Census Bureau. The new system is called the North American Industrial Classification System—NAICS. The following list of affected industries was developed as a cross-reference to the above SIC codes: NAICS 336411, Aircraft Manufacturing; NAICS 336412, Aircraft Engine and Engine Parts Manufacturing; NAICS 336413, Other Aircraft Part and Auxiliary Equipment Manufacturing; NAICS 336414, Guided Missile and Space Vehicle Manufacturing; NAICS 336419, Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing; NAICS 481111, Scheduled Passenger Air Transportation; and NAICS 481112, Scheduled Freight Air Transportation.)

The information presented below is organized as follows:

I. Background
A. Public Comment on the October 29, 1996 Proposal
B. Judicial Review
II. Summary of Major Comments and Changes to the Proposed Amendments to the Rule
A. Corrections to References
B. Definitions
C. Cleaning Operations
D. Applicability to Space Vehicles
E. Standards for Type I Maskants
F. Test Method for Determining Filtration Efficiency
G. Standards for Dry Particulate Filters
H. Exemption for Waterborne Coatings
I. Exemption From Inorganic HAP Requirements for Hand-Held Spray Can Applications
J. Essential Use Exemption for Cleaning Solvents
K. Compliance Dates
L. Requirements for New Affected Sources (Spray Booths)
M. Emissions Averaging
N. Requirements for New and Existing Primer and Topcoat Application Operations
O. Monitoring Requirements for Dry Particulate Filter Usage
P. Depainting Operations
Q. Applicability of General Provisions
R. Specialty Coatings
S. Miscellaneous Changes
T. Technical Corrections
III. Control Techniques Guideline
IV. Administrative Requirements
A. Docket
B. Paperwork Reduction Act
C. Executive Order 12866
D. Regulatory Flexibility Act
E. Submission to Congress
F. Unfunded Mandates Reform Act

I. Background

National emission standards for hazardous air pollutants for aerospace manufacturing and rework facilities were proposed under Section 112(d) of the Clean Air Act Amendments of 1990 (the ''Act'') in the **Federal Register** on June 6, 1994 (59 FR 29216). Public comments were received regarding the standards and the final NESHAP was promulgated in the **Federal Register** on September 1, 1995 (60 FR 45948). After promulgation of the final rule, several issues were raised by various industry representatives and affected parties. Based on discussions with the commenters, the Agency proposed actions to amend §§ 63.741, 63.742, 63.743, 63.744, 63.745, 63.746, 63.747, 63.749, 63.750, 63.751, 63.752 and 63.753 of subpart GG of 40 CFR part 63. These sections deal with applicability, definitions, general standards, cleaning operations, topcoat and primer application operations, depainting operations, chemical milling maskant application operations, compliance dates and determinations, test methods and procedures, monitoring requirements, recordkeeping requirements, and reporting requirements. These changes provide additional flexibility to the regulated community and in several instances, clarify/correct errors in the regulatory text.

A. Public Comment on the October 29, 1996 Proposal

Eighteen comment letters were received on the October 29, 1996 **Federal Register** document that proposed changes to the rule. The proposed changes covered a variety of issues and many of the comment letters were supportive of the amendments. A few other comment letters also included suggested editorial revisions to further clarify some aspects of the proposed amendments or to address oversights in the proposed amendments. The EPA considered these suggestions and, where appropriate, made changes to the proposed amendments. The significant issues raised and the changes to the proposed amendments are summarized in this preamble. More detailed responses are provided in an addendum to the background information document (BID) volume II which can be found in Docket A–92–20, document No. EPA 453/R–97–003b. Some of the comment letters also included numerous issues not covered in the October 29, 1996 proposal. The EPA reviewed and responded to each of these in the addendum to the BID; any resulting changes to the final rule will

be proposed in a future **Federal Register** notice.

B. Judicial Review

Under section 307(b)(1) of the Act, judicial review of today's amendments to the NESHAP for aerospace manufacturing and rework facilities is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the CAA, the requirements that are subject to today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

II. Summary of Major Comments and Changes to the Proposed Amendments to the Rule

A. Corrections to References

In the September 1995 promulgated rule, there were several references to § 63.751(b)(7)(iii), which only existed in an earlier draft of the promulgated rule. The EPA proposed the following revisions in October 1996: § 63.751(b)(6)(ii)(A) of the promulgated rule references (b)(7)(iii)(A)(*3*), but should reference paragraph (b)(6)(iii)(A)(*2*); § 63.751(b)(6)(iii) references (b)(7)(iii)(A), and (b)(7)(iii)(B) or (C), but should reference paragraphs (b)(6)(iii)(A), and (b)(6)(iii)(B) or (C); § 63.751(b)(6)(iii)(A)(*2*) references (b)(7)(iii)(A)(*1*), but should reference paragraph (b)(6)(iii)(A)(*1*); § 63.751(b)(6)(iii)(D) references (b)(7)(iii)(B) or (C), but should reference paragraph (b)(6)(iii) (B) or (C). There were no comments on these proposed revisions.

B. Definitions

The October 29, 1996 **Federal Register** notice contained several definitions to be added to § 63.742 and several to be revised, based on additional information submitted to the Agency after promulgation of the final rule. These changes are summarized below.

The definition of cleaning solvent in the promulgated rule stated that ''cleaning solvent'' did not include solutions that contained ''no'' HAP or VOC. Many aqueous cleaners contain negligible amounts of HAP or VOC. The EPA wants to encourage the use of these aqueous cleaners. Therefore, in October 1996 the EPA proposed the following language to exclude cleaners containing de minimis levels of HAP or VOC from the definition of cleaning solvent: ''Cleaning solvent means a liquid material used for hand-wipe, spray gun, or flush cleaning. This definition does not include solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f) (e.g., water or acetone).'' The EPA also proposed to change the applicable portion of § 63.741(f) to read: ''The requirements of this subpart also do not apply to primers, topcoats, chemical milling maskants, strippers, and cleaning solvents containing HAP and VOC at a concentration less than 0.1 percent for carcinogens or 1.0 percent for noncarcinogens, as determined from manufacturer's representations.'' One commenter stated that not all HAP's are VOC's, nor are all VOC's HAP's. If the ''and'' is used, then one could read § 63.741(f) to require both VOC's and HAP's to be present for an exemption to apply. The commenter recommended using ''and/or'' which is unacceptable because it would create an exemption when both HAP and VOC were present, but only one was below the specified level. It is not the Agency's position that both HAP and VOC need be present for the exemption described in § 63.741(f) to apply.

The proposed definition also contained a parenthetical reference to water or acetone as examples of substances that might be present at a de minimis level. One commenter stated the parenthetical reference to water or acetone is confusing and should be deleted. The EPA agreed and has revised the definition as follows:

Cleaning solvent means a liquid material used for hand-wipe, spray gun, or flush cleaning. This definition does not include solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f).

The Agency also proposed adding a definition for antique aerospace vehicle or component so that these vehicles and components would be exempted from the regulation. One commenter supported the proposed definition. Another commenter suggested revising the definition to include those nonflight worthy aircraft intended for permanent display, or used for static manufacturing technology demonstrations. The commenter indicated that the definition in 14 CFR 45.22 is limited to operational, flight worthy aircraft used in exhibitions (motion pictures, television productions or air shows). The EPA believes that the passage to which the commenter refers actually concerns ''exhibition'' rather than ''antique'' aircraft. It was not EPA's intent to add an exemption for exhibition aircraft that do not meet the ''antique aircraft'' definition. In addition, EPA believes that it is not necessary to expand the scope of the ''antique aircraft'' definition because the Agency interprets the definition as including aircraft built at least 30 years ago that are not currently flightworthy. Therefore, EPA is promulgating the definition of antique aircraft as set forth in the proposal with some clarification (i.e., simplification) as follows:

Antique aerospace vehicle or component means an aircraft or component thereof that was built at least 30 years ago. An antique aerospace vehicle would not routinely be in commercial or military service in the capacity for which it was designed.

Due to the proposed addition of a standard for Type I chemical milling maskants, EPA proposed revising the definition for chemical milling maskant. One commenter noted that in the proposed definition, listed examples should be made identical to the listed names for these maskants found in appendix A to subpart GG. Another commenter raised the issue of exempting chemical milling maskants used for two different types of chemical milling applications. The commenter stated the same maskant can be used in aluminum chemical milling and titanium chemical milling, but these applications are not used on the same part or subassembly. A maskant used for both aluminum chemical milling and titanium chemical milling could not meet the low VOC content limits. In an existing plating shop which uses the same maskant tanks for two chemical milling applications, the proposed definition and associated maskant limits would require the addition of a new maskant tank to meet the low VOC maskant limit and another tank to meet the critical use applications. This might result in an increase in emissions since the surface area of the maskant in the tanks would double. The EPA agreed that the commenters' changes are reasonable because the purpose of the rule is to reduce HAP emissions and that adding a new maskant tank would likely increase HAP emissions in the aggregate. The definition has been revised as follows:

Chemical milling maskant means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Additionally, maskants that must be used with a combination of Type I or Type II etchants and any of the above types of maskants (i.e., bonding, critical use and line sealer, and seal coat) are also exempt from this subpart. (See also Type I and Type II etchant definitions.)

To further clarify the types of chemical milling maskants that are covered by the final rule, the Agency is providing the following separate definitions for Type I and Type II etchants:

Type I etchant means a chemical milling etchant that contains varying amounts of dissolved sulfur and does not contain amines.

Type II etchant means a chemical milling etchant that is a strong sodium hydroxide solution containing amines.

A commenter provided example scenarios in which the current definition of self-priming topcoat is overly restrictive. The commenter further stated that self-priming topcoats should be recognized as topcoats and the topcoat VOC/HAP limits should apply, not the primer limits. The Agency did not agree that the described scenarios are likely to present any problems in determining the appropriate coating category. However, the Agency did agree that removing the last sentence from the definition which stated: ''The coating is not subsequently topcoated with any other product formulation'' does clarify the definition of self-priming topcoat and makes it more consistent with the definition of topcoat.

Based on additional information received from industry, the EPA proposed in October 1996 to change or add the following definitions:

Aircraft transparency means the aircraft windshield, canopy, passenger windows, lenses, and other components that are constructed of transparent materials.

Chemical milling maskant application operation means application of chemical milling maskant for use with Type I or Type II chemical milling etchants.

Closed-cycle depainting system means a dust-free, automated process that removes permanent coating in small sections at a time, and maintains a continuous vacuum around the area(s) being depainted to capture emissions.

High volume low pressure (HVLP) spray equipment means spray equipment that is used to apply coating by means of a spray gun that operates at 10.0 psig of atomizing air pressure or less at the air cap.

Specialty coating means a coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection. Individual specialty coatings are defined in appendix A to this subpart and in the CTG for Aerospace Manufacturing and Rework Operations (Document No. EPA 453/R–97–004).

Waterborne (water-reducible) coating means any coating that contains more than 5 percent water by weight as applied in its volatile fraction.

No comments were received on these proposed definitions.

Section 63.741(f) has also been modified to include § 63.742 (Definitions) in the list of additional specific exemptions from regulatory coverage.

C. Cleaning Operations

Under the promulgated rule, the standards for cleaning operations could be read to apply to all cleaning operations at a facility, not only to cleaning operations that involve aerospace vehicles, components, or coating equipment. In order to clarify the applicability of the standards for cleaning operations, the Agency proposed to revise § 63.741(c) to limit the applicability of the final rule to the manufacture or rework of aerospace vehicles or components. Other nonaerospace activities (e.g., general facility cleaning) are not subject to the requirements of this rule. No comments were received on this issue and EPA is promulgating the revisions as proposed.

The EPA proposed to replace the word ''solvent'' with the defined term ''cleaning solvent'' for clarity and consistency in § 63.744, paragraphs (a), (b), (c), and (e). The EPA has also changed the cleaning rag storage requirement by rewording the first sentence of § 63.744(a)(1) as follows:

Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use.

As originally promulgated, this NESHAP required that cleaning rags be stored immediately after use. In October 1996, EPA proposed to remove the word ''immediately'' from the sentence to make the rule more consistent from a temporal standpoint with the storage requirements contained in the California SIP-approved rules that were the basis for this requirement. No comments were received on these revisions. Accordingly, EPA decided to promulgate this change.

In addition, the EPA has changed the requirements for flush cleaning to cover the situation in which an operator is cleaning multiple items at the same station, without leaving the station. The change to § 63.744(d) is as follows: ''* * * empty the used cleaning solvent each time aerospace parts or assemblies, or components of a coating unit (with the exception of spray guns) are flush cleaned * * * .'' This change will better carry out the Agency's intent in regulating flush cleaning. No comments were received on this change.

Based on information from industry, the EPA proposed a modification to the exemption in § 63.744(e)(10). The revised text reads as follows:

Cleaning of aircraft transparencies, polycarbonate, or glass substrates.

No comments were received on this revision.

D. Applicability to Space Vehicles

Space vehicles (i.e., vehicles designed to travel beyond the limit of the earth's atmosphere) are specifically exempted from the requirements of this rule, except for the standards for depainting operations. The EPA proposed (1) removing the reference to these vehicles in § 63.741(f) and (2) adding an additional specific exemption in a new paragraph, § 63.741(h), to clarify the exemption. The EPA proposed § 63.741(h) as follows:

Regulated activities associated with space vehicles designed to travel beyond the limit of the earth's atmosphere, including but not limited to satellites, space stations, and the Space Shuttle System (including orbiter, external tanks, and solid rocket boosters), are exempt from the requirements of this subpart, except for depainting operations found in § 63.746.

One commenter concurred with this revision as an important clarification of the applicability of the rule for aerospace organizations. The EPA decided to promulgate this change to the final rule.

E. Standards for Type I Maskants

The EPA proposed to establish an emission limitation for Type I maskants and to include Type I maskants within the definition of chemical milling maskants. Pursuant to section 114 of the Act, information regarding maskants was requested from nine companies that own or operate aerospace manufacturing and rework facilities. Information was requested for all types of maskants, including total quantity used, formulation data, VOC and organic HAP content as received and as applied, substrate category and the composition of the metal alloy on which the maskant is applied, a listing of the type of parts or specific aircraft surfaces on which the maskant is used, VOC and HAP emissions from maskant application operations, and type(s) of controls (if any). The information received on Type I maskants was used to calculate a MACT floor. The MACT floor was determined to be the weighted (by usage volume) average HAP emissions from the sources, 622 grams per liter [g/L] (5.2 pounds per gallon [lb/gal]).

The EPA proposed revising § 63.747(c) to include organic HAP and VOC content limits of 622 grams per liter (g/L) (5.2 pounds per gallon [lb/gal]) as the standard for uncontrolled Type I chemical milling maskants. The EPA proposed revising paragraphs (c)(1) and (2) to specify that the organic HAP and VOC limits of 160 g/L (1.3 lb/gal) apply only to Type II chemical milling maskants. One commenter supported EPA's proposed limits and stated the proposed Type I limit recognizes that some chemical etching applications require the use of solvent-based maskants, while still achieving a significant reduction in VOC and HAP emissions from masking operations.

Due to the addition of a standard for Type I chemical milling maskants, EPA also proposed removing the definition of Type I maskants from the list of specialty coatings in appendix A of this subpart and revising the definition for chemical milling maskant in § 63.742 of the promulgated rule. No comments were received on deletion of the definition for Type I maskants from Appendix A, and comments received on the definition for chemical milling maskant are discussed under definitions in Section II.B of this preamble.

F. Test Method for Determining Filtration Efficiency

The Agency proposed a test method, Method 319, for the determination of filtration efficiency for paint overspray arresters (also referred to as particulate filters). The Agency proposed that this method be used by filter manufacturers to certify their filter efficiency. Commenters raised several issues related to the technical validity of proposed Method 319 and who could run the test. Based on these comments, the Agency has modified § 63.750(o) to state that this method can be used by filter manufacturers or distributors, paint/depainting booth suppliers, or owners or operators of affected sources to certify the efficiency of their filters for meeting the dry particulate filter requirements in today's amendments.

The EPA also proposed filter efficiency tables (Tables 1, 2, 3, and 4 of § 63.745) and one commenter recommended adding descriptive language to the table headings. The EPA added ''for existing sources'' or ''for new sources'' to each of the table headings in response to the comment.

TABLE 1 OF § 63.745.—TWO-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR EXISTING SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, µm
>90	>5.7
>50	>4.1
>10	>2.2

TABLE 2 OF § 63.745.—TWO-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR EXISTING SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, µm
>90	>8.1
>50	>5.0
>10	>2.6

TABLE 3 OF § 63.745.—THREE-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR NEW SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, µm
>95	>2.0
>80	>1.0
>65	>0.42

TABLE 4 OF § 63.745.—THREE-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR NEW SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, µm
>95	>2.5
>85	>1.1
>75	>0.70

Three commenters raised several issues related to test Method 319 and disagreed with specifics of the test method. All of the issues are addressed in the Agency's documented responses in Section 2.9 of the Addendum to the BID (Volume II), Document No. EPA 453/R–97–003b. In summary, Method 319 will retain use of oleic acid and potassium chloride (KCl) challenge aerosols. By selecting oleic acid and KCl as simulants for wet and dry overspray, the amount of testing needed is reduced because only two challenge materials are used, particle sizing accuracy is maintained, and safety and handling issues associated with volatile paint components are avoided.

The method has been revised to allow additional flexibility for alternate duct configurations. The 180 degree bend in the duct has been made optional thereby allowing use of a straight duct. Also, the measurement procedures have been revised to allow the use of two particle counters to allow simultaneous sampling (one sampling upstream and one sampling downstream). Additionally, the NESHAP retains equal requirements for ''paint overspray arrestors'' under § 63.745 Primer and Topcoat Application Operations, and ''particulate'' filters under § 63.746 Depainting Operations.

G. Standards for Dry Particulate Filters

The Agency proposed to revise MACT requirements for the control of inorganic particulates from certain primer, topcoat, and depainting operations. Based on a review of the available data, the EPA proposed requiring existing sources using particulate filters in depainting as well as topcoat and primer operations, in which any of the coatings contain inorganic HAP, to meet the filtration efficiency established for the two-stage system that was tested. Specifically, the Agency proposed requiring owners or operators of existing sources to use particulate filters that are certified under § 63.750(o) to meet or exceed the efficiency data in Tables 1 and 2 of § 63.745 (developed from the two-stage filter testing). The Agency has modified this language to indicate certification must be consistent with § 63.750(o); therefore, this method can be used by filter manufacturers or distributors, paint/depainting booth suppliers, and/or owners or operators of affected sources to certify the efficiency of their filters.

The Agency also proposed that new sources meet the filtration efficiency data points for the three-stage system that was tested. Specifically, the Agency proposed requiring owners or operators of new sources to use particulate filters that are certified under § 63.750(o) to meet or exceed the efficiency data in Tables 3 and 4 of § 63.745 (developed from the three-stage filter testing). These new filtration requirements reflect a performance based standard rather than specified equipment, thus allowing more flexibility for affected sources to comply with the NESHAP.

One commenter believed that test Method 319 is flawed and therefore questioned the filter efficiency limits

developed using testing based on Method 319. The Agency disagrees with the commenter and believes the filter efficiency limits to be technically based as equivalent to MACT. The test method is based on several years of work performed for EPA and culminated in testing of the two- and three-stage paint arrestors determined to represent MACT for the aerospace industry.

In announcing these revised MACT requirements for particulate emissions, the Agency realizes that there are unique circumstances in which owners and operators have commenced construction or reconstruction of a new spray booth or hangar after the proposed regulation (June 4, 1994) and have had to comply with the requirements in the promulgated rule (September 1, 1995). For these owners or operators of aerospace manufacturing or rework operations who have commenced construction or reconstruction of new spray booth or hanger for inorganic HAP depainting operations, primer, or topcoat operations after June 4, 1994 but prior to October 29, 1996, the EPA has provided the flexibility to meet either the requirements for new sources under § 63.745(g)(2)(ii) of the amendments to the final regulation found in today's notice or the requirements for new sources under § 63.45(g)(2)(iv) of the September 1, 1995 promulgated rule which are found in § 63.745(g)(2)(iii) in the amended rule. Sources that commenced construction prior to June 4, 1994 are still required to meet the existing source requirements for depainting operations and painting (topcoat or primer application) operations found in the final amended rule.

H. Exemption for Waterborne Coatings

The EPA proposed that any waterborne coating for which the manufacturer's supplied data demonstrate that the coating meets the organic HAP and VOC content limits for its coating type as specified in the regulation be exempt from many of the organic HAP and VOC related requirements of this regulation. If the manufacturer's supplied data indicate that the waterborne coating meets the organic HAP and VOC content emission limits for its coating type, as specified in §§ 63.745(c) and 63.747(c), then the owner or operator would not be required to demonstrate compliance for these coatings using the test method specified in § 63.750(c). However, the owner or operator would still be required to maintain purchase records and manufacturer's supplied data sheets for exempt coatings. Owners or operators of facilities using waterborne coatings would also be required to handle and transfer these coatings in a manner that minimizes spills, apply these coatings using one or more of the specified application techniques, and comply with inorganic HAP emission requirements. This exemption was added as § 63.741(i) as follows:

> Any waterborne coating for which the manufacturer's supplied data demonstrate that organic HAP and VOC contents are less than or equal to the organic HAP and VOC content limits for its coating type, as specified in §§ 63.745(c) and 63.747(c), is exempt from the following requirements of this subpart: §§ 63.745(d)–(e), 63.747(d)–(e), 63.749(d) and (h), 63.750(c)–(h) and (k)–(m), 63.752(c) and (f), and 63.753(c) and (e). A facility shall maintain the manufacturer's supplied data and annual purchase records for each exempt waterborne coating readily available for inspection and review, and shall retain these data for 5 years.

Section 63.741(f) was also modified to include § 63.741(i) in the list of additional specific exemptions from regulatory coverage.

The Agency proposed this exemption to streamline and simplify the requirements for owners and operators of facilities using these coatings and to encourage the use of waterborne coatings which may result in lower emissions than other coating types. No comments were received on this issue and EPA decided to promulgate this change.

I. Exemption From Inorganic HAP Requirements for Hand-Held Spray Can Applications

Two commenters noted that the final rule created a point of confusion over the absence of an exemption from inorganic HAP requirements for the use of hand-held spray cans used outside a paint booth or hangar (i.e., touch-up operations). The Agency noted that such an exemption currently exists under § 63.745(f)(3)(v) for primers and topcoats containing organic HAP or VOC, and the requirements for touch-up operations would also provide an exemption for these activities when conducted outside of the hangar or paint booth. However, the Agency agreed with the commenters that potential confusion could result in the absence of a clear exemption under the inorganic HAP requirements. Therefore, the Agency has added the following paragraph (x) to the list of operations in § 63.745(g)(4) not subject to the requirements of paragraphs 63.745 (g)(1) through (g)(3):

> (x) The use of hand-held spray can application methods.

J. Essential Use Exemption for Cleaning Solvents

In accordance with the Montreal Protocol on Substances that Deplete the Ozone Layer (''Montreal Protocol''), EPA has granted essential use allowances for limited applications of ozone depleting substances (ODS's). The EPA proposed that an essential use exemption be added to this rule for cleaning operations that have been identified as essential uses. The proposed language has been revised slightly for greater consistency with the stratospheric ozone regulations. The exemption was added as § 63.744(e)(13) as follows:

> Cleaning operations identified as essential uses under the Montreal Protocol for which the Administrator has allocated essential use allowances or exemptions in 40 CFR 82.4.

One commenter concurred with EPA on this added exemption and EPA decided to promulgate this change.

K. Compliance Dates

The EPA wishes to clarify an inconsistency between the preamble to the final rule and the regulation. The preamble to the final aerospace NESHAP states, ''Owners or operators of new commercial, civil, or military aerospace OEM and rework operations with initial startup after September 1, 1998 will be required to comply with all requirements upon startup.'' This statement is incorrect. The text of the promulgated regulation correctly states that new sources, with initial startup on or after September 1, 1995, must comply with all requirements upon startup. In October 1996, the EPA also proposed to clarify that the deadline for approval of an alternate control device is 120 days prior to the compliance date. This clarification, mistakenly omitted from the published final rule, is now reflected in § 63.743(c). No comments were received on this issue and, thus, EPA decided to promulgate this change.

L. Requirements for New Affected Sources (Spray Booths)

The Agency has clarified the requirements for new affected sources. An affected source is an emission unit, process, or operation identified in the NESHAP that is part of the entire facility, but is not necessarily a major source. In today's action the Agency is clarifying its intent that for inorganic HAP emissions, each spray booth or hangar that contains a primer or topcoat application operation subject to § 63.745(g) or a depainting operation

subject to § 63.746(b)(4) is considered an affected source and has added this description under § 63.741(c). To avoid any inconsistency, the Agency has also added the words ''For organic HAP or VOC emissions'' at the beginning of § 63.741(c) (2), (3), and (4). If such an affected source is constructed or reconstructed after October 29, 1996, then that spray booth or hangar must comply with the applicable inorganic HAP control requirements. Construction or reconstruction of a new spray booth or hangar at a facility with an existing coating or depainting operation will not cause the existing operation to be subject to any other new source standards; only the new spray booth or hangar will be subject to the applicable new source requirements for inorganic HAP and will need to comply upon the effective date of the requirements or startup, whichever is later. The EPA is also making this clarification in § 63.749(a), the compliance dates and determinations section of the final rule.

In addition, EPA also clarified that § 63.5(b)(3) of the General Provisions, which requires advance notice and approval by the Agency prior to construction or reconstruction of a major affected source, shall apply to the construction or reconstruction of a new spray booth or hangar at a facility for an existing coating or depainting operation only if the booth or hangar has the potential to emit 10 tons/yr or more of an individual inorganic HAP or 25 tons/yr or more of all inorganic HAP combined. Owners or operators of an existing coating or depainting operation who construct or reconstruct a new booth or hangar that emit or have the potential to emit less than 10/25 tons/yr of inorganic HAP's will only be required to submit an annual notification on or before March 1 of each year. This annual notification shall include all of the information required in § 63.5(b)(4) for each such booth or hangar constructed or reconstructed in the prior calendar year, except that the information shall be limited to the inorganic HAP's from the new booth or hangar. Of course, any owner or operator that constructs or reconstructs a new spray booth or hangar at a facility at which there is no existing coating or depainting operation will be required to comply with all of the applicable notice and advance approval requirements of § 63.5.

M. Emissions Averaging

Under the September 1, 1995 promulgated rule the averaging of emissions was permitted to occur within coating types (i.e., topcoats, primers, or maskants). The EPA also indicated at that time in the 1995 background information document that EPA would be investigating options with respect to implementing a broad-based averaging scheme as a compliance option for the Aerospace NESHAP. Based on additional discussion in roundtable meetings, the EPA proposed in the October 29, 1996 amendments to consolidate the language dealing with the averaging of emissions as it applies to the aerospace industry. Paragraphs 63.745(e)(2) and 63.747(e)(2) were consolidated into a new § 63.743(d), which, if promulgated as proposed, would have permitted averaging across coating types.

In response to the October 1996 proposal, the EPA received two comments that supported the changes to the averaging provisions. One commenter indicated that introductory text was needed to clarify the intent of § 63.743(d), which is where the averaging provisions are now located. The EPA agrees with the commenter and has added introductory language to § 63.743(d). Another commenter wanted the averaging provisions to be expanded to include controlled operations (i.e., those with control devices). The EPA believes that as currently allowed, the averaging of uncontrolled coatings will encourage development and use of lower HAP and VOC content coatings in the aerospace industry. In order to preserve the environmental benefit of pollution prevention, EPA will not extend the averaging system to include controlled coatings.

With regards to an expanded emissions averaging scheme, the EPA looked at various ways to expand the averaging provisions in the September 1995 promulgated rule so as to allow averaging between certain coating types. In designing emissions trading and averaging systems, EPA believes that it is important to consider the effect that trading or averaging is likely to have on facilities' actual emissions, as well as the effect on facilities' maximum allowable emissions. A workable scheme for averaging across coating types was not developed because the format of the coating limits in the rule as originally promulgated creates inherent difficulties in making equitable comparisons/calculations of actual emissions from coating categories with different limits. In order to include effective emissions averaging provisions for different coating categories (e.g., primers, topcoats, and maskants) or other emission sources, the format of the entire rule would have to be overhauled. Such changes are now beyond the scope of the work involved in finalizing these amendments to the aerospace rule.

N. Requirements for New and Existing Primer and Topcoat Application Operations

The September 1, 1995 promulgated NESHAP requires owners or operators of primer and topcoat application operations who wish to use an alternative application method (other than HVLP or electrostatic spray) to demonstrate that the emissions generated during the initial 30-day period, the period of time required to apply primer to five completely assembled aircraft, or a time period approved by the permitting agency are less than or equal to the emissions generated using HVLP or electrostatic spray application methods. Since promulgation, the Agency has received comments from industry concerning the test method for alternative spray equipment application requiring actual production trials. Those concerns involved the use of ineffective application equipment on actual production parts or assemblies which could lead to product quality and safety issues with significant cost to the manufacturer. The Agency has acknowledged those concerns and provided additional flexibility to owners or operators of primer and topcoat application operations seeking to use alternative application methods.

The October 1996, proposed amendments to the final NESHAP in § 63.750(i)(2)(ii) allowed owners or operators an alternative approach whereby the proposed application method is tested against either HVLP or electrostatic spray application methods in a laboratory or pilot production area, using parts and coatings representative of the process(es) in which the alternative method is to be used. Under this alternative, the laboratory test will use the same part configuration(s) and the same number of parts for both the proposed method and the HVLP or electrostatic spray application methods. The Agency intended to make the laboratory test an additional option instead of replacing the production evaluation in the final rule. Therefore, since no comments were received on the proposed revision to § 63.750(i)(2)(ii), the Agency decided to promulgate this change by designating the proposed § 63.750(i)(2)(ii) as § 63.750(i)(2)(iii). For consistency, this change has also been made to § 63.749 (d)(3)(iii)(B) and (d)(4)(iii)(B).

O. Monitoring Requirements for Dry Particulate Filter Usage

The Agency proposed to clarify the monitoring requirements for owners or operators of depainting and painting

operations using dry particulate filters and HEPA filters to comply with this NESHAP. The EPA proposed to add language to § 63.751(c)(1) to clarify that owners or operators are required to read and record monitoring (i.e., pressure drop) data only once per shift.

One commenter requested that the phrase ''continuously monitor'' in § 63.745(g)(2)(v) be changed to ''monitor once per shift'' to avoid confusion with the Agency's clarification of monitoring requirements in other sections of the final rule. Past experience with such control systems indicates that reading the designated operating parameter once per shift is sufficient for this system to be considered continuously monitored. The Agency believes that the systems should be continuously monitored by some mechanism, but that reading and recording the data should be required only once per shift. Therefore, the EPA has changed the cited text in § 63.745 (g)(2)(iv)(C) and (g)(2)(v) to match monitoring requirements in other sections of the final rule.

P. Depainting Operations

Based on numerous comments on the depainting operation standard, the EPA proposed a clarification to § 63.746. The promulgated standard was presented in terms of volume (gallons) of organic HAP-containing chemical strippers per aircraft. Because the NESHAP is specific to HAP, in October 1996 the EPA proposed changing the units of the standard and stating the requirements in terms of weight (pounds) of organic HAP per aircraft. The proposed standard was meant to be equivalent in terms of actual HAP emissions to the atmosphere and was based on assumptions concerning typical HAP contents of chemical strippers. The proposed limits allowed greater flexibility to the owner or operator of a new or existing depainting operation in selecting materials to perform spot stripping and decal removal.

Based on comments involving technical arguments both for and against the different units for the spot stripping and decal removal allowance, the EPA decided to include both types of units and allow operators to decide which units they want to use and document their decision in their initial notification and/or operating permit. Accordingly, the EPA is promulgating the spot stripping and decal removal allowance in § 63.746(b)(3) as follows:

Each owner or operator of a new or existing depainting operation shall not, on an annual average basis, use more than 26 gallons of organic-HAP containing chemical strippers or alternatively 190 pounds of organic HAP per commercial aircraft depainted; or more than 50 gallons of organic HAP-containing chemical strippers or alternatively 365 pounds of organic HAP per military aircraft depainted for spot stripping and decal removal.

One commenter noted an apparent error in the proposed revision of Equation 20 and provided corrected definitions for the revised terms in the corrected equation. The EPA has incorporated those corrections in the final rule, as well as provided both equations to calculate the average annual volume of organic HAP-containing chemical stripper (Equation 20) or average annual weight of organic HAP (newly designated Equation 21) used for spot stripping and decal removal.

Accordingly, the EPA has also revised Equation 21 in § 63.750(j)(3) as follows:

$$C = \frac{\sum_{i=1}^{n}\left(V_{si} D_{hi}\left(\sum_{i=1}^{m} W_{hi}\right)\right)}{A} \qquad \text{Eq. 21}$$

Where:

C=annual average weight (lb per aircraft) of organic HAP (chemical stripper) used for spot stripping and decal removal.

m=number of organic HAP contained in each chemical stripper, as applied.

n=number of organic HAP-containing chemical strippers used in the annual period.

W_{hi}=weight fraction (expressed as a decimal) of each organic HAP (i) contained in the chemical stripper, as applied, for each aircraft depainted.

D_{hi}=density (lb/gal) of each organic HAP-containing chemical stripper (i) used in the annual period.

V_{si}=volume (gal) of organic HAP-containing chemical stripper (i) used during the annual period.

A=number of aircraft for which depainting operations began during the annual period.

Another commenter noted a typographical error in the proposed revision to the spot stripping and decal removal allowance in § 63.749(f)(3)(ii)(A). The Agency has incorporated the corrected text into the final amendment.

Q. Applicability of General Provisions

The EPA proposed in October 1996 the addition of Table 1: General Provisions' Applicability to subpart GG, in order to clarify the applicability of the General Provisions to this rule. Table 1 is referenced in § 63.741 and is located at the end of the final rule text. No comments were provided on this issue.

R. Specialty Coatings

In appendix A to this subpart, the EPA proposed to revise the last sentence of the definition of adhesive bonding primer to state: ''There are two categories of adhesive bonding primers: primers with a design cure at 250°F or below and primers with a design cure above 250°F.'' This revision is a clarification that was omitted in the final rule.

Two commenters suggested that the specialty coating definitions be reviewed and one of the commenters further suggested that the following specialty coating categories be added:

Bearing coating—a coating applied to an antifriction bearing, a bearing housing, or the area adjacent to such a bearing in order to facilitate bearing function or to protect base material from excessive wear. A material shall not be classified as a bearing coating if it can also be classified as a dry lubricative material or a solid film lubricant.

Dry lubricative material—a coating consisting of lauric acid, cetyl alcohol, waxes, or other non-cross linked or resin-bound materials which acts as a dry lubricant.

Caulking and smoothing compounds—semi-solid materials which are applied by hand application methods and are used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses. A material shall not be classified as a caulking and smoothing compound if it can also be classified as a sealant.

These coating categories have been used by the San Diego and/or South Coast (California) Air Quality Management Districts in their aerospace coating regulations. Therefore, the Agency has incorporated these definitions into appendix A to subpart GG (and has also incorporated the suggested definitions and the corresponding VOC limits into the final CTG document). The Agency has also deleted the definitions for conformal coatings, protective oils/waxes, and space vehicle coatings from appendix A to subpart GG to be consistent with the CTG. Other commenters found typographical errors or areas for clarification involving the definitions of ''electric or radiation-effect coating,'' ''pretreatment coatings,'' and ''wet fastener installation coating'' which have been corrected in these final amendments.

S. Miscellaneous Changes

The EPA also made a number of minor changes to several sections of the October 1996 proposal based on public comments. One commenter requested the removal of the prohibition on use of ozone-depleting substances from § 63.744. The control of HAP and ozone-depleting substances are under two

separate programs; hence, the EPA has deleted the reference to ozone-depleting substances in Table 1 of § 63.744.

Another commenter noted that the table numbering in proposed § 63.750(o) was incorrect. The Agency has corrected the text to state ''* * * found in Tables 1 and 2, or 3 and 4 of § 63.745 for existing and new sources respectively.''

Two commenters noted there should be a reference to the term ''H_i'' in § 63.750(k) since § 63.749(h)(3)(i) cites this section for the method to determine H_i. The Agency has clarified § 63.750(k) by adding the term H_i to the stated definition at the end of the paragraph.

T. Technical Corrections

The following amendments are technical corrections that were not part of the October 29, 1996 proposal. These changes are being made as part of today's action as a matter of efficiency in rulemaking. Furthermore, these changes are noncontroversial and do not substantively change the requirements of the rule. By promulgating these technical corrections directly as a final rule, the EPA is foregoing an opportunity for public comment on a notice of proposed rulemaking. Section 553(b) of title V of the United States Code and section 307(b) of the CAA permit an agency to forego notice and comment when ''the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' The EPA finds that notice and comment regarding these technical corrections are unnecessary due to their noncontroversial nature and because they do not change the requirements of the final rule. The EPA finds that this constitutes good cause under 5 U.S.C. § 553(b) for a determination that the issuance of a notice of proposed rulemaking is unnecessary.

1. Clarification of the Definition of Coating

The word ''protective'' was added to the definition of ''coating'' in § 63.742 to be consistent with other surface coating regulations and CTG's.

2. Addition of the Definition of Recovery Device

Two commenters requested that the term ''dedicated solvent recovery device'' be defined in the rule so that proper test procedures may be followed. The Agency has included the following definition for ''recovery device'' in § 63.742 which is based on the definition from the HON:

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators, or organic-water separator or organic removal devices such as decanters, strippers, or thin-film evaporation units.

A dedicated solvent recovery device refers to such control equipment (as described/defined above) that is specific to a given process or control system.

3. Correction of Cited Reference to Table 1 of this Section in § 63.744(a), (b)(1), and (d)

The numbering format for several tables in the promulgated rule was erroneous and confusing. The table reference in § 63.744(a),(b)(1), and (d) has been corrected to read: ''Table 1 of this section.''

4. Clarification of Requirements in § 63.744(c)

Several questions have been raised related to spray gun cleaning using water as the cleaning solvent. Language was added to the introductory text at the end of § 63.744(c) stating that spray gun cleaning operations using cleaning solvent solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f) are exempt from the subsequent requirements in paragraphs (c)(1) through (c)(4).

5. Clarifications to § 63.745(e) and (f)

All references to topcoat(s) or topcoat application operations include self-priming topcoats. The parenthetical phrase ''(including self-priming topcoats)'' was added to all applicable paragraphs in § 63.745 (e) and (f) for clarification and consistency with § 63.745(c)(3) and (c)(4). In § 63.745(f)(1), the reference to application techniques specified in paragraphs (f)(1)(i) through (f)(1)(viii) has been corrected to read ''(f)(1)(i) through (f)(1)(ix).''

6. Clarification to § 63.746(a)

The words ''or rework'' were added to the last sentence in § 63.746(a) to clarify that all aerospace facilities (manufacturing or rework) that depaint six or less completed aerospace vehicles in a calendar year are exempt from this section.

7. Clarification of Language in § 63.746(c)(1)

The wording in § 63.746(c)(1) was changed to three separate paragraphs (paragraphs (c) (2) and (3) were added) to clarify the procedures to be used in determining compliance with the control efficiency (≥95 percent) for new control systems. The language has been clarified to describe how the control efficiencies are determined involving the capture and destruction or removal efficiencies and may take into account the volume of chemical stripper used (relative to baseline applications) and is consistent with the example provided.

8. Correction of Equation to Determine the Composite Vapor Pressure in § 63.750(b)(2)

A summation sign was added in front of the second term of the denominator (involving ''W_e'') of the equation used to determine the composite vapor pressure of hand-wipe cleaning solvents.

9. Correction of OMB Tracking Number

In compliance with the Paperwork Reduction Act (PRA), this technical correction amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for this final rule.

The EPA is today amending the table in 40 CFR part 9 (Section 9.1) of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The affected regulations are codified at 40 CFR part 63 subpart GG, sections 63.752 and 63.753 (recordkeeping and reporting requirements, respectively). The correct OMB control (tracking) number for this final rule is 2060–0314.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

III. Control Techniques Guideline

Today's action includes the final issuance of the control techniques guideline(CTG) whose availability in draft form was announced in the **Federal Register** on October 29, 1996 (61 FR 55842). There were several comments involving the draft CTG submitted with other comments on the proposed NESHAP amendments. Most of those comments involved specialty coating category definitions and their associated VOC limits. One commenter who suggested adding three new coating category definitions (discussed previously in section Q) also raised several other concerns involving the proposed definitions and/or associated limits for clear coatings, lacquers, and specialized function coatings. Since the specialty coating limits are meant to

reflect baseline levels nationwide, and will have no significant impact on emission reductions, the EPA has decided to maintain the proposed definitions and associated limits for these coating categories.

Under the Clean Air Act, as amended in 1990 (the ''Act''), State implementation plans (SIP's) for ozone nonattainment areas (except marginal areas) must be revised to require reasonably available control technology (RACT) for sources for which the EPA publishes a CTG between November 15, 1990 and the date an area achieves attainment status (the Act, § 182(b)(2), (c), (d), (e)). The EPA has defined RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility'' (44 FR 53761, 53762, September 17, 1979).

The CTG's review current knowledge and data concerning the technology and costs of various emissions control techniques. The CTG's are intended to provide State and local air pollution authorities with an information base for proceeding with their own analyses of RACT to meet statutory requirements.

Each CTG contains a ''presumptive norm'' for RACT for a specific source category, based on the EPA's evaluation of the capabilities and problems general to the category. Where applicable, the EPA recommends that States adopt requirements consistent with the presumptive norm. However, the presumptive norm is only a recommendation. States may choose to develop their own RACT requirements on a case-by-case basis, considering the emission reductions needed to achieve the national ambient air quality standards and the economic and technical circumstances of the individual source.

This CTG is issued pursuant to Clean Air Act § 183(b)(3), which requires issuance of a CTG to reduce VOC emissions from aerospace coatings and solvents. It addresses RACT for control of VOC emissions from aerospace manufacturing and rework facilities. Volatile organic compound emissions from primer, topcoat, and ''specialty'' coating applications, maskant applications, sealing, adhesives, and cleaning operations are addressed. Emission limits for processes also addressed in the NESHAP are identical to the NESHAP limits. Those revisions to the NESHAP amendments described in this preamble and relevant to the CTG have been incorporated into the final CTG document. Many of the steps in aerospace manufacturing and rework operations involve the use of organic solvents and are sources of VOC emissions. The sources, mechanisms, and control of these VOC emissions are described in the CTG.

The coating category VOC limits, application techniques, and equipment requirements identified as RACT in the CTG were assumed to represent RACT requirements 1 year after the major sources have met the NESHAP (MACT) requirements, and therefore, will be effective on September 1, 1999. (The NESHAP compliance date for existing sources is September 1, 1998). The EPA estimates that State and local regulations developed pursuant to this CTG will affect about 2,869 facilities. Since the only new requirements in the CTG (requirements that are not included in the NESHAP) concern sealants, adhesives, and specialty coatings, which represent only about 3 percent of all VOC emissions from aerospace operations, the additional costs and emission reductions resulting from the CTG will be negligible. Further information on costs is presented in the CTG document and in the July 1995 BID on the NESHAP for Aerospace Manufacturing and Rework Facilities.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file of all of the information submitted to or otherwise considered by the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and the involved industries to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and the EPA responses to significant comments, the content of the docket will serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act).

B. Paperwork Reduction Act

The amendments do not impose any new information collection requirements and result in no change to the currently approved collection. The Office of Management and Budget (OMB) has approved the information collection requirements contained in the NESHAP for aerospace manufacturing and rework facilities under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0314. (EPA ICR No. 1687.03). A copy of the Information Collection Request (ICR) may be obtained from Sandy Farmer, Regulatory Information Division; EPA; 401 M Street, S.W., (Mail Code 2137); Washington, D.C. 20460 or by calling (202) 260–2740.

Burden means the total time, effort, or financial resources expended by person to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data searches; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulation are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Today's amendments should have no impact on the information collection burden estimates made previously. Today's action does not impose any additional information collection requirements. The reduced recordkeeping associated with cleaning solvents used for nonaerospace manufacturing/rework activities represents a 6 percent reduction in the burden estimated for the final rule. Consequently, the ICR has not been revised for purposes of today's action.

C. Executive Order 12866

Under Executive Order (E.O.) 12866 (58 FR 51735 [October 4, 1993]), the EPA is required to determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of this E.O. to prepare a regulatory impact analysis (RIA). The E.O. defines ''significant regulatory action'' as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or

planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and 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 E.O.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the E.O.

Under E.O. 12866, the final CTG document for aerospace manufacturing and rework facilities is not considered a ''regulatory action,'' defined as ''any substantive action by an agency * * * that promulgates or is expected to lead to the promulgation of a final rule or regulation.'' This CTG document is not a regulatory action by EPA, rather it provides information to States to aid them in developing rules.

D. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant impact on a substantial number of small entities. This final rule makes minor amendments to the Aerospace NESHAP, including changes to definitions, applicability provisions, and several minor changes to the standards (emission limits) and the monitoring, recordkeeping, and reporting requirements. In addition, this notice includes a standard for Type I chemical milling maskants and a test method for determining filtration efficiency of dry particulate filters. The overall impact of these amendments is a net decrease in requirements on all entities affected by this rule, including small entities. Therefore these amendments will not have a significant economic impact on a substantial number of small entities.

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. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) 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 1 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 a proposed intergovernmental mandate. Section 204 requires the Agency to develop a process to allow elected state, local, and Tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

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. The EPA has determined that these amendments do not include 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 1 year. Small governments will not be uniquely impacted by these amendments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 10, 1998.

Carol M. Browner,

Administrator.

For reasons set out in the preamble, parts 9 and 63 of title 40, chapter I, of the Code of Federal Regulations are amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9 1857 *et seq.*, 6901–6992k, 7401–7671g, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by revising the entry ''63.752–63.753'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories	
* * * * *	
63.752–63.753	2060–0314
* * * * *	

PART 63—[AMENDED]

3. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—[Amended]

4. Section 63.741 is amended by revising paragraph (b), paragraph (c) introductory text, paragraphs (c)(2), (c)(3), (c)(4), and the last three sentences of paragraph (f); and adding paragraphs (c)(7), (h), (i), and (j) to read as follows:

§ 63.741 Applicability and designation of affected sources.

* * * * *

(b) The owner or operator of an affected source shall comply with the requirements of this subpart and of subpart A of this part, except as specified in § 63.743(a) and Table 1 of this subpart.

(c) *Affected sources.* The affected sources to which the provisions of this subpart apply are specified in paragraphs (c)(1) through (7) of this section. The activities subject to this subpart are limited to the manufacture or rework of aerospace vehicles or components as defined in this subpart. Where a dispute arises relating to the applicability of this subpart to a specific activity, the owner or operator shall demonstrate whether or not the activity is regulated under this subpart.

* * * * *

(2) For organic HAP or VOC emissions, each primer application operation, which is the total of all primer applications at the facility.

(3) For organic HAP or VOC emissions, each topcoat application operation, which is the total of all topcoat applications at the facility.

(4) For organic HAP or VOC emissions, each depainting operation, which is the total of all depainting at the facility.

* * * * *

(7) For inorganic HAP emissions, each spray booth or hangar that contains a primer or topcoat application operation subject to § 63.745(g) or a depainting operation subject to § 63.746(b)(4).

* * * * *

(f) * * * These requirements also do not apply to parts and assemblies not critical to the vehicle's structural integrity or flight performance. The requirements of this subpart also do not apply to primers, topcoats, chemical milling maskants, strippers, and cleaning solvents containing HAP and VOC at concentrations less than 0.1 percent for carcinogens or 1.0 percent for noncarcinogens, as determined from manufacturer's representations. Additional specific exemptions from regulatory coverage are set forth in paragraphs (e), (g), (h), (i) and (j) of this section and §§ 63.742, 63.744(a)(1), (b), (e), 63.745(a), (f)(3), (g)(4), 63.746(a), (b)(5), 63.747(c)(3), and 63.749(d).

* * * * *

(h) Regulated activities associated with space vehicles designed to travel beyond the limit of the earth's atmosphere, including but not limited to satellites, space stations, and the Space Shuttle System (including orbiter, external tanks, and solid rocket boosters), are exempt from the requirements of this subpart, except for depainting operations found in § 63.746.

(i) Any waterborne coating for which the manufacturer's supplied data demonstrate that organic HAP and VOC contents are less than or equal to the organic HAP and VOC content limits for its coating type, as specified in §§ 63.745(c) and 63.747(c), is exempt from the following requirements of this subpart: §§ 63.745(d)–(e), 63.747(d)–(e), 63.749(d) and (h), 63.750(c)–(h) and (k)–(m), 63.752(c) and (f), and 63.753(c) and (e). A facility shall maintain the manufacturer's supplied data and annual purchase records for each exempt waterborne coating readily available for inspection and review and shall retain these data for 5 years.

(j) This subpart does not apply to rework operations performed on antique aerospace vehicles or components.

5. Section 63.742 is amended by revising the definitions for ''aircraft transparency,'' ''chemical milling maskant,'' ''chemical milling maskant application operation,'' ''cleaning solvent,'' ''coating,'' ''high volume low pressure (HVLP) spray equipment,'' and ''specialty coating''; by removing the parenthetical text from the end of the definition of ''Type II etchant''; by removing the last sentence from the definition of ''self-priming topcoat''; and by adding in alphabetical order definitions for ''antique aerospace vehicle or component,'' ''closed-cycle depainting system,'' ''recovery device,'' ''Type I etchant,'' and ''waterborne (water-reducible) coating'' to read as follows:

§ 63.742 Definitions.

* * * * *

Aircraft transparency means the aircraft windshield, canopy, passenger windows, lenses, and other components which are constructed of transparent materials.

Antique aerospace vehicle or component means an aircraft or component thereof that was built at least 30 years ago. An antique aerospace vehicle would not routinely be in commercial or military service in the capacity for which it was designed.

* * * * *

Chemical milling maskant means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Additionally, maskants that must be used with a combination of Type I or II etchants and any of the above types of maskants (i.e., bonding, critical use and line sealer, and seal coat) are also exempt from this subpart. (See also Type I and Type II etchant definitions.)

Chemical milling maskant application operation means application of chemical milling maskant for use with Type I or Type II chemical milling etchants.

* * * * *

Cleaning solvent means a liquid material used for hand-wipe, spray gun, or flush cleaning. This definition does not include solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f).

Closed-cycle depainting system means a dust-free, automated process that removes permanent coating in small sections at a time and maintains a continuous vacuum around the area(s) being depainted to capture emissions.

Coating means a material that is applied to the surface of an aerospace vehicle or component to form a decorative, protective, or functional solid film, or the solid film itself.

* * * * *

High volume low pressure (HVLP) spray equipment means spray equipment that is used to apply coating by means of a spray gun that operates at 10.0 psig of atomizing air pressure or less at the air cap.

* * * * *

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators, or organic-water separators or organic removal devices such as decanters, strippers, or thin-film evaporation units.

* * * * *

Specialty coating means a coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection. Individual specialty coatings are defined in appendix A to this subpart and in the CTG for Aerospace Manufacturing and Rework Operations (EPA 453/R–97–004).

* * * * *

Type I etchant means a chemical milling etchant that contains varying amounts of dissolved sulfur and does not contain amines.

* * * * *

Waterborne (water-reducible) coating means any coating that contains more than 5 percent water by weight as applied in its volatile fraction.

* * * * *

6. Section 63.743 is amended by revising paragraphs (a) introductory text, (b) introductory text, and (c), and by adding paragraphs (a)(10) and (d) to read as follows:

§ 63.743 Standards: General.

(a) Except as provided in paragraphs (a)(4) through (a)(10) of this section and in Table 1 of this subpart, each owner

or operator of an affected source subject to this subpart is also subject to the following sections of subpart A of this part:

* * * * *

(10) For the purposes of compliance with the requirements of § 63.5(b)(4) of the General Provisions and this subpart, owners or operators of existing primer or topcoat application operations and depainting operations who construct or reconstruct a spray booth or hangar that does not have the potential to emit 10 tons/yr or more of an individual inorganic HAP or 25 tons/yr or more of all inorganic HAP combined shall only be required to notify the Administrator of such construction or reconstruction on an annual basis. Notification shall be submitted on or before March 1 of each year and shall include the information required in § 63.5(b)(4) for each such spray booth or hangar constructed or reconstructed during the prior calendar year, except that such information shall be limited to inorganic HAP's. No advance notification or written approval from the Administrator pursuant to § 63.5(b)(3) shall be required for the construction or reconstruction of such a spray booth or hangar unless the booth or hangar has the potential to emit 10 tons/yr or more of an individual inorganic HAP or 25 tons/yr or more of all inorganic HAP combined.

(b) *Startup, shutdown, and malfunction plan.* Each owner or operator that uses an air pollution control device or equipment to control HAP emissions shall prepare and operate in accordance with a startup, shutdown, and malfunction plan in accordance with § 63.6. Dry particulate filter systems operated per the manufacturer's instructions are exempt from a startup, shutdown, and malfunction plan. A startup, shutdown, and malfunction plan shall be prepared for facilities using locally prepared operating procedures. In addition to the information required in § 63.6, this plan shall also include the following provisions:

* * * * *

(c) An owner or operator who uses an air pollution control device or equipment not listed in this subpart shall submit a description of the device or equipment, test data verifying the performance of the device or equipment in controlling organic HAP and/or VOC emissions, as appropriate, and specific operating parameters that will be monitored to establish compliance with the standards to the Administrator for approval not later than 120 days prior to the compliance date.

(d) Instead of complying with the individual coating limits in §§ 63.745 and 63.747, a facility may choose to comply with the averaging provisions specified in paragraphs (d)(1) through (d)(6) of this section.

(1) Each owner or operator of a new or existing source shall use any combination of primers, topcoats (including self-priming topcoats), Type I chemical milling maskants, or Type II chemical milling maskants such that the monthly volume-weighted average organic HAP and VOC contents of the combination of primers, topcoats, Type I chemical milling maskants, or Type II chemical milling maskants, as determined in accordance with the applicable procedures set forth in § 63.750, complies with the specified content limits in §§ 63.745(c) and 63.747(c), unless the permitting agency specifies a shorter averaging period as part of an ambient ozone control program.

(2) Averaging is allowed only for uncontrolled primers, topcoats (including self-priming topcoats), Type I chemical milling maskants, or Type II chemical milling maskants.

(3) Averaging is not allowed between primers and topcoats (including self-priming topcoats).

(4) Averaging is not allowed between Type I and Type II chemical milling maskants.

(5) Averaging is not allowed between primers and chemical milling maskants, or between topcoats and chemical milling maskants.

(6) Each averaging scheme shall be approved in advance by the permitting agency and adopted as part of the facility's title V permit.

7. Section 63.744 is amended by revising the text of paragraph (a) introductory text, and paragraphs (a)(1), (a)(2), (b) introductory text, (b)(1), (c)(1)(ii), (c)(2), (c)(4), (d), (e)(1), (e)(2), (e)(9), (e)(10), and (e)(11) and by removing the period at the end of paragraph (e)(12) and replacing it with ''; and''; by adding a sentence to (6) introductory text, and paragraph (e)(13); and by redesignating Table 3 as Table 1 and revising it and transferring it from paragraph (a) to the end of this section as follows:

§ 63.744 Standards: Cleaning operations.

(a) *Housekeeping measures.* Each owner or operator of a new or existing cleaning operation subject to this subpart shall comply with the requirements in these paragraphs unless the cleaning solvent used is identified in Table 1 of this section or contains HAP and VOC below the de minimis levels specified in § 63.741(f).

(1) Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement.

(2) Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.

* * * * *

(b) *Hand-wipe cleaning.* Each owner or operator of a new or existing hand-wipe cleaning operation (excluding cleaning of spray gun equipment performed in accordance with paragraph (c) of this section) subject to this subpart shall use cleaning solvents that meet one of the requirements specified in paragraphs (b)(1), (b)(2), and (b)(3) of this section. Cleaning solvent solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f) are exempt from the requirements in paragraphs (b)(1), (b)(2), and (b)(3) of this section.

(1) Meet one of the composition requirements in Table 1 of this section;

* * * * *

(c) * * * Spray gun cleaning operations using cleaning solvent solutions that contain HAP and VOC below the de minimis levels specified in § 63.741(f) are exempt from the requirements in paragraphs (c)(1) through (c)(4) of this section.

(1) * * *

(ii) If leaks are found during the monthly inspection required in § 63.751(a), repairs shall be made as soon as practicable, but no later than 15 days after the leak was found. If the leak is not repaired by the 15th day after detection, the cleaning solvent shall be removed, and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued.

(2) *Nonatomized cleaning.* Clean the spray gun by placing cleaning solvent in the pressure pot and forcing it through the gun with the atomizing cap in place. No atomizing air is to be used. Direct the cleaning solvent from the spray gun into a vat, drum, or other waste container that is closed when not in use.

* * * * *

(4) *Atomizing cleaning.* Clean the spray gun by forcing the cleaning solvent through the gun and direct the resulting atomized spray into a waste

container that is fitted with a device designed to capture the atomized cleaning solvent emissions.

(d) *Flush cleaning.* Each owner or operator of a flush cleaning operation subject to this subpart (excluding those in which Table 1 or semi-aqueous cleaning solvents are used) shall empty the used cleaning solvent each time aerospace parts or assemblies, or components of a coating unit (with the exception of spray guns) are flush cleaned into an enclosed container or collection system that is kept closed when not in use or into a system with equivalent emission control.

(e) * * *

(1) Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen;

(2) Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, or hydrazine);

* * * * *

(9) Cleaning of metallic and nonmetallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components;

(10) Cleaning of aircraft transparencies, polycarbonate, or glass substrates;

(11) Cleaning and cleaning solvent usage associated with research and development, quality control, and laboratory testing;

* * * * *

(13) Cleaning operations identified as essential uses under the Montreal Protocol for which the Administrator has allocated essential use allowances or exemptions in 40 CFR 82.4.

Cleaning solvent type	Composition requirements
Aqueous	Cleaning solvents in which water is the primary ingredient (≥80 percent of cleaning solvent solution as applied must be water). Detergents, surfactants, and bioenzyme mixtures and nutrients may be combined with the water along with a variety of additives, such as organic solvents (e.g., high boiling point alcohols), builders, saponifiers, inhibitors, emulsifiers, pH buffers, and antifoaming agents. Aqueous solutions must have a flash point greater than 93 °C (200 °F) (as reported by the manufacturer), and the solution must be miscible with water.
Hydrocarbon-based	Cleaners that are composed of photochemically reactive hydrocarbons and oxygenated hydrocarbons and have a maximum vapor pressure of 7 mm Hg at 20 °C (3.75 in. H_2O at 68 °F). These cleaners also contain no HAP.

8. Section 63.745 is amended by revising paragraphs (e)(1), (e)(2), (f) introductory text, (f)(1) introductory text, the first sentence of (f)(2), (g)(2)(i), (g)(2)(ii), and (g)(2)(iii); removing paragraph (g)(2)(iv); redesignating paragraphs (g)(2)(v) and (g)(2)(vi) as (g)(2)(iv) and (g)(2)(v), respectively; revising the newly designated paragraphs (g)(2)(iv) and (g)(2)(v); removing the word ''and'' at the end of paragraph (g)(4)(viii); revising the punctuation ''.'' at the end of paragraph (g)(4)(ix) to read ''; and''; and adding paragraph (g)(4)(x) to read as follows:

§ 63.745 Standards: Primer and topcoat application operations.

* * * * *

(e) * * *

(1) Use primers and topcoats (including self-priming topcoats) with HAP and VOC content levels equal to or less than the limits specified in paragraphs (c)(1) through (c)(4) of this section; or

(2) Use the averaging provisions described in § 63.743(d).

(f) *Application equipment.* Except as provided in paragraph (f)(3) of this section, each owner or operator of a new or existing primer or topcoat (including self-priming topcoat) application operation subject to this subpart in which any of the coatings contain organic HAP or VOC shall comply with the requirements specified in paragraphs (f)(1) and (f)(2) of this section.

(1) All primers and topcoats (including self-priming topcoats) shall be applied using one or more of the application techniques specified in paragraphs (f)(1)(i) through (f)(1)(ix) of this section. * * *

* * * * *

(2) All application devices used to apply primers or topcoats (including self-priming topcoats) shall be operated according to company procedures, local specified operating procedures, and/or the manufacturer's specifications, whichever is most stringent, at alltimes. * * *

* * * * *

(g) * * *

(2) * * *

(i) For existing sources, the owner or operator must choose one of the following:

(A) Before exhausting it to the atmosphere, pass the air stream through a dry particulate filter system certified using the methods described in § 63.750(o) to meet or exceed the efficiency data points in Tables 1 and 2 of this section; or

TABLE 1.—TWO-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR EXISTING SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, μm
>90	>5.7
>50	>4.1
>10	>2.2

TABLE 2.—TWO-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR EXISTING SOURCES

Filtration efficiency requirement, %	Aerodynamic particle size range, μm
>90	>8.1
>50	>5.0
>10	>2.6

(B) Before exhausting it to the atmosphere, pass the air stream through a waterwash system that shall remain in operation during all coating application operations; or

(C) Before exhausting it to the atmosphere, pass the air stream through an air pollution control system that meets or exceeds the efficiency data points in Tables 1 and 2 of this section

and is approved by the permitting authority.

(ii) For new sources, either:

(A) Before exhausting it to the atmosphere, pass the air stream through a dry particulate filter system certified using the methods described in § 63.750(o) to meet or exceed the efficiency data points in Tables 3 and 4 of this section; or

TABLE 3.—THREE-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR NEW SOURCES

Filtration efficiency requirement, %	Aero-dynamic particle size range, μm
>95	>2.0
>80	>1.0
>65	>0.42

TABLE 4.—THREE-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR NEW SOURCES

Filtration efficiency requirement, %	Aero-dynamic particle size range, μm
>95	>2.5
>85	>1.1
>75	>0.70

(B) Before exhausting it to the atmosphere, pass the air stream through an air pollution control system that meets or exceeds the efficiency data points in Tables 3 and 4 of this section and is approved by the permitting authority.

(iii) Owners or operators of new sources that have commenced construction or reconstruction after June 6, 1994 but prior to October 29, 1996 may comply with the following requirements in lieu of the requirements in paragraph (g)(2)(ii) of this section:

(A) Pass the air stream through either a two-stage dry particulate filter system or a waterwash system before exhausting it to the atmosphere.

(B) If the primer or topcoat contains chromium or cadmium, control shall consist of a HEPA filter system, three-stage filter system, or other control system equivalent to the three stage filter system as approved by the permitting agency.

(iv) If a dry particulate filter system is used, the following requirements shall be met:

(A) Maintain the system in good working order;

(B) Install a differential pressure gauge across the filter banks;

(C) Continuously monitor the pressure drop across the filter and read and record the pressure drop once per shift; and

(D) Take corrective action when the pressure drop exceeds or falls below the filter manufacturer's recommended limit(s).

(v) If a waterwash system is used, continuously monitor the water flow rate and read and record the water flow rate once per shift.

* * * * *

(4) * * *

(x) The use of hand-held spray can application methods.

9. Section 63.746 is amended by revising the last sentence of paragraph (a) introductory text, (b)(1), (b)(3), (b)(4)(i), (b)(4)(ii), (b)(4)(iii)(C), (b)(4)(iv), the second sentence of paragraph (b)(4)(v), and (c)(1); and adding paragraphs (c)(2) and (c)(3) to read as follows:

§ 63.746 Standards: Depainting operations.

(a) * * * This section does not apply to an aerospace manufacturing or rework facility that depaints six or less completed aerospace vehicles in a calendar year.

* * * * *

(b)(1) *HAP emissions—non-HAP chemical strippers and technologies.* Except as provided in paragraphs (b)(2) and (b)(3) of this section, each owner or operator of a new or existing aerospace depainting operation subject to this subpart shall emit no organic HAP from chemical stripping formulations and agents or chemical paint softeners.

* * * * *

(3) Each owner or operator of a new or existing depainting operation shall not, on an annual average basis, use more than 26 gallons of organic HAP-containing chemical strippers or alternatively 190 pounds of organic HAP per commercial aircraft depainted; or more than 50 gallons of organic HAP-containing chemical strippers or alternatively 365 pounds of organic HAP per military aircraft depainted for spot stripping and decal removal.

(4) * * *

(i) Perform the depainting operation in an enclosed area, unless a closed-cycle depainting system is used.

(ii)(A) For existing sources pass any air stream removed from the enclosed area or closed-cycle depainting system through a dry particulate filter system, certified using the method described in § 63.750(o) to meet or exceed the efficiency data points in Tables 1 and 2 of § 63.745, through a baghouse, or through a waterwash system before exhausting it to the atmosphere.

(B) For new sources pass any air stream removed from the enclosed area or closed-cycle depainting system through a dry particulate filter system certified using the method described in § 63.750(o) to meet or exceed the efficiency data points in Tables 3 and 4 of § 63.745 or through a baghouse before exhausting it to the atmosphere.

(iii) * * *

(C) Continuously monitor the pressure drop across the filter, and read and record the pressure drop once per shift; and

* * * * *

(iv) If a waterwash system is used, continuously monitor the water flow rate, and read and record the water flow rate once per shift.

(v) * * * If the water path in the waterwash system fails the visual continuity/flow characteristics check, as recorded pursuant to § 63.752(e)(7), or the water flow rate, as recorded pursuant to § 63.752(d)(2), exceeds the limit(s) specified by the booth manufacturer or in locally prepared operating procedures, or the booth manufacturer's or locally prepared maintenance procedures for the filter or waterwash system have not been performed as scheduled, shut down the operation immediately and take corrective action. * * *

* * * * *

(c) * * *

(1) All organic HAP emissions from the operation shall be reduced by the use of a control system. Each control system that was installed before the effective date shall reduce the operations' organic HAP emissions to the atmosphere by 81 percent or greater, taking into account capture and destruction or removal efficiencies.

(2) Each control system installed on or after the effective date shall reduce organic HAP emissions to the atmosphere by 95 percent or greater. Reduction shall take into account capture and destruction or removal efficiencies, and may take into account the volume of chemical stripper used relative to baseline levels (e.g., the 95 percent efficiency may be achieved by controlling emissions at 81 percent efficiency with a control system and using 74 percent less stripper than in baseline applications). The baseline shall be calculated using data from 1996 and 1997, which shall be on a usage per aircraft or usage per square foot of surface basis.

(3) The capture and destruction or removal efficiencies are to be

determined using the procedures in § 63.750(g) when a carbon adsorber is used and those in § 63.750(h) when a control device other than a carbon adsorber is used.

10. Section 63.747 is amended by revising paragraphs (c)(1), (c)(2) and (e)(2) to read as follows:

§ 63.747 Standards: Chemical milling maskant application operations.

* * * * *

(c) * * *

(1) Organic HAP emissions from chemical milling maskants shall be limited to organic HAP content levels of no more than 622 grams of organic HAP per liter (5.2 lb/gal) of Type I chemical milling maskant (less water) as applied, and no more than 160 grams of organic HAP per liter (1.3 lb/gal) of Type II chemical milling maskant (less water) as applied.

(2) VOC emissions from chemical milling maskants shall be limited to VOC content levels of no more than 622 grams of VOC per liter (5.2 lb/gal) of Type I chemical milling maskant (less water and exempt solvents) as applied, and no more than 160 grams of VOC per liter (1.3 lb/gal) of Type II chemical milling maskant (less water and exempt solvents) as applied.

* * * * *

(e) * * *

(2) Use the averaging provisions described in § 63.743(d).

11. Section 63.749 is amended by revising paragraphs (a), (b), (d)(3)(iii)(B), (d)(4)(iii), (f)(3)(ii)(A), and (h)(3)(i) to read as follows:

§ 63.749 Compliance dates and determinations.

(a) *Compliance dates.* (1) Each owner or operator of an existing affected source subject to this subpart shall comply with the requirements of this subpart by September 1, 1998, except as specified in paragraph (a)(2) of this section. Owners or operators of new affected sources subject to this subpart shall comply on the effective date or upon startup, whichever is later. In addition, each owner or operator shall comply with the compliance dates specified in § 63.6(b) and (c).

(2) Owners or operators of existing primer or topcoat application operations and depainting operations who construct or reconstruct a spray booth or hangar must comply with the new source requirements for inorganic HAP specified in §§ 63.745(g)(2)(ii) and 63.746(b)(4) for that new spray booth or hangar upon startup. Such sources must still comply with all other existing source requirements by September 1, 1998.

(b) *General.* Each facility subject to this subpart shall be considered in noncompliance if the owner or operator fails to submit a startup, shutdown, and malfunction plan as required by § 63.743(b) or uses a control device other than one specified in this subpart that has not been approved by the Administrator, as required by § 63.743(c).

* * * * *

(d) * * *

(3) * * *

(iii) * * *

(B) Uses an alternative application technique, as allowed under § 63.745(f)(1)(ix), such that the emissions of both organic HAP and VOC for the implementation period of the alternative application method are less than or equal to the emissions generated using HVLP or electrostatic spray application methods as determined using the procedures specified in § 63.750(i).

* * * * *

(4) * * *

(iii) * * *

(A) Uses an application technique specified in § 63.745 (f)(1)(i) through (f)(1)(viii); or

(B) Uses an alternative application technique, as allowed under § 63.745(f)(1)(ix), such that the emissions of both organic HAP and VOC for the implementation period of the alternative application method are less than or equal to the emissions generated using HVLP or electrostatic spray application methods as determined using the procedures specified in § 63.750(i).

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(A) For any spot stripping and decal removal, the value of C, as determined using the procedures specified in § 63.750(j), is less than or equal to 26 gallons of organic HAP-containing chemical stripper or 190 pounds of organic HAP per commercial aircraft depainted calculated on a yearly average; and is less than or equal to 50 gallons of organic HAP-containing chemical stripper or 365 pounds of organic HAP per military aircraft depainted calculated on a yearly average; and

* * * * *

(h) * * *

(3) * * *

(i) For all uncontrolled chemical milling maskants, all values of H_i and H_a (as determined using the procedures specified in § 63.750 (k) and (l)) are less than or equal to 622 grams of organic HAP per liter (5.2 lb/gal) of Type I chemical milling maskant as applied (less water), and 160 grams of organic HAP per liter (1.3 lb/gal) of Type II chemical milling maskant as applied (less water). All values of G_i and G_a (as determined using the procedures specified in § 63.750 (m) and (n)) are less than or equal to 622 grams of VOC per liter (5.2 lb/gal) of Type I chemical milling maskant as applied (less water and exempt solvents), and 160 grams of VOC per liter (1.3 lb/gal) of Type II chemical milling maskant (less water and exempt solvents) as applied.

* * * * *

12. Section 63.750 is amended by revising the equation in paragraph (b)(2); paragraphs (c)(1), (e)(1), equation 7 (''Eq. 7'') in (e)(2), (g)(3)(ii), (g)(9)(i), (i)(1), (i)(2)(iii), (j) introductory text, (j)(1), (j)(3), (k) introductory text, (k)(1), (l)(4), and (n)(3); and by adding paragraphs (i)(2)(iv) and (o) to read as follows:

§ 63.750 Test methods and procedures.

* * * * *

(b) * * *

(2) * * *

$$PP_c = \sum_{i=1}^{n} \frac{(W_i)(VP_i)/MW_i}{\dfrac{W_w}{MW_w} + \dfrac{\sum_{i=1}^{n} W_e}{MW_e} + \sum_{i=1}^{n} \dfrac{W_i}{MW_i}}$$

* * * * *

(c) * * *

(1) For coatings that contain no exempt solvents, determine the total organic HAP content using manufacturer's supplied data or Method 24 of 40 CFR part 60, appendix A, to determine the VOC content. The VOC content shall be used as a surrogate for total HAP content for coatings that contain no exempt solvent. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance shall be based on the results from the Method 24 analysis.

* * * * *

(e) * * *

(1) Determine the VOC content of each formulation (less water and exempt solvents) as applied using manufacturer's supplied data or Method 24 of 40 CFR part 60, appendix A, to determine the VOC content. The VOC content shall be used as a surrogate for total HAP content for coatings that contain no exempt solvent. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance shall be based on the results from the Method 24 analysis.

(2) * * *

$$G_i = \frac{M_{vi}}{(1 - V_{wi}) - V_{xi}} \qquad \text{Eq. 7}$$

* * * * *

(g) * * *

(3) * * *

(ii) Assure that all HAP emissions from the affected HAP emission point(s) are segregated from gaseous emission points not affected by this subpart and that the emissions can be captured for measurement, as described in paragraphs (g)(2)(ii) (A) and (B) of this section;

* * * * *

(9) * * *

(i) When either EPA Method 18 or EPA Method 25A is to be used in the determination of the efficiency of a fixed-bed carbon adsorption system with a common exhaust stack for all the individual carbon adsorber vessels pursuant to paragraph (g) (2) or (4) of this section, the test shall consist of three separate runs, each coinciding with one or more complete sequences through the adsorption cycles of all of the individual carbon adsorber vessels.

* * * * *

(i)(1) *Alternative application method—primers and topcoats.* Each owner or operator seeking to use an alternative application method (as allowed in § 63.745(f)(1)(ix)) in complying with the standards for primers and topcoats shall use the procedures specified in paragraphs (i)(2)(i) and (i)(2)(ii) or (i)(2)(iii) of this section to determine the organic HAP and VOC emission levels of the alternative application technique as compared to either HVLP or electrostatic spray application methods.

(2) * * *

(iii) Test the proposed application method against either HVLP or electrostatic spray application methods in a laboratory or pilot production area, using parts and coatings representative of the process(es) where the alternative method is to be used. The laboratory test will use the same part configuration(s) and the same number of parts for both the proposed method and the HVLP or electrostatic spray application methods.

(iv) Whenever the approach in either paragraph (i)(2)(ii) or (i)(2)(iii) of this section is used, the owner or operator shall calculate both the organic HAP and VOC emission reduction using equation:

$$P = \frac{E_b - E_3}{E_b} \times 100$$

where:

P=organic HAP or VOC emission reduction, percent.

E_b=organic HAP or VOC emissions, in pounds, before the alternative application technique was implemented, as determined under paragraph (i)(2)(i) of this section.

E_a=organic HAP of VOC emissions, in pounds, after the alternative application technique was implemented, as determined under paragraph (i)(2)(ii) of this section.

* * * * *

(j) *Spot stripping and decal removal.* Each owner or operator seeking to comply with § 63.746(b)(3) shall determine the volume of organic HAP-containing chemical strippers or alternatively the weight of organic HAP used per aircraft using the procedure specified in paragraphs (j)(1) through (j)(3) of this section.

(1) For each chemical stripper used for spot stripping and decal removal, determine for each annual period the total volume as applied or the total weight of organic HAP using the procedure specified in paragraph (d)(2) of this section.

* * * * *

(3) Calculate the annual average volume of organic HAP-containing chemical stripper or weight of organic HAP used for spot stripping and decal removal per aircraft using equation 20 (volume) or equation 21 (weight):

$$C = \frac{\sum_{i=1}^{n} V_{si}}{A} \qquad \text{Eq. 20}$$

where:

C=annual average volume (gal per aircraft) of organic HAP-containing chemical stripper used for spot stripping and decal removal.

n=number of organic HAP-containing chemical strippers used in the annual period.

V_{si}=volume (gal) of organic HAP-containing chemical stripper (i) used during the annual period.

A=number of aircraft for which depainting operations began during the annual period.

$$C = \frac{\sum_{i=1}^{n}\left(V_{si} D_{hi}\left(\sum_{i=1}^{m} W_{hi}\right)\right)}{A} \qquad \text{Eq. 21}$$

where:

C = annual average weight (lb per aircraft) of organic HAP (chemical stripper) used for spot stripping and decal removal.

m = number of organic HAP contained in each chemical stripper, as applied.

n = number of organic HAP-containing chemical strippers used in the annual period.

W_{hi} = weight fraction (expressed as a decimal) of each organic HAP (i) contained in the chemical stripper, as applied, for each aircraft depainted.

D_{hi} = density (lb/gal) of each organic HAP-containing chemical stripper (i), used in the annual period.

V_{si} = volume (gal) of organic HAP-containing chemical stripper (i) used during the annual period.

A = number of aircraft for which depainting operations began during the annual period.

(k) *Organic HAP content level determination—compliant chemical milling maskants.* For those uncontrolled chemical milling maskants complying with the chemical milling maskant organic HAP content limit specified in § 63.747(c)(1) without being averaged, the following procedures shall be used to determine the mass of organic HAP emitted per unit volume of coating (chemical milling maskant) i as applied (less water), H_i (lb/gal).

(1) For coatings that contain no exempt solvents, determine the total organic HAP content using manufacturer's supplied data or Method 24 of 40 CFR part 60, appendix A to determine the VOC content. The VOC content shall be used as a surrogate for total HAP content for coatings that contain no exempt solvent. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance shall be based on the results from the Method 24 analysis.

* * * * *

(l) * * *

(4) Calculate the volume-weighted average mass of organic HAP emitted per unit volume (lb/gal) of chemical milling maskant (less water) as applied for all chemical milling maskants during each 30-day period using equation 22:

$$H_a = \frac{\sum_{i=1}^{n} W_{Hi} D_{mi} V_{mi}}{M_{lw}} \qquad \text{Eq. 22}$$

* * * * *

(n) * * *

(3) Calculate the volume-weighted average mass of VOC emitted per unit volume (lb/gal) of chemical milling maskant (less water and exempt solvents) as applied during each 30-day period using equation 23:

$$G_a = \frac{\sum_{i=1}^{n} (VOC)_{mi} V_{mi}}{M_{lwes}} \qquad \text{Eq. 23}$$

* * * * *

(o) *Inorganic HAP emissions—dry particulate filter certification requirements.* Dry particulate filters used to comply with § 63.745(g)(2) or § 63.746(b)(4) must be certified by the filter manufacturer or distributor, paint/depainting booth supplier, and/or the facility owner or operator using method 319 in appendix A of subpart A of this part, to meet or exceed the efficiency data points found in Tables 1 and 2, or 3 and 4 of § 63.745 for existing or new sources respectively.

13. Section 63.751 is amended by revising the first sentence of paragraph (b)(6)(ii)(A), (b)(6)(iii) introductory text, and the first sentence of paragraph (b)(6)(iii)(A)(*2*) introductory text and paragraphs (b)(6)(iii)(D), (c)(1), (c)(2) and (d) to read as follows:

§ 63.751 Monitoring requirements.

* * * * *

(b) * * *

(6) * * *

(ii) * * *

(A) Except as allowed by paragraph (b)(6)(iii)(A)(*2*) of this section, all continuous emission monitors shall comply with performance specification (PS) 8 or 9 in 40 CFR part 60, appendix B, as appropriate depending on whether VOC or HAP concentration is being measured. * * *

* * * * *

(iii) Owners or operators complying with § 63.745(d), § 63.746(c), or § 63.747(d) through the use of a control device and establishing a site-specific operating parameter in accordance with paragraph (b)(1) of this section shall fulfill the requirements of paragraph (b)(6)(iii)(A) of this section and paragraph (b)(6)(iii)(B) or (C) of this section, as appropriate.

(A) * * *

(*2*) For owners or operators using a nonregenerative carbon adsorber, in lieu of using continuous emission monitors as specified in paragraph (b)(6)(iii)(A)(*1*) of this section, the owner or operator may use a portable monitoring device to monitor total HAP or VOC concentration at the inlet and outlet or the outlet of the carbon adsorber as appropriate. * * *

* * * * *

(D) If complying with § 63.745(d), § 63.746(c), or § 63.747(d) through the use of a nonregenerative carbon adsorber, in lieu of the requirements of paragraph (b)(6)(iii)(B) or (C) of this section, the owner or operator may replace the carbon in the carbon adsorber system with fresh carbon at a regular predetermined time interval as determined in accordance with paragraph (b)(2) of this section.

* * * * *

(c) * * *

(1) Each owner or operator using a dry particulate filter system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat application operations are occurring, continuously monitor the pressure drop across the system and read and record the pressure drop once per shift following the recordkeeping requirements of § 63.752(d).

(2) Each owner or operator using a waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat application operations are occurring, continuously monitor the water flow rate through the system, and read and record the water flow rate once per shift following the recordkeeping requirements of § 63.752(d).

(d) *Particulate filters and waterwash booths—depainting operations.* Each owner or operator using a dry particulate filter or waterwash system in accordance with the requirements of § 63.746(b)(4) shall, while depainting operations are occurring, continuously monitor the pressure drop across the particulate filters or the water flow rate through the waterwash system and read and record the pressure drop or the water flow rate once per shift following the recordkeeping requirements of § 63.752(e).

* * * * *

14. Section 63.752 is amended by revising paragraphs (b)(1), (e)(1)(ii), (e)(6), and (f) introductory text; and by removing paragraph (d)(4) to read as follows:

§ 63.752 Recordkeeping requirements.

* * * * *

(b) * * *

(1) The name, vapor pressure, and documentation showing the organic HAP constituents of each cleaning solvent used for affected cleaning operations at the facility.

* * * * *

(e) * * *

(1) * * *

(ii) Monthly volumes of each organic HAP containing chemical stripper used or monthly weight of organic HAP-material used for spot stripping and decal removal.

* * * * *

(6) *Spot stripping and decal removal.* For spot stripping and decal removal, the volume of organic HAP-containing chemical stripper or weight of organic HAP used, the annual average volume of organic HAP-containing chemical stripper or weight of organic HAP used per aircraft, the annual number of aircraft stripped, and all data and calculations used.

* * * * *

(f) *Chemical milling maskant application operations.* Each owner or operator seeking to comply with the organic HAP and VOC content limits for the chemical milling maskant application operation, as specified in § 63.747(c), or the control system requirements specified in § 63.747(d), shall record the information specified in paragraphs (f)(1) through (f)(4) of this section, as appropriate.

* * * * *

15. Section 63.753 is amended by revising paragraphs (a)(1) introductory text and (d)(2)(i) to read as follows:

§ 63.753 Reporting requirements.

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, each owner or operator subject to this subpart shall fulfill the requirements contained in § 63.9(a) through (e) and (h) through (j), Notification requirements, and § 63.10(a), (b), (d), and (f), Recordkeeping and reporting requirements, of the General Provisions, 40 CFR part 63, subpart A, and that the initial notification for existing sources required in § 63.9(b)(2) shall be submitted not later than September 1, 1997. In addition to the requirements of § 63.9(h), the notification of compliance status shall include:

* * * * *

(d) * * *

(2) * * *

(i) The average volume per aircraft of organic HAP-containing chemical strippers or weight of organic HAP used for spot stripping and decal removal operations if it exceeds the limits specified in § 63.746(b)(3); and

* * * * *

16. Table 1 is added to the end of subpart GG to read as follows:

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG

Reference	Applies to affected sources in subpart GG	Comment
63.1(a)(1)	Yes	
63.1(a)(2)	Yes	
63.1(a)(3)	Yes	
63.1(a)(4)	Yes	
63.1(a)(5)	No	Reserved.
63.1(a)(6)	Yes	
63.1(a)(7)	Yes	
63.1(a)(8)	Yes	
63.1(a)(9)	No	Reserved.
63.1(a)(10)	Yes	
63.1(a)(11)	Yes	
63.1(a)(12)	Yes	
63.1(a)(13)	Yes	
63.1(a)(14)	Yes	
63.1(b)(1)	Yes	
63.1(b)(2)	Yes	
63.1(b)(3)	Yes	
63.1(c)(1)	Yes	
63.1(c)(2)	Yes	Subpart GG does not apply to area sources.
63.1(c)(3)	No	Reserved.
63.1(c)(4)	Yes	
63.1(c)(5)	Yes	
63.1(d)	No	Reserved.
63.1(e)	Yes	
63.2	Yes	
63.3	Yes	
63.4(a)(1)	Yes	
63.4(a)(2)	Yes	
63.4(a)(3)	Yes	
63.4(a)(4)	No	Reserved.
63.4(a)(5)	Yes	
63.4(b)	Yes	
63.4(c)	Yes	
63.5(a)	Yes	
63.5(b)(1)	Yes	
63.5(b)(2)	No	Reserved.
63.5(b)(3)	Yes	
63.5(b)(4)	Yes	
63.5(b)(5)	Yes	
63.5(b)(6)	Yes	
63.5(c)	No	Reserved.
63.5(d)(1)(i)	Yes	
63.5(d)(1)(ii)(A)–(H)	Yes	
63.5(d)(1)(ii)(I)	No	Reserved.
63.5(d)(1)(ii)(J)	Yes	
63.5(d)(1)(iii)	Yes	
63.5(d)(2)–(4)	Yes	
63.5(e)	Yes	
63.5(f)	Yes	
63.6(a)	Yes	
63.6(b)(1)–(5)	Yes	§ 63.749(a) specifies compliance dates for new sources.
63.6(b)(6)	No	Reserved.
63.6(b)(7)	Yes	
63.6(c)(1)	Yes	
63.6(c)(2)	No	The standards in subpart GG are promulgated under section 112(d) of the Act.
63.6(c)(3)–(4)	No	Reserved.
63.6(c)(5)	Yes	
63.6(d)	No	Reserved.
63.6(e)	Yes	63.743(b) includes additional provisions for the operation and maintenance plan.
63.6(f)	Yes	
63.6(g)	Yes	
63.6(h)	No	The standards in subpart GG do not include opacity standards.
63.6(i)(1)–(3)	Yes	
63.6(i)(4)(i)(A)	Yes	
63.6(i)(4)(i)(B)	No	§ 63.743(a)(4) specifies that requests for extension of compliance must be submitted no later than 120 days before an affected source's compliance date.
63.6(i)(4)(ii)	No	The standards in subpart GG are promulgated under section 112(d) of the Act.

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG—Continued

Reference	Applies to affected sources in subpart GG	Comment
63.6(i)(5)–(12)	Yes	
63.6(i)(13)	Yes	
63.6(i)(14)	Yes	
63.6(i)(15)	No	Reserved.
63.6(i)(16)	Yes	
63.6(j)	Yes	
63.7(a)(1)	Yes	
63.7(a)(2)(i)–(vi)	Yes	
63.7(a)(2)(vii)–(viii)	No	Reserved.
63.7(a)(2)(ix)	Yes	
63.7(a)(3)	Yes	
63.7(b)	Yes	
63.7(c)	Yes	
63.7(d)	Yes	
63.7(e)	Yes	
63.7(f)	Yes	
63.7(g)(1)	Yes	
63.7(g)(2)	No	Reserved.
63.7(g)(3)	Yes	
63.7(h)	Yes	
63.8(a)(1)–(2)	Yes	
63.8(a)(3)	No	Reserved.
63.8(a)(4)	Yes	
63.8(b)	Yes	
63.8(c)	Yes	
63.8(d)	No	
63.8(e)(1)–(4)	Yes	
63.8(e)(5)(i)	Yes	
63.8(e)(5)(ii)	No	The standards in subpart GG do not include opacity standards.
63.8(f)(1)	Yes	
63.8(f)(2)(i)–(vii)	Yes	
63.8(f)(2)(viii)	No	The standards in subpart GG do not include opacity standards.
63.8(f)(2)(ix)	Yes	
63.8(f)(3)–(6)	Yes	
63.8(g)	Yes	
63.9(a)	Yes	
63.9(b)(1)	Yes	
63.9(b)(2)	Yes	§ 63.753(a)(1) requires submittal of the initial notification at least 1 year prior to the compliance date; § 63.753(a)(2) allows a title V or part 70 permit application to be substituted for the initial notification in certain circumstances.
63.9(b)(3)	Yes	
63.9(b)(4)	Yes	
63.9(b)(5)	Yes	
63.9(c)	Yes	
63.9(d)	Yes	
63.9(e)	Yes	
63.9(f)	No	The standards in subpart GG do not include opacity standards.
63.9(g)(1)	No	
63.9(g)(2)	No	The standards in subpart GG do not include opacity standards.
63.9(g)(3)	No	
63.9(h)(1)–(3)	Yes	§ 63.753(a)(1) also specifies additional information to be included in the notification of compliance status.
63.9(h)(4)	No	Reserved.
63.9(h)(5)–(6)	Yes	
63.9(i)	Yes	
63.9(j)	Yes	
63.10(a)	Yes	
63.10(b)	Yes	
63.10(c)(1)	No	
63.10(c)(2)–(4)	No	Reserved.
63.10(c)(5)–(8)	No	
63.10(c)(9)	No	Reserved.
63.10(c)(10)–(13)	No	
63.10(c)(14)	No	§ 63.8(d) does not apply to this subpart.
63.10(c)(15)	No	

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG—Continued

Reference	Applies to affected sources in subpart GG	Comment
63.10(d)(1)–(2)	Yes	
63.10(d)(3)	No	The standards in subpart GG do not include opacity standards.
63.10(d)(4)	Yes	
63.10(d)(5)	Yes	
63.(10)(e)(1)	No	
63.10(e)(2)(i)	No	
63.10(e)(2)(ii)	No	The standards in subpart GG do not include opacity standards.
63.10(e)(3)	No	
63.10(e)(4)	No	The standards in subpart GG do not include opacity standards.
63.10(f)	Yes	
63.11	Yes	
63.12	Yes	
63.13	Yes	
63.14	Yes	
63.15	Yes	

17. Appendix A of subpart GG is added to read as follows:

Appendix A to Subpart GG of Part 63—Specialty Coating Definitions

Ablative coating—A coating that chars when exposed to open flame or extreme temperatures, as would occur during the failure of an engine casing or during aerodynamic heating. The ablative char surface serves as an insulative barrier, protecting adjacent components from the heat or open flame.

Adhesion promoter—A very thin coating applied to a substrate to promote wetting and form a chemical bond with the subsequently applied material.

Adhesive bonding primer—A primer applied in a thin film to aerospace components for the purpose of corrosion inhibition and increased adhesive bond strength by attachment. There are two categories of adhesive bonding primers: primers with a design cure at 250°F or below and primers with a design cure above 250°F.

Aerosol coating—A hand-held, pressurized, nonrefillable container that expels an adhesive or a coating in a finely divided spray when a valve on the container is depressed.

Antichafe coating—A coating applied to areas of moving aerospace components that may rub during normal operations or installation.

Bearing coating—A coating applied to an antifriction bearing, a bearing housing, or the area adjacent to such a bearing in order to facilitate bearing function or to protect base material from excessive wear. A material shall not be classified as a bearing coating if it can also be classified as a dry lubricative material or a solid film lubricant.

Bonding maskant—A temporary coating used to protect selected areas of aerospace parts from strong acid or alkaline solutions during processing for bonding.

Caulking and smoothing compounds—Semi-solid materials which are applied by hand application methods and are used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses. A material shall not be classified as a caulking and smoothing compound if it can also be classified as a sealant.

Chemical agent-resistant coating (CARC)—An exterior topcoat designed to withstand exposure to chemical warfare agents or the decontaminants used on these agents.

Clear coating—A transparent coating usually applied over a colored opaque coating, metallic substrate, or placard to give improved gloss and protection to the color coat. In some cases, a clearcoat refers to any transparent coating without regard to substrate.

Commercial exterior aerodynamic structure primer—A primer used on aerodynamic components and structures that protrude from the fuselage, such as wings and attached components, control surfaces, horizontal stabilizers, vertical fins, wing-to-body fairings, antennae, and landing gear and doors, for the purpose of extended corrosion protection and enhanced adhesion.

Commercial interior adhesive—Materials used in the bonding of passenger cabin interior components. These components must meet the FAA fireworthiness requirements.

Compatible substrate primer—Includes two categories: compatible epoxy primer and adhesive primer. *Compatible epoxy primer* is primer that is compatible with the filled elastomeric coating and is epoxy based. The compatible substrate primer is an epoxy-polyamide primer used to promote adhesion of elastomeric coatings such as impact-resistant coatings. *Adhesive primer* is a coating that (1) inhibits corrosion and serves as a primer applied to bare metal surfaces or prior to adhesive application, or (2) is applied to surfaces that can be expected to contain fuel. Fuel tank coatings are excluded from this category.

Corrosion prevention system—A coating system that provides corrosion protection by displacing water and penetrating mating surfaces, forming a protective barrier between the metal surface and moisture. Coatings containing oils or waxes are excluded from this category.

Critical use and line sealer maskant—A temporary coating, not covered under other maskant categories, used to protect selected areas of aerospace parts from strong acid or alkaline solutions such as those used in anodizing, plating, chemical milling and processing of magnesium, titanium, high-strength steel, high-precision aluminum chemical milling of deep cuts, and aluminum chemical milling of complex shapes. Materials used for repairs or to bridge gaps left by scribing operations (i.e. line sealer) are also included in this category.

Cryogenic flexible primer—A primer designed to provide corrosion resistance, flexibility, and adhesion of subsequent coating systems when exposed to loads up to and surpassing the yield point of the substrate at cryogenic temperatures (−275°F and below).

Cryoprotective coating—A coating that insulates cryogenic or subcooled surfaces to limit propellant boil-off, maintain structural integrity of metallic structures during ascent or re-entry, and prevent ice formation.

Cyanoacrylate adhesive—A fast-setting, single component adhesive that cures at room temperature. Also known as ''super glue.''

Dry lubricative material—A coating consisting of lauric acid, cetyl alcohol, waxes, or other non-cross linked or resin-bound materials which act as a dry lubricant.

Electric or radiation-effect coating—A coating or coating system engineered to interact, through absorption or reflection, with specific regions of the electromagnetic energy spectrum, such as the ultraviolet, visible, infrared, or microwave regions. Uses include, but are not limited to, lightning strike protection, electromagnetic pulse (EMP) protection, and radar avoidance. Coatings that have been designated as ''classified'' by the Department of Defense are exempt.

Electrostatic discharge and electromagnetic interference (EMI) coating—A coating applied to space vehicles, missiles, aircraft radomes, and helicopter blades to disperse static energy or reduce electromagnetic interference.

Elevated-temperature Skydrol-resistant commercial primer—A primer applied primarily to commercial aircraft (or commercial aircraft adapted for military use) that must withstand immersion in phosphate-ester (PE) hydraulic fluid (Skydrol 500b or equivalent) at the elevated temperature of 150°F for 1,000 hours.

Epoxy polyamide topcoat—A coating used where harder films are required or in some areas where engraving is accomplished in camouflage colors.

Fire-resistant (interior) coating—For civilian aircraft, fire-resistant interior coatings are used on passenger cabin interior parts that are subject to the FAA fireworthiness requirements. For military aircraft, fire-resistant interior coatings are used on parts subject to the flammability requirements of MIL–STD–1630A and MIL–A–87721. For space applications, these coatings are used on parts subject to the flammability requirements of SE–R–0006 and SSP 30233.

Flexible primer—A primer that meets flexibility requirements such as those needed for adhesive bond primed fastener heads or on surfaces expected to contain fuel. The flexible coating is required because it provides a compatible, flexible substrate over bonded sheet rubber and rubber-type coatings as well as a flexible bridge between the fasteners, skin, and skin-to-skin joints on outer aircraft skins. This flexible bridge allows more topcoat flexibility around fasteners and decreases the chance of the topcoat cracking around the fasteners. The result is better corrosion resistance.

Flight test coating—A coating applied to aircraft other than missiles or single-use aircraft prior to flight testing to protect the aircraft from corrosion and to provide required marking during flight test evaluation.

Fuel tank adhesive—An adhesive used to bond components exposed to fuel and that must be compatible with fuel tank coatings.

Fuel tank coating—A coating applied to fuel tank components to inhibit corrosion and/or bacterial growth and to assure sealant adhesion in extreme environmental conditions.

High temperature coating—A coating designed to withstand temperatures of more than 350 °F.

Insulation covering—Material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

Intermediate release coating—A thin coating applied beneath topcoats to assist in removing the topcoat in depainting operations and generally to allow the use of less hazardous depainting methods.

Lacquer—A clear or pigmented coating formulated with a nitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resoluble in their original solvent.

Metalized epoxy coating—A coating that contains relatively large quantities of metallic pigmentation for appearance and/or added protection.

Mold release—A coating applied to a mold surface to prevent the molded piece from sticking to the mold as it is removed.

Nonstructural adhesive—An adhesive that bonds nonload bearing aerospace components in noncritical applications and is not covered in any other specialty adhesive categories.

Optical anti-reflection coating—A coating with a low reflectance in the infrared and visible wavelength ranges, which is used for anti-reflection on or near optical and laser hardware.

Part marking coating—Coatings or inks used to make identifying markings on materials, components, and/or assemblies. These markings may be either permanent or temporary.

Pretreatment coating—An organic coating that contains at least 0.5 percent acids by weight and is applied directly to metal or composite surfaces to provide surface etching, corrosion resistance, adhesion, and ease of stripping.

Rain erosion-resistant coating—A coating or coating system used to protect the leading edges of parts such as flaps, stabilizers, radomes, engine inlet nacelles, etc. against erosion caused by rain impact during flight.

Rocket motor bonding adhesive—An adhesive used in rocket motor bonding applications.

Rocket motor nozzle coating—A catalyzed epoxy coating system used in elevated temperature applications on rocket motor nozzles.

Rubber-based adhesive—Quick setting contact cements that provide a strong, yet flexible, bond between two mating surfaces that may be of dissimilar materials.

Scale inhibitor—A coating that is applied to the surface of a part prior to thermal processing to inhibit the formation of scale.

Screen print ink—Inks used in screen printing processes during fabrication of decorative laminates and decals.

Seal coat maskant—An overcoat applied over a maskant to improve abrasion and chemical resistance during production operations.

Sealant—A material used to prevent the intrusion of water, fuel, air, or other liquids or solids from certain areas of aerospace vehicles or components. There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants.

Silicone insulation material—Insulating material applied to exterior metal surfaces for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not ''sacrificial.''

Solid film lubricant—A very thin coating consisting of a binder system containing as its chief pigment material one or more of the following: molybdenum, graphite, polytetrafluoroethylene (PTFE), or other solids that act as a dry lubricant between faying surfaces.

Specialized function coatings—Coatings that fulfill extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings covered in other Specialty Coating categories.

Structural autoclavable adhesive—An adhesive used to bond load-carrying aerospace components that is cured by heat and pressure in an autoclave.

Structural nonautoclavable adhesive—An adhesive cured under ambient conditions that is used to bond load-carrying aerospace components or for other critical functions, such as nonstructural bonding in the proximity of engines.

Temporary protective coating—A coating applied to provide scratch or corrosion protection during manufacturing, storage, or transportation. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. Coatings that provide this type of protection from chemical processing are not included in this category.

Thermal control coating—Coatings formulated with specific thermal conductive or radiative properties to permit temperature control of the substrate.

Touch-up and Repair Coating—A coating used to cover minor coating imperfections appearing after the main coating operation.

Wet fastener installation coating—A primer or sealant applied by dipping, brushing, or daubing to fasteners that are installed before the coating is cured.

Wing coating—A corrosion-resistant topcoat that is resilient enough to withstand the flexing of the wings.

18. Appendix A to Part 63 is amended by adding method 319 in numerical order to read as follows:

Appendix A to Part 63—Test Methods

* * * * *

Method 319: Determination of Filtration Efficiency for Paint Overspray Arrestors

1.0 Scope and Application.

1.1 This method applies to the determination of the initial, particle size dependent, filtration efficiency for paint arrestors over the particle diameter range from 0.3 to 10 µm. The method applies to single and multiple stage paint arrestors or paint arrestor media. The method is applicable to efficiency determinations from 0 to 99 percent. Two test aerosols are used—one liquid phase and one solid phase. Oleic acid, a low-volatility liquid (CAS Number 112–80–1), is used to simulate the behavior of wet paint overspray. The solid-phase aerosol is potassium chloride salt (KCl, CAS Number 7447–40–7) and is used to simulate the behavior of a dry overspray. The method is limited to determination of the initial, clean filtration efficiency of the arrestor. Changes in efficiency (either increase or decrease) due to the accumulation of paint overspray on and within the arrestor are not evaluated.

1.2 Efficiency is defined as 1—Penetration (e.g., 70 percent efficiency is equal to 0.30 penetration). Penetration is based on the ratio of the downstream particle concentration to the upstream concentration. It is often more useful, from a mathematical or statistical point of view, to discuss the upstream and downstream counts in terms of penetration rather than the derived efficiency value. Thus, this document uses both penetration and efficiency as appropriate.

1.3 For a paint arrestor system or subsystem which has been tested by this method, adding additional filtration devices

to the system or subsystem shall be assumed to result in an efficiency of at least that of the original system without the requirement for additional testing. (For example, if the final stage of a three-stage paint arrestor system has been tested by itself, then the addition of the other two stages shall be assumed to maintain, as a minimum, the filtration efficiency provided by the final stage alone. Thus, in this example, if the final stage has been shown to meet the filtration requirements of Table 1 of § 63.745 of subpart GG, then the final stage in combination with any additional paint arrestor stages also passes the filtration requirements.)

2.0 Summary of Method.

2.1 This method applies to the determination of the fractional (i.e., particle-size dependent) aerosol penetration of several types of paint arrestors. Fractional penetration is computed from aerosol concentrations measured upstream and downstream of an arrestor installed in a laboratory test rig. The aerosol concentrations upstream and downstream of the arrestors are measured with an aerosol analyzer that simultaneously counts and sizes the particles in the aerosol stream. The aerosol analyzer covers the particle diameter size range from 0.3 to 10 µm in a minimum of 12 contiguous sizing channels. Each sizing channel covers a narrow range of particle diameters. For example, Channel 1 may cover from 0.3 to 0.4 µm, Channel 2 from 0.4 to 0.5 µm, * * * By taking the ratio of the downstream to upstream counts on a channel by channel basis, the penetration is computed for each of the sizing channels.

2.2 The upstream and downstream aerosol measurements are made while injecting the test aerosol into the air stream upstream of the arrestor (ambient aerosol is removed with HEPA filters on the inlet of the test rig). This test aerosol spans the particle size range from 0.3 to 10 µm and provides sufficient upstream concentration in each of the optical particle counter (OPC) sizing channels to allow accurate calculation of penetration, down to penetrations of approximately 0.01 (i.e., 1 percent penetration; 99 percent efficiency). Results are presented as a graph and a data table showing the aerodynamic particle diameter and the corresponding fractional efficiency.

3.0 Definitions.

Aerodynamic Diameter—diameter of a unit density sphere having the same aerodynamic properties as the particle in question.

Efficiency is defined as equal to 1—Penetration.

Optical Particle Counter (OPC)—an instrument that counts particles by size using light scattering. An OPC gives particle diameters based on size, index of refraction, and shape.

Penetration—the fraction of the aerosol that penetrates the filter at a given particle diameter. Penetration equals the downstream concentration divided by the upstream concentration.

4.0 Interferences.

4.1 The influence of the known interferences (particle losses) are negated by correction of the data using blanks.

5.0 Safety.

5.1 There are no specific safety precautions for this method above those of good laboratory practice. This standard does not purport to address all of the safety problems, if any, associated with its use. It is the responsibility of the user of this method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

6.0 Equipment and Supplies.

6.1 Test Facility. A schematic diagram of a test duct used in the development of the method is shown in Figure 319–1.

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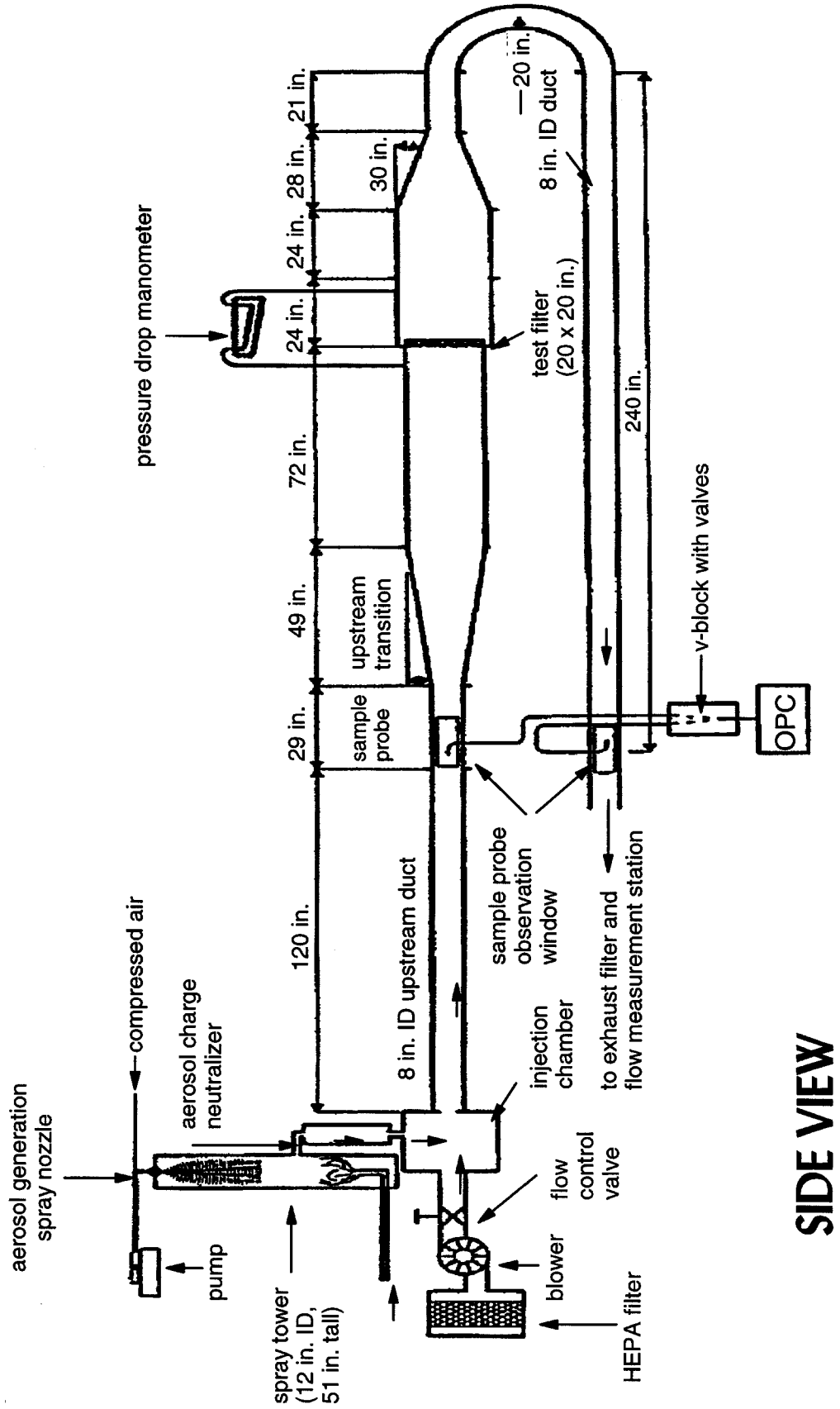

Figure 319-1. Schematic illustration of the fractional efficiency test rig.

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6.1.1 The test section, paint spray section, and attached transitions are constructed of stainless and galvanized steel. The upstream and downstream ducting is 20 cm diameter polyvinyl chloride (PVC). The upstream transition provides a 7° angle of expansion to provide a uniform air flow distribution to the paint arrestors. Aerosol concentration is measured upstream and downstream of the test section to obtain the challenge and penetrating aerosol concentrations, respectively. Because the downstream ducting runs back under the test section, the challenge and penetrating aerosol taps are located physically near each other, thereby facilitating aerosol sampling and reducing sample-line length. The inlet nozzles of the upstream and downstream aerosol probes are designed to yield isokinetic sampling conditions.

6.1.2 The configuration and dimensions of the test duct can deviate from those of Figure 319–1 provided that the following key elements are maintained: the test duct must meet the criteria specified in Table 319–1; the inlet air is HEPA filtered; the blower is on the upstream side of the duct thereby creating a positive pressure in the duct relative to the surrounding room; the challenge air has a temperature between 50° and 100°F and a relative humidity of less than 65 percent; the angle of the upstream transition (if used) to the paint arrestor must not exceed 7°; the angle of the downstream transition (if used) from the paint arrestor must not exceed 30°; the test duct must provide a means for mixing the challenge aerosol with the upstream flow (in lieu of any mixing device, a duct length of 15 duct diameters fulfills this requirement); the test duct must provide a means for mixing any penetrating aerosol with the downstream flow (in lieu of any mixing device, a duct length of 15 duct diameters fulfills this requirement); the test section must provide a secure and leak-free mounting for single and multiple stage arrestors; and the test duct may utilize a 180° bend in the downstream duct.

TABLE 319–1.—QC CONTROL LIMITS

	Frequency and description	Control limits
OPC zero count	Each Test. OPC samples HEPA-filtered air	<50 counts per minute.
OPC sizing accuracy check	Daily. Sample aerosolized PSL spheres	Peak of distribution should be in correct OPC channel.
Minimum counts per channel for challenge aerosol.	Each Test	Minimum total of 500 particle counts per channel.
Maximum particle concentration	Each Test. Needed to ensure OPC is not overloaded.	<10% of manufacturer's claimed upper limit corresponding to a 10% count error.
Standard Deviation of Penetration	Computed for each test based on the CV of the upstream and downstream counts.	<0.10 for 0.3 to 3 μm diameter. <0.30 for >3 μm diameter.
0% Penetration	Monthly	<0.01.
100% Penetration—KCl	Triplicate tests performed immediately before, during, or after triplicate arrestor tests.	0.3 to 1 μm: 0.90 to 1.10. 1 to 3 μm: 0.75 to 1.25. 3 to 10 μm: 0.50 to 1.50.
100% Penetration—Oleic Acid	Triplicate tests performed immediately before, during, or after triplicate arrestor tests.	0.3 to 1 μm: 0.90 to 1.10. 1 to 3 μm: 0.75 to 1.25. 3 to 10 μm: 0.50 to 1.50.

6.2 Aerosol Generator. The aerosol generator is used to produce a stable aerosol covering the particle size range from 0.3 to 10 μm diameter. The generator used in the development of this method consists of an air atomizing nozzle positioned at the top of a 0.30–m (12-in.) diameter, 1.3–m (51-in.) tall, acrylic, transparent, spray tower. This tower allows larger sized particles, which would otherwise foul the test duct and sample lines, to fall out of the aerosol. It also adds drying air to ensure that the KCl droplets dry to solid salt particles. After generation, the aerosol passes through an aerosol neutralizer (Kr85 radioactive source) to neutralize any electrostatic charge on the aerosol (electrostatic charge is an unavoidable consequence of most aerosol generation methods). To improve the mixing of the aerosol with the air stream, the aerosol is injected counter to the airflow. Generators of other designs may be used, but they must produce a stable aerosol concentration over the 0.3 to 10 μm diameter size range; provide a means of ensuring the complete drying of the KCl aerosol; and utilize a charge neutralizer to neutralize any electrostatic charge on the aerosol. The resultant challenge aerosol must meet the minimum count per channel and maximum concentration criteria of Table 319–1.

6.3 Installation of Paint Arrestor. The paint arrestor is to be installed in the test duct in a manner that precludes air bypassing the arrestor. Since arrestor media are often sold unmounted, a mounting frame may be used to provide back support for the media in addition to sealing it into the duct. The mounting frame for 20 in. x 20 in. arrestors will have minimum open internal dimensions of 18 in. square. Mounting frames for 24 in. x 24 in. arrestors will have minimum open internal dimensions of 22 in. square. The open internal dimensions of the mounting frame shall not be less than 75 percent of the approach duct dimensions.

6.4 Optical Particle Counter. The upstream and downstream aerosol concentrations are measured with a high-resolution optical particle counter (OPC). To ensure comparability of test results, the OPC shall utilize an optical design based on wide-angle light scattering and provided a minimum of 12 contiguous particle sizing channels from 0.3 to 10μm diameter (based on response to PSL) where, for each channel, the ratio of the diameter corresponding to the upper channel bound to the lower channel bound must not exceed 1.5.

6.5 Aerosol Sampling System. The upstream and downstream sample lines must be made of rigid electrically-grounded metallic tubing having a smooth inside surface, and they must be rigidly secured to prevent movement during testing. The upstream and downstream sample lines are to be nominally identical in geometry. The use of a short length (100 mm maximum) of straight flexible tubing to make the final connection to the OPC is acceptable. The inlet nozzles of the upstream and downstream probes must be sharp-edged and of appropriate entrance diameter to maintain isokinetic sampling within 20 percent of the air velocity.

6.5.1 The sampling system may be designed to acquire the upstream and downstream samples using (a) sequential upstream-downstream sampling with a single OPC, (b) simultaneous upstream and downstream sampling with two OPC's, or (c) sequential upstream-downstream sampling with two OPC's.

6.5.2 When two particle counters are used to acquire the upstream and downstream counts, they must be closely matched in flowrate and optical design.

6.6 Airflow Monitor. The volumetric airflow through the system shall be measured with a calibrated orifice plate, flow nozzle, or laminar flow element. The measurement device must have an accuracy of 5 percent or better.

7.0 Reagents and Standards.

7.1 The liquid test aerosol is reagent grade, 98 percent pure, oleic acid (Table 319–2). The solid test aerosol is KCl aerosolized from a solution of KCl in water. In addition to the test aerosol, a calibration aerosol of monodisperse polystyrene latex (PSL) spheres is used to verify the calibration of the OPC.

TABLE 319–2.—PROPERTIES OF THE TEST AND CALIBRATION AEROSOLS

	Refractive index	Density, g/cm^3	Shape
Oleic Acid (liquid-phase challenge aerosol)	1.46 nonabsorbing	0.89	Spherical.
KCl (solid-phase challenge aerosol)	1.49	1.98	Cubic or agglomerated cubes.
PSL (calibration aerosol)	1.59 nonabsorbing	1.05	Spherical.

8.0 Sample Collection, Preservation, and Storage.

8.1 In this test, all sampling occurs in real-time, thus no samples are collected that require preservation or storage during the test. The paint arrestors are shipped and stored to avoid structural damage or soiling. Each arrestor may be shipped in its original box from the manufacturer or similar cardboard box. Arrestors are stored at the test site in a location that keeps them clean and dry. Each arrestor is clearly labeled for tracking purposes.

9.0 Quality Control.

9.1 Table 319–1 lists the QC control limits.

9.2 The standard deviation (σ) of the penetration (P) for a given test at each of the 15 OPC sizing channels is computed from the coefficient of variation (CV, the standard deviation divided by the mean) of the upstream and downstream measurements as:

$$\sigma_P = P\sqrt{\left(CV_{upstream}^2 + CV_{downstream}^2\right)} \qquad \text{(Eq. 319-1)}$$

For a properly operating system, the standard deviation of the penetration is < 0.10 at particle diameters from 0.3 to 3 µm and less than 0.30 at diameters > 3 µm.

9.3 Data Quality Objectives (DQO).

9.3.1 Fractional Penetration. From the triplicate tests of each paint arrestor model, the standard deviation for the penetration measurements at each particle size (i.e., for each sizing channel of the OPC) is computed as:

$$s = \left[\sum\left(P_i - \overline{P}\right)^2/(n-1)\right]^{\frac{1}{2}} \qquad \text{(Eq. 319-2)}$$

where P_i represents an individual penetration measurement, and P the average of the 3 (n = 3) individual measurements.

9.3.2 Bias of the fractional penetration values is determined from triplicate no-filter and HEPA filter tests. These tests determine the measurement bias at 100 percent penetration and 0 percent penetration, respectively.

9.3.3 PSL-Equivalent Light Scattering Diameter. The precision and bias of the OPC sizing determination are based on sampling a known diameter of PSL and noting whether the particle counts peak in the correct channel of the OPC. This is a pass/fail measurement with no calculations involved.

9.3.4 Airflow. The precision of the measurement must be within 5 percent of the set point.

10.0 Calibration and Standardization.

10.1 Optical Particle Counter. The OPC must have an up-to-date factory calibration. Check the OPC zero at the beginning and end of each test by sampling HEPA-filtered air. Verify the sizing accuracy on a daily basis (for days when tests are performed) with 1-size PSL spheres.

10.2 Airflow Measurement. Airflow measurement devices must have an accuracy of 5 percent or better. Manometers used in conjunction with the orifice plate must be inspected prior to use for proper level, zero, and mechanical integrity. Tubing connections to the manometer must be free from kinks and have secure connections.

10.3 Pressure Drop. Measure pressure drop across the paint arrestor with an inclined manometer readable to within 0.01 in. H_2O. Prior to use, the level and zero of the manometer, and all tubing connections, must be inspected and adjusted as needed.

11.0 Procedure.

11.1 Filtration Efficiency. For both the oleic acid and KCl challenges, this procedure is performed in triplicate using a new arrestor for each test.

11.1.1 General Information and Test Duct Preparation

11.1.1.1 Use the ''Test Run Sheet'' form (Figure 319–2) to record the test information.

Run Sheet

Part 1. General Information

Date and Time: _____

Test Operator: _____

Test #: _____

Paint Arrestor:

Brand/Model _____

Arrestor Assigned ID # _____

Condition of arrestor (i.e., is there any damage? Must be new condition to proceed):

_____

Manometer zero and level confirmed?

_____

Part 2. Clean Efficiency Test

Date and Time: _____

Optical Particle Counter:

20 min. warm up _____

Zero count (< 50 counts/min) _____

Daily PSL check _____

PSL Diam: _____ µm

File name for OPC data: _____

Test Conditions:

Air Flow: _____

Temp & RH: Temp _____ °F RH _____ %

Atm. Pressure: _____in. Hg (From mercury barometer)

Aerosol Generator: (record all operating parameters)

_____

_____

_____

_____

Test Aerosol:

(Oleic acid or KCl) _____

Arrestor:

Pressure drop: at start _____ in. H_2O

at end _____ in. H_2O

Condition of arrestor at end of test (note any physical deterioration):

_____

_____

Figure 319–2. Test Run Sheet

Other report formats which contain the same information are acceptable.

11.1.1.2 Record the date, time, test operator, Test #, paint arrestor brand/model and its assigned ID number. For tests with no arrestor, record none.

11.1.1.3 Ensure that the arrestor is undamaged and is in ''new'' condition.

11.1.1.4 Mount the arrestor in the appropriate frame. Inspect for any airflow leak paths.

11.1.1.5 Install frame-mounted arrestor in the test duct. Examine the installed arrestor to verify that it is sealed in the duct. For tests with no arrestor, install the empty frame.

11.1.1.6 Visually confirm the manometer zero and level. Adjust as needed.

11.1.2 Clean Efficiency Test.

11.1.2.1 Record the date and time upon beginning this section.

11.1.2.2 Optical Particle Counter.

11.1.2.2.1 General: Operate the OPC per the manufacturer's instructions allowing a minimum of 20 minutes warm up before making any measurements.

11.1.2.2.2 Overload: The OPC will yield inaccurate data if the aerosol concentration it is attempting to measure exceeds its operating limit. To ensure reliable measurements, the maximum aerosol concentration will not exceed 10 percent of the manufacturer's claimed upper concentration limit corresponding to a 10 percent count error. If this value is exceeded, reduce the aerosol concentration until the acceptable conditions are met.

11.1.2.2.3 Zero Count: Connect a HEPA capsule to the inlet of the OPC and obtain printouts for three samples (each a minimum of 1-minute each). Record maximum cumulative zero count. If the count rate exceeds 50 counts per minute, the OPC requires servicing before continuing.

11.1.2.2.4 PSL Check of OPC Calibration: Confirm the calibration of the OPC by sampling a known size PSL aerosol. Aerosolize the PSL using an appropriate nebulizer. Record whether the peak count is observed in the proper channel. If the peak is not seen in the appropriate channel, have the OPC recalibrated.

11.1.2.3 Test Conditions:

11.1.2.3.1 Airflow: The test airflow corresponds to a nominal face velocity of 120 FPM through the arrestor. For arrestors having nominal 20 in. x 20 in. face dimensions, this measurement corresponds to an airflow of 333 cfm. For arrestors having nominal face dimensions of 24 in. x 24 in., this measurement corresponds to an airflow of 480 cfm.

11.1.2.3.2 Temperature and Relative Humidity: The temperature and relative humidity of the challenge air stream will be measured to within an accuracy of +/−2°F and +/−10 percent RH. To protect the probe from fouling, it may be removed during periods of aerosol generation.

11.1.2.3.3 Barometric Pressure: Use a mercury barometer. Record the atmospheric pressure.

11.1.2.4 Upstream and Downstream Background Counts.

11.1.2.4.1 With the arrestor installed in the test duct and the airflow set at the proper value, turn on the data acquisition computer and bring up the data acquisition program.

11.1.2.4.2 Set the OPC settings for the appropriate test sample duration with output for both printer and computer data collection.

11.1.2.4.3 Obtain one set of upstream-downstream background measurements.

11.1.2.4.4 After obtaining the upstream-downstream measurements, stop data acquisition.

11.1.2.5 Efficiency Measurements:

11.1.2.5.1 Record the arrestor pressure drop.

11.1.2.5.2 Turn on the Aerosol Generator. Begin aerosol generation and record the operating parameters.

11.1.2.5.3 Monitor the particle counts. Allow a minimum of 5 minutes for the generator to stabilize.

11.1.2.5.4 Confirm that the total particle count does not exceed the predetermined upper limit. Adjust generator as needed.

11.1.2.5.5 Confirm that a minimum of 50 particle counts are measured in the upstream sample in each of the OPC channels per sample. (A minimum of 50 counts per channel per sample will yield the required minimum 500 counts per channel total for the 10 upstream samples as specified in Table 319–1.) Adjust generator or sample time as needed.

11.1.2.5.6 If you are unable to obtain a stable concentration within the concentration limit and with the 50 count minimum per channel, adjust the aerosol generator.

11.1.2.5.7 When the counts are stable, perform repeated upstream-downstream sampling until 10 upstream-downstream measurements are obtained.

11.1.2.5.8 After collection of the 10 upstream-downstream samples, stop data acquisition and allow 2 more minutes for final purging of generator.

11.1.2.5.9 Obtain one additional set of upstream-downstream background samples.

11.1.2.5.10 After obtaining the upstream-downstream background samples, stop data acquisition.

11.1.2.5.11 Record the arrestor pressure drop.

11.1.2.5.12 Turn off blower.

11.1.2.5.13 Remove the paint arrestor assembly from the test duct. Note any signs of physical deterioration.

11.1.2.5.14 Remove the arrestor from the frame and place the arrestor in an appropriate storage bag.

11.2 Control Test: 100 Percent Penetration Test. A 100 percent penetration test must be performed immediately before each individual paint arrestor test using the same challenge aerosol substance (i.e., oleic acid or KCl) as to be used in the arrestor test. These tests are performed with no arrestor installed in the test housing. This test is a relatively stringent test of the adequacy of the overall duct, sampling, measurement, and aerosol generation system. The test is performed as a normal penetration test except the paint arrestor is not used. A perfect system would yield a measured penetration of 1 at all particle sizes. Deviations from 1 can occur due to particle losses in the duct, differences in the degree of aerosol uniformity (i.e., mixing) at the upstream and downstream probes, and differences in particle transport efficiency in the upstream and downstream sampling lines.

11.3 Control Test: 0 Percent Penetration. One 0 percent penetration test must be performed at least monthly during testing. The test is performed by using a HEPA filter rather than a paint arrestor. This test assesses the adequacy of the instrument response time and sample line lag.

12.0 Data Analysis and Calculations.

12.1 Analysis. The analytical procedures for the fractional penetration and flow velocity measurements are described in Section 11. Note that the primary measurements, those of the upstream and downstream aerosol concentrations, are performed with the OPC which acquires the sample and analyzes it in real time. Because all the test data are collected in real time, there are no analytical procedures performed subsequent to the actual test, only data analysis.

12.2 Calculations.

12.2.1 Penetration.

Nomenclature

U = Upstream particle count

D = Downstream particle count

U_b = Upstream background count

D_b = Downstream background count

P_{100} = 100 percent penetration value determined immediately prior to the arrestor test computed for each channel as:

$$P_{100} = \frac{\left(\overline{D} - \overline{D_b}\right)}{\left(\overline{U} - \overline{U_b}\right)}$$

P = Penetration of the arrestor corrected for P_{100}

ó = Sample standard deviation

CV = Coefficient of variation = ó/mean

E = Efficiency.

Overbar denotes arithmetic mean of quantity.

Analysis of each test involves the following quantities:

- P_{100} value for each sizing channel from the 100 percent penetration control test,
- 2 upstream background values,
- 2 downstream background values,
- 10 upstream values with aerosol generator on, and
- 10 downstream values with aerosol generator on.

Using the values associated with each sizing channel, the penetration associated with each particle-sizing channel is calculated as:

$$P = \left\{\frac{\left(\overline{D} - \overline{D}_b\right)}{\left(\overline{U} - \overline{U}_b\right)}\right\} / P_{100} \qquad \text{(Eq. 319-3)}$$

$$E = 1 - P \qquad \text{(Eq. 319-4)}$$

Most often, the background levels are small compared to the values when the aerosol generator is on.

12.3 The relationship between the physical diameter ($D_{Physical}$) as measured by the OPC to the aerodynamic diameter (D_{Aero}) is given by:

$$D_{Aero} = D_{Physical}\sqrt{\frac{\rho_{Particle}}{\rho_o}\frac{CCF_{Physical}}{CCF_{Aero}}} \qquad \text{(Eq. 319-5)}$$

Where:

p_O = unit density of 1 g/cm³.

$p_{Particle}$ = the density of the particle, 0.89 g/cm³ for oleic acid.

$CCF_{Physical}$ = the Cunningham Correction Factor at $D_{Physical}$.

CCF_{Aero} = the Cunningham Correction Factor at D^{Aero}.

12.4 Presentation of Results. For a given arrestor, results will be presented for:

- Triplicate arrestor tests with the liquid-phase challenge aerosol,
- Triplicate arrestor tests with the solid-phase challenge aerosol,
- Triplicate 100 percent penetration tests with the liquid-phase challenge aerosol,
- Triplicate 100 percent penetration tests with the solid-phase challenge aerosol, and
- One 0 percent filter test (using either the liquid-phase or solid-phase aerosol and performed at least monthly).

12.4.1 Results for the paint arrestor test must be presented in both graphical and tabular form. The X-axis of the graph will be a logarithmic scale of aerodynamic diameter from 0.1 to 100 µm. The Y-axis will be efficiency (%) on a linear scale from 0 to 100. Plots for each individual run and a plot of the average of triplicate solid-phase and of the average triplicate liquid-phase tests must be prepared. All plots are to be based on point-to-point plotting (i.e., no curve fitting is to be used). The data are to be plotted based on the geometric mean diameter of each of the OPC's sizing channels.

12.4.2 Tabulated data from each test must be provided. The data must include the upper and lower diameter bound and geometric mean diameter of each of the OPC sizing channels, the background particle counts for each channel for each sample, the upstream particle counts for each channel for each sample, the downstream particle counts for each channel for each sample, the 100 percent penetration values computed for each channel, and the 0 percent penetration values computed for each channel.

13.0 Pollution Prevention.

13.1 The quantities of materials to be aerosolized should be prepared in accord with the amount needed for the current tests so as to prevent wasteful excess.

14.0 Waste Management.

14.1 Paint arrestors may be returned to originator, if requested, or disposed of with regular laboratory waste.

15.0 References.

1. Hanley, J.T., D.D. Smith and L. Cox. ''Fractional Penetration of Paint Overspray Arrestors, Draft Final Report,'' EPA Cooperative Agreement CR–817083–01–0, January 1994.

2. Hanley, J.T., D.D. Smith, and D.S. Ensor. ''Define a Fractional Efficiency Test Method that is Compatible with Particulate Removal Air Cleaners Used in General Ventilation,'' Final Report, 671–RP, American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., December 1993.

3. ''Project Work and Quality Assurance Plan: Fractional Penetration of Paint Overspray Arrestors, Category II,'' EPA Cooperative Agreement No. CR–817083, July 1994.

[FR Doc. 98–6999 Filed 3–26–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5978–5]

National Emission Standards for Hazardous Air Pollutants; Aerospace Manufacturing and Rework Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: This action proposes amendments to the national emission standards for hazardous air pollutants (NESHAP) for aerospace manufacturing and rework facilities and are amended in a final rule published elsewhere in today's **Federal Register**. Today's proposed changes involve new definitions for general aviation and general aviation rework facility, separate coating limits for primers and topcoats used on general aviation aircraft, and additional changes resulting from public comments on previously proposed (October 29, 1996) amendments to the final rule.

DATES: *Comments.* Comments on these proposed changes must be received on or before May 26, 1998.

ADDRESSES: *Comments.* Interested parties may submit written comments (in duplicate, if possible) on the proposed changes to the NESHAP to: Air and Radiation Docket and Information Center (6102), (LE–131), Attention, Docket No. A–92–20, U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments on the proposed changes to the NESHAP may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on diskette in WordPerfect 5.1 (or 6.1) or ASCII file format. All comments in electronic form must be identified by the docket number A–92–20. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments may be filed online at many Federal Depository Libraries. *Docket.* Docket No. A–92–20, containing the proposed regulatory text and other materials related to this rulemaking used in developing the NESHAP, is available for public inspection and copying between 8:30 a.m. to noon, and from 1 and 3 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548. A reasonable fee may be charged for copying. The docket for the NESHAP is available for public inspection and copying at the Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

An electronic version of documents from the Office of Air and Radiation (OAR) are available through EPA's OAR Technology Transfer Network Web site (TTNWeb). The TTNWeb is a collection of related Web sites containing information about many areas of air pollution science, technology, regulation, measurement, and prevention. The TTNWeb is directly accessible from the Internet via the World Wide Web at the following address, ''http:/www.epa.gov/ttn''. Electronic versions of this preamble and the proposed amendments to the final rule are located under the OAR Policy and Guidance Information Web site, ''http:/www.epa.gov/ttn/oarpg/'', under the Recently Signed Rules section. If more information on the TTNWeb is needed, contact the Systems Operator at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed changes to the standards, contact Ms. Barbara Driscoll, Policy Planning and Standards Group, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–0164.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are owners or operators of facilities that are engaged, either in part or in whole, in the manufacturing or rework of commercial, civil, or military aerospace vehicles or components and that are major sources as defined in § 63.2. Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities which are major sources of hazardous air pollutants and manufacture, rework, or repair aircraft such as airplanes, helicopters, missiles, rockets, and space vehicles.
Federal Government	Federal facilities which are major sources of hazardous air pollutants and manufacture, rework, or repair aircraft such as airplanes, helicopters, missiles, rockets, and space vehicles.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility [company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in § 63.741 of the NESHAP for aerospace manufacturing and rework facilities promulgated in the **Federal Register** on September 1, 1995 (60 FR 45948) the amendments in a final rule published elsewhere in today's **Federal Register**.

The information presented below is organized as follows:

I. Background
II. Summary of and Rationale for Proposed Rule Changes
A. Definitions
B. Standards for Primers and Topcoats
C. Clarification of Relationship Between NESHAP and Federal Aviation Administration (FAA) Regulations
D. Hand-Wipe Cleaning: Removal of References to Section 112(l) and Equivalent Volume Reduction Demonstration
E. Exemption for Cleaning of Automated Spray Equipment Nozzle Tips
F. Monitoring Parameters for Pumpless Waterwash Systems
G. Exclusion of Charged Media Certification Using Test Method 319
III. Administrative Requirements
A. Docket
B. Paperwork Reduction Act
C. Executive Order 12866
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act

I. Background

National emission standards for hazardous air pollutants for aerospace manufacturing and rework facilities were proposed in the **Federal Register** on June 6, 1994 (60 FR 29216). Public comments were received regarding the standards and the final NESHAP was promulgated in the **Federal Register** on September 1, 1995 (60 FR 45948). Amendments to the final rule appear in another part of today's **Federal Register**. This action proposes additional amendments to §§ 63.741, 63.742,

63.745, 63.751, 63.752 and 63.753 of subpart GG of 40 CFR part 63 and Method 319 of Appendix A to part 63—TEST METHODS. These sections deal with applicability, definitions, topcoat and primer application operations, monitoring requirements, record-keeping requirements, and reporting requirements.

The Agency set these standards for aerospace manufacturing and rework facilities to address organic and inorganic HAP emissions. As stated in the preamble to the final rule (September 1995), nationwide emissions of HAP from at least 2,869 major source aerospace manufacturing and rework facilities will be reduced by approximately 112,600 Mg (123,700 tons). These proposed changes to the final rule will not result in any significant changes to the emission reductions or cost impacts because (1) only a small number of general aviation (GA) rework facilities will be considered major sources and therefore subject to the NESHAP requirements and (2) only one or two known aerospace facilities utilize pumpless waterwash systems for controlling particulate emissions.

II. Summary of and Rationale for Proposed Rule Changes

A. Definitions

The EPA proposes adding the following definitions to § 63.742:

General aviation (GA) means the segment of the aerospace industry involving noncommercial and nonmilitary aircraft designed to carry 19 passengers or less. This definition is meant to include most smaller corporate jets and privately owned aircrafts.

General aviation rework facility means an aerospace facility with the majority of its revenues resulting from the reconstruction, repair, maintenance, repainting, conversion, or alteration or aerospace vehicles or components.

As discussed next (in paragraph II. B.), the Agency is proposing separate standards for primer and topcoat applications for GA rework facilities. Based on public comments received and information received by the Agency at industry roundtable meetings, the Agency believes that the proposed definition for GA will accurately describe the segment of the aerospace industry servicing those smaller aircraft for which the alternative primer and topcoat standards are intended.

B. Standards for Primers and Topcoats

Based on information presented at a roundtable meeting held on March 13–14, 1996 and in public comments on the aerospace standard, the Agency has developed alternative emission limits for topcoat and primer applications on general aviation aircraft. These limits were developed in light of the assertions made by GA aerospace rework industry representatives that the coatings applied to GA aircraft are significantly thicker (typically ≥ 7mm) than coatings applied to most commercial aircraft (typically around 3mm). According to GA rework industry representatives, GA customers typically require thicker coatings (relative to commercial aircraft) to enhance the appearance of their aircraft. Furthermore, these industry representatives stated that the business climate for GA aircraft rework operations is such that if GA rework facilities located in the U.S. are unable to provide the customer-specified coatings (in terms of thickness and appearance), they will lose customers who would readily have their aircraft painted at other U.S. facilities not subject to the NESHAP requirements (i.e., nonmajor sources) or outside of the U.S., at facilities located in areas with nonexistent or less stringent air emissions standards.

The Agency also notes that, based on available information on this segment of the industry, many GA rework facilities would be area sources emitting less than 10 tons per year (tons/yr) of any single HAP, and less than 25 tons/yr of combined HAP. Nevertheless, GA rework facilities do exist which are major sources. For these facilities the Agency finds that the coating (primer and topcoat) application operations are different for GA rework facilities than commercial and military facilities. Accordingly, the Agency proposes to subcategorize GA rework facilities and to determine a separate MACT floor for primer and topcoat application conducted at such facilities.

Based on the best information available to the Agency, there are less than 30 GA rework facilities that would be considered major sources of HAP emissions and therefore subject to the NESHAP requirements. Since there are less than 30 sources, the MACT floor for primer and topcoat (including self-priming topcoat) rework application to GA aircraft was based on the average of the best performing five sources found in the Agency's data base on GA sources. The data from the GA rework facilities in the Agency's data base were ranked according to the average HAP content of all coatings, weighted by annual usage volume. The best five facilities were identified as having an overall facility weighted average HAP and VOC content of 540 grams per liter (g/L) [4.5 pounds per gallon (lb/gal)] for both primers and topcoats.

Most, if not all, of the GA rework facilities that will have to comply with the NESHAP limits are competing for business with facilities that are minor (area) sources. The NESHAP does not impact minor sources and allows them to continue their current painting and depainting operations to meet customer requirements and expectations. The Agency is therefore proposing the MACT floor limits for primer and topcoat application for GA rework facilities in § 63.745(c)(1) through (c)(4). The HAP limits for both primers and topcoats (including self-priming topcoats) are equivalent: less than or equal to 540 g/L (4.5 lb/gal) of coating (less water) as applied. The VOC limits for both primers and topcoats are also equivalent: less than or equal to 540 g/L (4.5 lb/gal) of coating (less water and exempt solvents) as applied.

C. Clarification of Relationship Between NESHAP and Federal Aviation Administration (FAA) Regulations

The EPA has worked closely with the FAA during the development of the final NESHAP for the aerospace manufacturing and rework source category. Both agencies recognize the importance of continuing airworthiness and the safety of the flying public as repair facilities modify their procedures to comply with the NESHAP. The FAA and the EPA are committed to minimizing the impact on airworthiness while maximizing the reduction of HAP emissions under the NESHAP.

In industry roundtable meetings subsequent to the promulgation date, commenters noted that there appeared to be conflicts between the NESHAP requirements and existing FAA regulations, which primarily affect the General Aviation segment of the industry. The EPA and FAA both recognize that there exists a potential for conflict involving regulations concerning the use of HAP-containing chemical strippers. The NESHAP does not allow HAP-containing chemical strippers (e.g., methylene chloride based strippers) to be used for depainting aircraft (except for spot stripping and decal removal), and some aircraft manufacturers' maintenance manuals specify that only certain materials (e.g., methylene chloride based strippers) may be used for depainting. The FAA regulations require that maintenance be performed in an FAA-acceptable manner, which normally requires the procedures in the manufacturer's manual be followed. If those procedures are not followed, aircraft airworthiness could be jeopardized.

Since promulgation of the NESHAP on September 1, 1995, many of the aircraft manufacturers (principally those manufacturing transport category

aircraft) have made the necessary revisions to their maintenance manuals to provide for non-HAP materials (chemical strippers) to be used for depainting. Those revisions have been FAA approved or will be submitted for FAA approval, when required. For the other manufacturers (principally General Aviation manufacturers), once the necessary information (revised/updated maintenance manuals, service bulletins, and/or advisory circulars) is approved by the FAA and is distributed to the regulated community, the potential regulatory conflict will be eliminated, and aerospace rework facilities will be able to use various products to comply with most EPA and FAA requirements.

Because of the small numbers of aircraft affected and the considerable expense of testing alternative materials for use on antique aircraft (those over 30 years old), the October 29, 1996 amendments to the final rule (NESHAP) contain an exemption for the rework of these aircraft. For the same reason, these proposed revisions to the NESHAP extend that exemption to rework of aircraft and aircraft components whose manufacturers are out of business.

Specifically, the EPA is proposing to exempt rework of aircraft whose manufacturers are out of business by adding the following to § 63.741(f):

These requirements do not apply to the rework of aircraft or aircraft components if the holder of the Federal Aviation Administration (FAA) design approval, or that holder's licensee, is not actively manufacturing aircraft or aircraft components.

The FAA certifies that an aircraft, engine, propeller, or part design meets certain airworthiness requirements, and issues to the designer of that product a type certificate (TC), supplemental type certificate (STC), Technical Standard Order Authorization (TSOA), or Parts Manufacturer Approval (PMA). The procedures for issuing TCs, STCs, TSOAs, and PMAs are contained in FAA regulations at 14 CFR, part 21. The holder of one of these is a ''design approval holder.''

Should any manufacturers still in business not revise their maintenance instructions to allow use of NESHAP-compliant materials, the FAA has committed to issue a notice publicizing the process by which repair facilities can request approval for alternatives (currently a very time-consuming and resource-intensive process). In addition, many existing Airworthiness Directives (AD's), issued under part 39 of Title 14 of the CFR, specify the use of HAP. (AD's are regulations addressing safety of flight, and compliance with them is mandatory.) An FAA notice will address the process by which repair stations, mechanics and operators can obtain alternative means of compliance for those AD's, for the purpose of approving substitution of non-HAP materials.

D. Hand-Wipe Cleaning: Removal of References to Section 112(l) and Equipment Volume Reduction Demonstration

Section 63.744(b)(3) of the amended NESHAP (requirements for hand wipe cleaning) refers to requirements of section 112(l) of the Clean Air Act. Based on comments received on the October 29, 1996 amendments to the final rule, the Agency is proposing to remove the references to section 112(l) of the Clean Air Act. Requiring submittal and approval of each individual alternative plan under section 112(l) is unwarranted and contrary to the intent of section 112(l). Therefore, the proposed requirements of § 63.744(b)(3) no longer include the reference to ''section 112(l) of the Act.''

There were additional comments regarding § 63.744(b)(3) and establishing a baseline volume of hand-wipe cleaning solvents used in cleaning operations. The commenters suggested deleting the requirement for demonstrating that the 60 percent volume reduction provides emission reductions equivalent to the solvent composition or vapor pressure compliance options. The Agency agrees that the equivalency demonstration is confusing and is proposing new language in § 63.744(b)(3) regarding approval of baseline levels.

E. Exemption for Cleaning of Automated Spray Equipment Nozzle Tips

Two commenters suggested that the Agency exempt owners or operators of aerospace cleaning operations from requirements for a closed container when cleaning the nozzle tips of automated spray equipment systems. As explained below, the Agency agrees with the commenters and is proposing an amendment to § 63.744(c) as follows:

(5) Cleaning of the nozzle tips of automated spray equipment systems, except for robotic systems that can be programmed to spray into a closed container, shall be exempt from the requirements of paragraph (c) of this section.

In proposing this exemption from cleaning requirements for the nozzle tips of automated spray equipment systems, the Agency agrees with the commenters that such an exemption was found necessary for at least one State air pollution prevention standard [South Coast Air Quality Management District (California) Rule 1171. Solvent Cleaning Operations, last revised September 13, 1996]. The Agency notes that such automated spray equipment cannot be easily disassembled. Such nonrobotic spray equipment is typically constructed on a moving track to spray when a part is positioned in front of the spray gun, and to shut off when no part is sensed. These nonrobotic spray guns typically cannot be programmed to move away from the parts to spray cleaning solvent into some type of closed container. Cleaning of these spray guns without disassembly can only occur by manually spraying cleaning solvent from the spray gun into the open air of the booth.

F. Monitoring Parameters for Pumpless Waterwash Systems

Two commenters on the proposed amendments requested that the Agency address potential problems with the monitoring requirements for waterwash particulate control systems found in the final rule. Pumpless waterwash systems are considered to be part of the MACT floor involving waterwash particulate control systems but were overlooked in the regulatory text detailing the associated standards, monitoring, recordkeeping, and reporting requirements. The commenters specifically requested that the Agency incorporate monitoring requirements for pumpless waterwash systems. The Agency agrees with the commenters that clarifications to the monitoring requirements are needed in order to provide for the use of this control technology. The Agency was not aware of all the various types of systems involved with this control technology when the final standards were promulgated. The Agency is therefore proposing the following changes:

In § 63.742, revise the following definition:

Waterwash system means a control system that utilizes flowing water (i.e., a conventional waterwash system) or a pumpless system to remove particulate emissions from the exhaust air stream in spray coating application or dry media blast depainting operations.

In § 63.745(g)(2)(v), modify the paragraph as follows:

(v) If a conventional waterwash system is used, continuously monitor the water flow rate and read and record the water flow rate once per shift. If a pumpless system is used, continuously monitor the booth parameter(s) which indicate performance of the booth per the manufacturer's recommendations to maintain the booth within the acceptable operating efficiency range and read and record the parameters once per shift.

In § 63.751(c)(2), modify the paragraph as follows:

(2) Each owner or operator using a conventional waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat application operations are occurring, continuously monitor the water flow rate through the system and read and record the water flow rate once per shift following the recordkeeping requirements of § 63.752(d). Each owner or operator using a pumpless waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat applications operations are occurring, measure and record the parameter(s) recommended by the booth manufacturer which indicate booth performance once per shift, following the recordkeeping requirements of § 63.752(d).

In § 63.751(d), modify the paragraph as follows:

(d) Each owner or operator using a dry particulate filter or a conventional waterwash system in accordance with the requirements of § 63.746(b)(4) shall, while depainting operations are occurring, continuously monitor the pressure drop across the particulate filters or the water flow rate through the conventional waterwash system and read and record the pressure drop or the water flow rate once per shift following the recordkeeping requirements of § 63.752(e). Each owner or operator using a pumpless waterwash system to meet the requirements of § 63.746(b)(4) shall, while depainting operations are occurring, measure and record the parameter(s) recommended by the booth manufacturer which indicate booth performance once per shift, following the recordkeeping requirements of § 63.752(e).

In § 63.752(d)(2), modify the paragraph as follows:

(2) Each owner or operator complying with § 63.745(g) through the use of a conventional waterwash system shall record the water flow rate through the operating system once each shift during which coating operations occur. Each owner or operator complying with § 63.745(g) through the use of a pumpless waterwash system shall record the parameter(s) recommended by the booth manufacturer which indicate the performance of the booth once each shift during which coating operations occur.

In § 63.752(d)(3), modify the paragraph as follows:

(3) This log shall include the acceptable limit(s) of pressure drop, water flow rate, or for the pumpless waterwash booth, the booth manufacturer recommended parameter(s) which indicate the booth performance, as applicable, as specified by the filter or booth manufacturer or in locally prepared operating procedures.

In § 63.752(e)(7), modify the paragraph as follows:

(7) *Inorganic HAP emissions.* Each owner or operator shall record the actual pressure drop across the particulate filters or the visual continuity of the water curtain and water flow rate for conventional waterwash systems once each shift in which the depainting process is in operation. For pumpless waterwash systems, the owner or operator shall record the parameter(s) recommended by the booth manufacturer which indicate the performance of the booth once per shift in which the depainting process is in operation. This log shall include the acceptable limit(s) of the pressure drop as specified by the filter manufacturer, the visual continuity of the water curtain and water flow rate for conventional waterwash systems, or the recommended parameter(s) which indicate the booth performance for pumpless systems as specified by the booth manufacturer or in locally prepared operating procedures.

In § 63.753(c)(1)(vi), modify the paragraph as follows:

(vi) All times when a primer or topcoat application operation was not immediately shut down when the pressure drop across a dry particulate filter or HEPA filter system, the water flow rate through a conventional waterwash system, or the recommended parameter(s) which indicate the booth performance for pumpless systems, as appropriate, was outside the limit(s) specified by the filter or booth manufacturer or in locally prepared operating procedures;

In § 63.753(d)(1)(vii), modify the paragraph as follows:

(vii) All periods where a nonchemical depainting operation subject to § 63.746(b)(2) and (b)(4) for the control of inorganic HAP emissions was not immediately shut down when the pressure drop, water flow rate, or recommended booth parameter(s) was outside the limit(s) specified by the filter or booth manufacturer or in locally prepared operational procedures;

G. Exclusion of Charged Media Certification Using Test Method 319

One commenter questioned whether test Method 319 can be used to certify charged media (filters). Previous evaluations of charged-fiber media indicated nontypical filtration efficiency curves over short time periods because of the rapid accumulation of paint overspray. Based on this historical information and test data, the Agency is proposing to not allow arrestors composed of charged-fiber media to be certified by Method 319. The Agency specifically requests comment on this issue and performance data using Method 319 or other evaluation results using criteria that can be correlated to Method 319 (i.e., maintaining the key elements described in Section 6.1.2 of Method 319).

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all of the information submitted to or otherwise considered by the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and the industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and the EPA responses to significant comments, the content of the docket will serve as the record in case of judicial review (except for interagency review materials) (§ 307(d)(7)(A) of the Act).

B. Paperwork Reduction Act

These proposed amendments do not impose any new information collection requirements and result in no change to the currently approved collection. The Office of Management and Budget (OMB) has approved the information collection requirements contained in the NESHAP for aerospace manufacturing and rework facilities under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0314. (EPA ICR no. 1687.03). A copy of the ICR may be obtained from Sandy Farmer, Regulatory Information Division; EPA; 401 M Street, S.W., (Mail Code 2137); Washington, D.C. 20460 or by calling (202) 260–2740.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Today's proposed amendments should have no impact on the information collection burden estimates made previously. Today's action does

not impose any additional information collection requirements. Consequently, the ICR has not been revised for purposes of today's action.

C. Executive Order 12866

Under Executive Order (E.O.) 12866 (58 FR 51735 [October 4, 1993]), the EPA is required to determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of this E.O. The E.O. defines ''significant regulatory action'' as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and 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 E.O.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the E.O.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the Agency certifies that the rule will not have a significant economic impact on substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because the overall impact of these amendments is a net decrease in requirements on all entities including small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) 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 1 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 a proposed intergovernmental mandate. Section 204 requires the Agency to develop a process to allow elected State, local, and Tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

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. The EPA has determined that these amendments do not include 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 1 year. Small governments will not be uniquely impacted by these amendments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

Dated: March 10, 1998.

List of Subject in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 10, 1998.

Carol M. Browner,

Administrator.

For reasons set out in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart GG—[Amended]

2. In § 63.741 paragraph (f) is amended by adding a new sentence after the second sentence to read as follows:

§ 63.741 Applicability and designation of affected sources.

* * * * *

(f) * * * These requirements do not apply to the rework of aircraft or aircraft components if the holder of the Federal Aviation Administration (FAA) design approval, or the holder's licensee, is not actively manufacturing aircraft or aircraft components. * * *

3. Section 63.742 is amended by revising the definition for ''waterwash system'' and adding in alphabetical order definitions for ''general aviation'' and ''general aviation rework facility'' to read as follows:

§ 63.742 Definitions.

* * * * *

General aviation (GA) means the segment of the aerospace industry involving noncommercial and nonmilitary aircraft designed to carry 19 passengers or less. (This definition is meant to include most smaller corporate jets and privately owned aircraft.)

General aviation rework facility means any aerospace facility with the majority of its revenues resulting from the reconstruction, repair, maintenance, repainting, conversion, or alteration of aerospace vehicles or components.

* * * * *

Waterwash system means a control system that utilizes flowing water (i.e., a conventional waterwash system) or a pumpless system to remove particulate emissions from the exhaust air stream in spray coating application or dry media blast depainting operations.

* * * * *

4. Section 63.744 is amended by revising the last sentence in paragraph (b)(3) and adding paragraph (c)(5) to read as follows:

§ 63.744 Standards: Cleaning operations.

* * * * *

(b) * * *

(3) * * * Demonstrate that the volume of hand-wipe cleaning solvents used in cleaning operations has been reduced by at least 60 percent from a baseline adjusted for production. The baseline shall be calculated using data from 1996 and 1997, or as otherwise agreed upon by the Administrator or delegated State Authority. The baseline shall be approved by the Administrator or delegated State Authority and shall be included as part of the facility's title V or part 70 permit.

(c) * * *

(5) Cleaning of the nozzle tips of automated spray equipment systems, except for robotic systems that can be programmed to spray into a closed container, shall be exempt from the requirements of paragraph (c) of this section.

* * * * *

5. Section 63.745 is amended by revising paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (g)(2)(v) to read as follows:

§ 63.745 Standards: Primer and topcoat application operations.

* * * * *

(c) * * *

(1) Organic HAP emissions from primers shall be limited to an organic HAP content level of no more than: 350 g/L (2.9 lb/gal) of primer (less water) as applied or 540 g/L (4.5 lb/gal) of primer (less water) as applied for general aviation rework facilities.

(2) VOC emissions from primers shall be limited to a VOC content level of no more than: 350 g/L (2.9 lb/gal) of primer (less water and exempt solvents) as applied or 540 g/L (4.5 lb/gal) of primer (less water and exempt solvents) as applied for general aviation rework facilities.

(3) Organic HAP emissions from topcoats shall be limited to an organic HAP content level of no more than: 420 g/L (3.5 lb/gal) of coating (less water) as applied or 540 g/L (4.5 lb/gal) of coating (less water) as applied for general aviation rework facilities. Organic HAP emissions from self-priming topcoats shall be limited to an organic HAP content level of no more than: 420 g/L (3.5 lb/gal) of self-priming topcoat (less water) as applied or 540 g/L (4.5 lb/gal) of self-priming topcoat (less water) as applied for general aviation rework facilities.

(4) VOC emissions from topcoats shall be limited to a VOC content level of no more than: 420 g/L (3.5 lb/gal) of coating (less water and exempt solvents) as applied or 540 g/L (4.5 lb/gal) of coating (less water and exempt solvents) as applied for general aviation rework facilities. VOC emissions from self-priming topcoats shall be limited to a VOC content level of no more than: 420 g/L (3.5 lb/gal) of self-priming topcoat (less water and exempt solvents) as applied or 540 g/L (4.5 lb/gal) of self-priming topcoat (less water) as applied for general aviation rework facilities.

* * * * *

(g) * * *

(2) * * *

(v) If a conventional waterwash system is used, continuously monitor the water flow rate and read and record the water flow rate once per shift. If a pumpless system is used, continuously monitor the booth parameter(s) which indicate performance of the booth per the manufacturer's recommendations to maintain the booth within the acceptable operating efficiency range and read and record the parameters once per shift.

* * * * *

6. Section 63.751 is amended by revising paragraphs (c)(2) and (d) to read as follows:

§ 63.751 Monitoring requirements.

* * * * *

(c) * * *

(2) Each owner or operator using a conventional waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat application operations are occurring, continuously monitor the water flow rate through the system and read and record the water flow rate once per shift following the recordkeeping requirements of § 63.752(d). Each owner or operator using a pumpless waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer and topcoat application operations are occurring, measure and record the parameter(s) recommended by the booth manufacturer which indicate booth performance once per shift, following the recordkeeping requirements of § 63.752(d).

(d) *Particulate filters and waterwash booths—depainting operations.* Each owner or operator using a dry particulate filter or a conventional waterwash system in accordance with the requirements of § 63.746(b)(4) shall, while depainting operations are occurring, continuously monitor the pressure drop across the particulate filters or the water flow rate through the conventional waterwash system and read and record the pressure drop or the water flow rate once per shift following the recordkeeping requirements of § 63.752(e). Each owner or operator using a pumpless waterwash system to meet the requirements of § 63.746(b)(4) shall, while depainting operations are occurring, measure and record the parameter(s) recommended by the booth manufacturer which indicate booth performance once per shift, following the recordkeeping requirements of § 63.752(e).

* * * * *

7. Section 63.752 is amended by revising paragraphs (c)(2) introductory text, (d)(2), (d)(3), and (e)(7) to read as follows:

§ 63.752 Recordkeeping requirements.

* * * * *

(c) * * *

(2) For uncontrolled primers and topcoats that meet the organic HAP and VOC content limits in § 63.745(c)(1) through (c)(4) without averaging:

* * * * *

(d) * * *

(2) Each owner or operator complying with § 63.745(g) through the use of a conventional waterwash system shall record the water flow rate through the operating system once each shift during which coating operations occur. Each owner or operator complying with § 63.745(g) through the use of a pumpless waterwash system shall record the parameter(s) recommended by the booth manufacturer which indicate the performance of the booth once each shift during which coating operations occur.

(3) This log shall include the acceptable limit(s) of pressure drop, water flow rate, or for the pumpless waterwash booth, the booth manufacturer recommended parameter(s) which indicate the booth performance, as applicable, as specified by the filter or booth manufacturer or in locally prepared operating procedures.

* * * * *

(e) * * *

(7) *Inorganic HAP emissions.* Each owner or operator shall record the actual pressure drop across the particulate filters or the visual continuity of the water curtain and water flow rate for conventional waterwash systems once each shift in which the depainting process is in operation. For pumpless waterwash systems, the owner or operator shall record the parameter(s) recommended by the booth manufacturer which indicate the performance of the booth once per shift in which the depainting process is in operation. This log shall include the acceptable limit(s) of the pressure drop as specified by the filter manufacturer, the visual continuity of the water curtain and the water flow rate for conventional waterwash systems, or the recommended parameter(s) which indicate the booth performance for pumpless systems as specified by the booth manufacturer or in locally prepared operating procedures.

* * * * *

8. Section 63.753 is amended by revising paragraphs (c)(1)(vi) and (d)(1)(vii) to read as follows:

§ 63.753 Reporting requirements.

* * * * *

(c) * * *

(1) * * *

(vi) All times when a primer or topcoat application operation was not immediately shut down when the pressure drop across a dry particulate filter or HEPA filter system, the water flow rate through a conventional waterwash system, or the recommended parameter(s) which indicate the booth performance for pumpless systems, as appropriate, was outside the limit(s) specified by the filter or booth

manufacturer or in locally prepared operating procedures;

* * * * *

(d) * * *

(1) * * *

(vii) All periods where a nonchemical depainting operation subject to § 63.746 (b)(2) and (b)(4) for the control of inorganic HAP emissions was not immediately shut down when the pressure drop, water flow rate, or recommended booth parameter(s) was outside the limit(s) specified by the filter or booth manufacturer or in locally prepared operational procedures;

* * * * *

9. In Appendix A to part 63, Method 319 is amended by adding a new sentence to the end of section 1.1 to read as follows:

Appendix A to Part 63—Test Methods

* * * * *

Method 319: Determination of Filtration Efficiency for Paint Overspray Arrestors

* * * * *

1.0 * * *

1.1 * * * Due to the potential for paint overspray accumulation to decrease the filtration efficiency of charged-fiber media, arrestors composed of charged-fiber media shall not be tested by this method.

* * * * *

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Friday
March 27, 1998

Part III

Department of Agriculture

Forest Service

36 CFR Part 292

Smith River National Recreation Area; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 292

RIN 0596–AB39

Smith River National Recreation Area

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements Section 8(d) of the Smith River National Recreation Area Act of 1990 and sets forth the procedures by which the Forest Service will regulate mineral operations on National Forest System lands within the Smith River National Recreation Area.

This rule supplements existing Forest Service regulations and is intended to ensure that mineral operations are conducted in a manner consistent with the purposes for which the Smith River National Recreation Area was established.

EFFECTIVE DATE: This rule is effective April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Sam Hotchkiss, Minerals and Geology Management Staff, (202) 205–1535.

SUPPLEMENTARY INFORMATION:

Background

The Smith River National Recreation Area (SRNRA) was established by the Smith River National Recreation Area Act of 1990 (the Act) (16 U.S.C. 460bbb *et seq.*). The purpose of the Act is to ensure ''* * * the preservation, protection, enhancement, and interpretation for present and future generations of the Smith River watershed's outstanding wild and scenic rivers, ecological diversity, and recreation opportunities while providing for the wise use and sustained productivity of its natural resources * * *.''

In order to meet the purposes of the Act, Congress directed the Forest Service to administer the SRNRA to, among other things, provide for a broad range of recreation uses and improve fisheries and water quality. Subject to valid existing rights, Congress prohibited locatable mineral operations, prohibited mineral leasing (including leasing of geothermal resources), and limited the extraction of mineral materials within the SRNRA to situations where the material extracted is used for construction and maintenance of roads and other facilities within the SRNRA and in certain areas excluded from the SRNRA by the Act.

The SRNRA consists of approximately 300,000 acres of National Forest System lands in the Six Rivers National Forest in northern California. The Act divides the SRNRA into eight distinct management areas and specifies a management emphasis for each. There are also four areas within the exterior boundaries of the SRNRA that were expressly excluded from the provisions of the Act.

One of the eight management areas in the SRNRA is the Siskiyou Wilderness, most of which was designated by Congress on September 26, 1984. The Gasquet-Orleans Corridor was added to the Siskiyou Wilderness by the Act in 1990. The Act specifies that the Siskiyou Wilderness is to continue to be managed pursuant to the provisions of the Wilderness Act. In accordance with Section 4(d)(3) of the Wilderness Act, the federal lands within the Siskiyou Wilderness (excluding the Gasquet-Orleans Corridor addition) were withdrawn from the operation of the mining and mineral leasing laws, subject to valid existing rights, as of September 26, 1984.

The Act also redesignated the following rivers and some of their tributaries as components of the National Wild and Scenic Rivers System: (1) The Smith River; (2) the Middle Fork of the Smith River; (3) the North Fork of the Smith River; (4) the Siskiyou Fork of the Smith River; and (5) the South Fork of the Smith River. These same rivers and most of the designated tributaries had previously been designated components of the Wild and Scenic Rivers System on January 19, 1981, pursuant to Section 2(a)(ii) of the Wild and Scenic Rivers Act. The Act designated as wild segments two tributaries which had not previously been designated—Peridotite Creek, tributary to the North Fork of the Smith River, and Harrington Creek, tributary to the South Fork of the Smith River. The Act also changed the classification of some tributaries designated in 1981, from recreational to scenic or wild. For example, the lower 2.5 mile segment of Myrtle Creek, tributary to the Middle Fork of the Smith River, was reclassified as wild. In the Act, Congress directed that these designated wild and scenic rivers and tributaries be managed in accordance with the Act and the Wild and Scenic Rivers Act, whichever is more restrictive. In accordance with Section 9(a)(iii) of the Wild and Scenic Rivers Act, the federal lands within segments of designated rivers or tributaries classified ''wild'' (except for Peridotite Creek, Harrington Creek, and the lower 2.5 miles of Myrtle Creek that were reclassified in the Act) were withdrawn from the operation of the mining and mineral leasing laws, subject to valid existing rights on January 19, 1981.

Under this patchwork of wild and scenic rivers, wilderness, and national recreation area designations there emerge three different dates of withdrawal which apply to federal lands. First, there are the federal lands within ''wild'' segments of wild and scenic rivers (excluding those that were designated or reclassified as ''wild'' in the Act) which were withdrawn subject to valid existing rights on January 19, 1981, pursuant to Section 9(a)(iii) of the Wild and Scenic Rivers Act. Second, there are the federal lands within the Siskiyou Wilderness (excluding both the Gasquet-Orleans Corridor addition and the aforementioned ''wild'' segments of wild and scenic rivers) which were withdrawn subject to valid existing rights on September 26, 1984, pursuant to Section 4(d)(3) of the Wilderness Act. Third, the remaining federal lands that comprise the SRNRA (which includes, among others, the ''scenic'' and ''recreational'' segments of wild and scenic rivers, the ''wild'' segments of wild and scenic rivers as designated or reclassified by the Act, and the Gasquet-Orleans Corridor addition to the Siskiyou Wilderness) that were withdrawn subject to valid existing rights on November 16, 1990, pursuant to Section 8(a) of the Act.

Mining and prospecting for minerals have been important parts of the history of the Smith River area since the 1850's. Historically, mining operations within the Smith River area have been small-scale placer gold exploration and recovery operations within the bed and banks of the Smith River and its main tributaries. Panning, sluicing, and dredging operations occur predominantly during the summer months. In recent years, large, low-grade, nickel-cobalt resources in the uplands of the Smith River watershed have attracted the attention of prospectors. Based on a review of Bureau of Land Management (BLM) records, there were approximately 2,776 mining claims covering about 30,000 acres of National Forest System lands within the SRNRA upon the date of enactment of the Act in 1990. By May 1997, however, BLM records indicate that there were only approximately 297 mining claims covering about 7,700 acres of National Forest System lands in the SRNRA that met current filing requirements. None of the claims are for mill site locations. There are no active operations on mining claims or on lands with outstanding mineral rights.

In Section 8 of the Act, Congress addressed the extent to which mineral operations would be authorized within the SRNRA. Section 8(a) of the Act withdrew as of the effective date of the Act, all federal lands in the SRNRA from the operation of the mining, mineral and geothermal leasing laws subject to valid existing rights. Section 8(b) precluded the issuance of patents for locations and claims made prior to the establishment of the SRNRA. Section 8(c) of the Act prohibited all mineral operations within the SRNRA except where valid existing rights are established. Section 8(c) also prohibited the extraction of mineral materials such as, common varieties of stone, sand, and gravel, except if used in the construction and maintenance of roads and other facilities within the SRNRA and the excluded areas. Finally, under Section 8(d), the Secretary was authorized and directed to promulgate supplementary regulations to promote and protect the purposes for which the SRNRA was designated.

On November 8, 1994, the largest claimholder in the SRNRA filed suit against the Department of Agriculture in United States District Court for the Northern District of California alleging violations of the Act. *California Nickel Corp.* v. *Espy,* No. C94–3904–DLJ (N.D. Cal.). Specifically, the suit alleged that the Department violated the Act by not promulgating regulations for mineral operations in the SRNRA as required under Section 8(d). The Department did not dispute that Section 8(d) of the Act required the promulgation of supplementary regulations for the SRNRA. In fact, preliminary progress towards the development of a regulation had been made prior to the initiation of litigation.

On June 23, 1995, proposed supplementary regulations for mineral activities in the SRNRA were published in the **Federal Register** for notice and comment (60 FR 32633). Seven letters were received during the 60-day comment period and were considered in the development of a final rule which was published on April 3, 1996 (61 FR 14621). Upon publication, the claimholder who had initiated litigation against the agency amended its complaint to challenge the substance of the April 3, 1996, final rule. On March 14, 1997, the court invalidated three provisions of the April 3, 1996, final rule. *California Nickel Corp.* v. *Glickman,* No. C–94–3904–DLJ, slip op. (N.D. Cal. Mar. 14, 1997). Specifically, the court held that a provision limiting the period of approval of a plan of operations to 5 years was arbitrary and capricious because the agency had failed to evaluate whether mining under such a time constraint might result in a taking of private property. The court also ruled that the agency had been arbitrary and capricious by failing to explain why the supplementary regulations did not include a timetable for processing and reviewing plans of operations. Finally, the court ruled that mining operators had been denied due process because the rule did not include a mechanism by which Forest Service determinations that valid existing rights had not been established could be reviewed within the Department of the Interior.

On September 8, 1997, the Forest Service published a second proposed rule for notice and comment which included provisions that addressed the court's concerns (62 FR 47167). Specifically, the second proposed rule provided that plans of operations would be approved for the minimum time reasonably necessary for a prudent operator to complete mining operations. The second proposed rule also stipulated that plans of operations would be reviewed for completeness within 120 days of submission and that valid existing rights determinations would be completed within 2 years except when the Forest Service could show cause as to why additional time was necessary. Finally, the second proposed rule included a provision requiring the Forest Service to promptly request the Bureau of Land Management to initiate a contest action whenever it concluded that an applicant had failed to establish the presence of valid existing rights. Other modifications were made to clarify and improve the regulations generally, but they were not required as a result of the March 1997 court decision.

Four letters were submitted during the 60-day comment period that ended on November 7, 1997. The comments contained in these four letters were considered by the Forest Service in the development of this final rule. Based on the comments, several changes were made in the text of the final rule. Some of these changes were made to the provisions of the second proposed rule which had been added to respond to the court's concerns with the first final rule. For example, a new provision was added to this final rule which expressly provides for an extension of the approval period for a plan of operations. Additionally, the time to review a plan of operations for completeness was shortened from 120 to 60 days. Finally, the procedure by which a Forest Service valid existing rights determination is referred to the Bureau of Land Management was refined and clarified. These and other changes and the reasons for the changes are explained more fully in the following paragraphs.

All comments received are available for review in the Office of the Director, Minerals and Geology Management Staff, Auditors Building, 4th Floor, 201 14th Street, SW., Washington, DC, during regular business hours (8 a.m. to 5 p.m.) Monday through Friday. The Department appreciates the time and energy the reviewers invested in preparing these letters and in articulating their views regarding the proposed rule.

Analysis of Public Comment

Comments on the proposed rule dealt with general issues, including whether supplementary regulations are necessary, whether a taking of private property had occurred, whether the agency exceeded its authority to regulate mineral operations on National Forest System lands, whether the new provisions in the second proposed rule were the same or substantially similar to those in the first final rule that had been struck down by the court, whether the supplementary regulations were in furtherance of the Act, whether the supplementary regulations were punitive, whether mineral collecting was a permissible recreational activity in the SRNRA, whether the requirement for a plan of operations should apply to suction dredge and sluice operations, and whether delay by the Forest Service in promulgating the supplementary regulations caused the abandonment of more than 4,500 mining claims. In addition to the preceding general comments, several specific issues concerning the enumerated provisions of the proposed rule were raised. A summary of the comments and the Department's responses to them follows.

General Comments

1. *Supplementary mining regulations are unnecessary since the Forest Service already has adequate authority to protect the SRNRA in accordance with the Act.* One reviewer stated that there is no need for additional regulations pertaining to mineral operations in the SRNRA since existing Forest Service regulations governing these activities at 36 CFR part 228 provide ample protection to the SRNRA and its resources.

Response: The issue of whether additional regulation of mineral operations in the SRNRA is necessary was conclusively determined by Congress in Section 8(d) of the Act. This provision specifically states that ''the Secretary (of Agriculture) is authorized and directed to issue supplementary

regulations to promote and protect the purposes for which the (SRNRA) is designated.'' It is not within the discretion of the Department to evaluate whether such regulations are necessary. The Act obligates the Department to issue them, therefore, no change to the rule has been made based on the comment.

2. *The new regulations should not differ from the Forest Service's current mining regulations at 36 CFR part 228 unless ''some unique aspect of the SRNRA'' justifies a change.* One reviewer felt that the supplementary regulations for mineral operations in the SRNRA should be identical to the current mining regulations at 36 CFR part 228 unless ''a reasonable and rational justification * * * based upon some unique aspect of the SRNRA'' can be identified to justify the change.

Response: The Department disagrees with this comment for the following reasons. First, there is no indication in the Act or its legislative history that the supplementary mining regulations must mirror the current mining regulations at 36 CFR part 228 unless a unique attribute of the SRNRA might warrant a change. The Act vested the Department with considerably more discretion to determine the appropriate form and content of the supplementary regulations. It is worth noting, however, that the supplementary regulations build upon, and are integrated with, the Forest Service's current mining regulations at 36 CFR part 228.

Secondly, even assuming that this reviewer was correct, the Act and its legislative history contain numerous references to the unique attributes of the SRNRA which justify different and more stringent regulation of mineral development activities than elsewhere on National Forest System lands. Section 2 of the Act recognizes the ''invaluable legacy'' represented by the undammed and free-flowing Smith River; the unusual ''richness of ecological diversity,'' ''renowned anadromous fisheries,'' ''exceptional water quality,'' and ''abundant wildlife'' in the Smith River watershed; and the ''exceptional opportunities'' for wilderness, water sports, fishing, hunting, camping, and sightseeing. Similar language is contained in the House committee report and floor debate pertaining to the establishment of the SRNRA. *See,* H.Rep. No. 707, 101st Cong., 2d Sess. 11–12 (1990); 136 Cong. Rec. 24720 (Sept. 17, 1990). Thus, there appear to be several ''unique aspects'' in the SRNRA which justify departing from the general Forest Service mining regulations at 36 CFR part 228. Based on the foregoing discussion, no change was made to the rule.

3. *The second proposed rule utilizes many of the provisions from the first final rule that were invalidated by the court.* One reviewer criticized the second proposed rule for containing provisions that varied only slightly from those in the first final rule that were invalidated by the court.

Response: The Department disagrees with this reviewer's characterization.

On March 14, 1997, the court invalidated three provisions of the first final supplementary regulations for the SRNRA that had been published on April 3, 1996. *California Nickel Corp.* v. *Glickman,* No. C–94–3904–DLJ, slip op. (N.D. Cal. Mar. 14, 1997). The court first ruled that a provision limiting the approval period of a plan of operations for mining in the SRNRA to 5 years was arbitrary and capricious because the agency had failed to consider all the relevant factors in adopting this provision. Specifically the court concluded that there was no indication in the record that the agency had considered whether a 5-year limit might result in a taking of private property. *Id.* at 9–11. The court next ruled that a provision exempting plans of operations in the SRNRA from the generally applicable timetables for review set forth in the mining regulations at 36 CFR part 228, subpart A, was arbitrary and capricious because the agency failed to explain or justify its position. *Id.* at 11–13. Finally, the court held that the rule denied a mining operator due process because it did not provide a mechanism by which the Bureau of Land Management could review determinations by the Forest Service that valid existing rights had not been established by the operator. *Id.* at 13–17.

The Forest Service took the court's concerns seriously. Bearing in mind its overall responsibility to administer the SRNRA in conformance with the Act, the Forest Service published a second proposed rule on September 8, 1997, which specifically responded to the deficiencies that had been identified by the court (62 FR 47167).

With respect to the approval period for a plan of operations, the new proposed rule provided for approval for the ''minimum amount of time reasonably necessary for a prudent operator to complete the mineral development activities covered by the approved plan of operations.''

This provision ensures the protection of the SRNRA while providing mineral operators the necessary flexibility to conduct their activities. The Department believes this approach should allay concerns about the potential deprivation of property arising from an abbreviated approval period which might preclude the completion of mining operations. At the same time, this provision should ensure that mining operations will be conducted in an expeditious manner and will not be protracted over time to the detriment of the land and resources of the SRNRA.

With respect to timetables for reviewing plans of operations in the SRNRA, the second proposed rule provided that the Forest Service will notify the operator within 120 days whether all the necessary information to evaluate a plan of operations has been submitted. In addition, the second proposed rule provided that once the necessary information has been submitted, the determination of whether the operator has established valid existing rights will be completed within 2 years unless the agency can show good cause in writing as to why more time will be necessary. The preamble of the second proposed rule went into considerable detail to explain why this timetable, rather than the timetable set forth at 36 CFR part 228, subpart A, was more appropriate for reviewing plans of operation in the SRNRA.

Finally, with respect to appeals of valid existing rights determinations adverse to a mining operator, the second proposed rule provided that the Forest Service would notify the Bureau of Land Management promptly of adverse determinations and request the initiation of a mineral contest action against the pertinent mining claims.

The Department believes that the changes in the second proposed rule are significant and address the concerns identified by the court in its March 14, 1997, ruling. The Department also believes that the second proposed rule was faithful to, and consistent with, the legal obligations assumed by the Forest Service pursuant to the Act. It should be noted that each of the provisions added to the second proposed rule based on the March 14, 1997, court decision was further modified in response to comments that were received on the second proposed rule. Therefore, no changes were made to the rule based on this comment.

4. *The regulations are unlawful because they exceed the Forest Service's authority to administer minerals on National Forest System lands and do not promote and protect the purposes for which the SRNRA was established.* Two reviewers stated that the second proposed rule unlawfully augmented the Forest Service's authority to regulate minerals in the SRNRA. One of these reviewers added that by effectively eliminating recreational mining from

the SRNRA, the proposed rule was flawed because it did not ''promote and protect'' one of the purposes for which the SRNRA was established.

Response: The Department disagrees with this comment. This rule does not increase the authority of the Forest Service to regulate minerals in the SRNRA. Rather, it sets forth a system for determining whether a claimholder possesses valid existing rights and, where such rights exist, the terms and conditions under which National Forest System lands may be used to conduct mineral development activities. This system is entirely consistent with the authority delegated by Congress in Section 8(d) of the Act which, the Department believes, reflects an eminently reasonable compromise between an outright prohibition of all mining in the SRNRA (which might have led to potential takings liability) and permitting mining to continue without additional regulation (which might have adversely impacted the values for which the SRNRA was established).

The Department also rejects the assertion that mining was considered one of the ''recreational'' activities for which the SRNRA was established and which the Forest Service must ''promote and protect'' through its administration. Section 2 of the Act specifically identifies ''wilderness, water sports, fishing, hunting, camping, and sightseeing'' as recreational activities occurring in the SRNRA. Although this recitation is not necessarily exclusive, mining is clearly not the type of activity that fits comfortably within this class of recreation pursuits. No changes to the rule were made based on the comments of these two reviewers.

5. *The supplementary regulations target a single class of users and is punitive.* One reviewer contended that the second proposed rule was punitive and directed at a single class of users of the SRNRA, namely miners. This reviewer further noted that in other congressionally designated national recreation areas, supplementary regulations addressed activities other than just mining and affected parties other than just miners.

Response: The Department agrees that the supplementary regulations apply only to those wishing to conduct mineral operations in the SRNRA, but disagrees that they are punitive. The narrow focus of the regulations is based on the statutory authority in Section 8 of the Act which pertains explicitly and exclusively to mining. The legislative history of the Act reinforces the view that Congressional intent in adding this provision was to avoid or minimize mining practices that might negatively impact the resource values for which the SRNRA was established.

> With regard to mining, the amendments would give explicit recognition to the rights associated with valid existing claims, and direct the Secretary to issue supplementary regulations designed to ''promote and protect'' the purposes for which the recreation area is created. Although I remain concerned about the potential for destructive mining, I am hopeful that the supplemental regulations will address those concerns.

136 Cong. Rec. H13045, 13046 (Oct. 26, 1990) (Statement of Rep. Bosco).

The Department disagrees with the reviewer's suggestion that the scope of these regulations should be expanded based on similarly expansive supplementary regulations in other congressionally designated national recreation areas. The statutes which established these other areas specifically address the types of issues to be covered by the regulations. *See, e.g.,* the Sawtooth National Recreation Area Act, 16 U.S.C. 460aa–3, −10; the Hells Canyon National Recreation Area Act, 16 U.S.C. 460gg–7(a–e).

Since limiting the scope of this rule to mineral operations in the SRNRA is fully consistent with the Act and its associated legislative history, the Department declines to expand the scope of the final rule to address other uses and activities occurring within the SRNRA. Therefore, no changes to the rule were made based on this comment.

6. *The rule was drafted to eliminate mining from the SRNRA and, in so doing, it does not provide for the wise use and sustained productivity of its resources.* One reviewer asserted that the second proposed rule would result in the elimination of mining from the SRNRA and, thus, would not provide for the wise use and sustained productivity of resources as required by the Act.

Response: The Department disagrees with this comment. The Act, not this rule, prohibits mining in the SRNRA, except where valid existing rights can be established. This rule merely prescribes the procedure to be used by the Forest Service to determine whether valid existing rights are present and, if so, the appropriate terms and conditions under which the mining operations should be conducted in order to ensure that the values for which the SRNRA was established are protected in perpetuity. No change was made to this rule based on this comment.

7. *Forest Service's strategy of delay and burden has already resulted in abandonment of 4,500 claims in the SRNRA.* One reviewer accused the Department, through its delay in the promulgation of this rule, of being responsible for the abandonment of more than 4,500 mining claims in the SRNRA.

Response: The Department disagrees with this reviewer's contention. According to records maintained by the Bureau of Land Management, there were approximately 2,776 claims listed as ''open'' when the SRNRA was established in 1990. Assessment work for over one-half of those claims had not been recorded with BLM for the 1989–1990 assessment year. In some cases, assessment work had not been recorded for several years prior to the establishment of the SRNRA. As a result, in 1991, BLM issued ''abandoned and void'' decisions on 1,329 claims in the SRNRA. None of these abandonment decisions resulted from any actions, or lack thereof, as the case may be, by the Department. This meant that approximately 1,447 mining claims were still listed on National Forest System lands within the SRNRA in 1991.

Beginning with the 1993–1994 assessment year, the Bureau of Land Management instituted a new nationwide fee system requiring holders of more than ten claims to pay a $100 per claim fee while allowing holders of ten or fewer claims to obtain an exemption from the fee requirement. Of the approximately 1,447 mining claims in the SRNRA in 1991, fees were paid or exemptions obtained on only 320 claims. As a result, the Bureau of Land Management issued ''abandoned and void'' decisions on an additional 1,127 claims in the SRNRA. Once again, the abandonment of these claims was unrelated to Forest Service administration of the SRNRA.

Since then, the holders of an additional 23 claims have failed to pay the required fees or obtain an exemption to the fees. These claims also have been declared abandoned and void by BLM. Thus, there are only 297 open claims in the SRNRA at this time. No change to the rule was required based on this comment.

8. *Limiting ''recreational mining'' is inconsistent with the SRNRA.* Two reviewers stated that the purposes for which the SRNRA was designated include recreational mining and prospecting activity and that any attempt to limit recreational mining is at odds with congressional intent.

Response: Executive agencies of the Government cannot permit activities involving the search for, and removal of, minerals on federal lands, including National Forest System lands, except to the extent that Congress has enacted legislation authorizing those activities.

This limitation results from Section 3 of Article 4 of the United States Constitution which provides in pertinent part that: ''Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States * * *.'' Accordingly, as the United States Supreme Court has observed, the United States owns the minerals found on its lands ''and it lies in the discretion of Congress, acting in the public interest, to determine how much of the property it shall dispose.'' *Ashwander v. Tennessee Valley Authority,* 297 U.S. 288, 336 (1936).

In 1872, Congress enacted general mining laws providing for the disposal of locatable minerals on federal lands now included in the SRNRA. 30 U.S.C. 22 *et seq.* However, in 1990, when Congress enacted the Act, it expressly withdrew the SRNRA from the operation of the mining laws, subject to valid existing rights. 16 U.S.C. 460bbb–6(a). As noted in the Supplementary Information section, some of the federal land within the SRNRA had been withdrawn from the operation of the mining laws prior to the enactment of the Act in 1990. Congress concluded that mining in the SRNRA was inconsistent with the purposes for which the SRNRA was established or else it would not have withdrawn these lands from the operation of the United States mining laws. To construe the Act as authorizing mining of locatable minerals, whether that mining is characterized as being for ''recreational'' or ''commercial'' purposes, absent the existence of valid existing rights, would frustrate Congressional intent to block that very activity.

In summary, the only mineral activities that may occur in the SRNRA are those for which valid existing rights have been established, those authorized by a mineral materials contract or permit, or those associated with outstanding mineral rights. The Department has no authority to allow locatable mineral activities on lands in the SRNRA, whether the activity is characterized as a recreational pursuit or a commercial venture, unless the Government determines that valid existing rights have been established. This prohibition applies even if an individual wishes to mine for personal enjoyment rather than financial gain and even if the impact on the lands and resources of the SRNRA is minimal. Therefore, no change has been made in the rule as a result of these comments.

9. *Plan of operations should not be required for suction dredge and sluice operations.* Two reviewers contended that the rule should not require plans of operations for suction dredge and sluice operations.

Response: Locatable mineral operations on National Forest System lands are primarily governed by the current locatable mineral regulations at 36 CFR part 228, subpart A. In the past, suction dredging operations in the SRNRA have been authorized by plans of operations, notices of intent, and, occasionally, without any written authorization at all. However, as noted previously, in establishing the SRNRA, Congress specified that subject to valid existing rights, all locatable mineral operations on federal land are prohibited. Furthermore, even in those instances where an operator establishes valid existing rights to conduct dredging operations, those operations would still be subject to regulation to ensure that the values for which the SRNRA was established were protected and enhanced.

By requiring a plan of operations for suction dredging activities, the Department can accomplish two objectives. First, it can verify that the operator possesses valid existing rights to conduct suction dredging operations. Second, it can ensure that the impacts of the suction dredging operations are minimized to the extent practicable in order to protect and preserve the values for which the SRNRA was established. The Department believes that in order to protect the unique fishery and other resource values of the SRNRA, careful and considered evaluation of all suction dredging activities is necessary. The best mechanism for this to occur is through the process of developing and reviewing a plan of operations. Therefore, no changes were made in the final rule to exempt suction dredging activities from the plan of operations requirements.

10. *Review periods of one to two years for proposals to conduct suction dredge operations is onerous and doesn't promote ''recreational mining''.* One reviewer asserted that suction dredge operations and sluicing have negligible impact on surface resources and should not be required to be approved under a plan of operations with a possible processing timeframe of 1 to 2 years.

Response: As an initial matter, it should be noted that the Department does not agree that all suction dredging and small scale sluicing operations have negligible environmental impacts. Furthermore, the impacts of these activities must be evaluated individually and cumulatively. It may well be that the effect of an individual operation is minimal, but the cumulative effect of several such operations may be significant.

With respect to the time it takes to review a plan of operations, the rule sets out 2 years as the maximum amount of time (except for good cause shown) to evaluate whether valid existing rights are present. Under certain circumstances, it may not take the full 2 years to complete this evaluation.

The issue concerning whether the Department has the authority to permit ''recreational mineral activities'' absent valid existing rights has been addressed previously. Based on the foregoing, no change was made in the final rule in response to this comment.

11. *Characterization of nickel-cobalt resources as ''low grade''.* One reviewer objected to the characterization of the nickel-cobalt resources in the uplands of the Smith River watershed as ''low-grade'' to the extent that this characterization suggests that the resources are either insignificant or unworthy of development and requested that the characterization ''low-grade'' be deleted from the preamble.

Response: ''Low grade'' is a phrase commonly used within the mining industry to describe situations where the anticipated percentage of elements in a given area is less than the percentage of the same elements currently being mined elsewhere. This is an apt description of the nickel-cobalt resources in the SRNRA. In fact, the holder of most of the claims in the SRNRA where the nickel-cobalt resources are located has previously acknowledged that the grade of the nickel-cobalt resources in the SRNRA is less than the grade of nickel-cobalt resources being mined in other parts of the world. No change was made to the rule as a result of this comment.

12. *The proposed rule underestimates the amount of time required for an operator to gather and submit information required as part of a plan of operations.* One reviewer commented that the proposed rule's estimate of 2 hours as the time required for an operator to gather and submit information required by the Forest Service as part of a plan of operations was too low.

Response: The Department has reassessed its original estimate. Initially, it was thought that an operator could gather the data and complete a plan of operations in 2 hours. The Department continues to believe that the vast majority of the data and information required for a plan of operations should be in the possession of the operator or is readily obtainable and should take only a couple of hours to compile and submit. However, in response to the

comments received on this issue, the estimated time to gather the requested information and prepare a plan of operations has been increased from 2 to 20 hours. The final information package submitted to the Office of Management and Budget estimates that it will take an average of 20 hours to gather and submit the information required for review and that, on average, two parties will submit plans of operation to the Forest Service each year for review. This results in an estimated total annual burden of 40 hours. Based on the comment regarding the time it takes to gather and submit information for a plan of operations, a change was made in the ''Controlling Paperwork Burdens on the Public'' section of the preamble for the second final rule.

13. *The proposed rule effects a taking of property without just compensation in violation of the Fifth Amendment of the Constitution.* One reviewer suggested that the mere publication of a proposed rule for notice and comment violated the Fifth Amendment by taking property without just compensation.

Response: The Department disagrees with the comment. The Fifth Amendment states in part ''* * * nor shall private property be taken for public use without just compensation.'' The act of publishing a proposed rule for notice and comment does not deprive anyone of a property interest protected by the Fifth Amendment. Indeed, a proposed rule is not even enforceable. It is only after a final rule is published in accordance with the provisions of the Administrative Procedures Act that a regulation becomes enforceable. Thus, the publication of a proposed rule cannot constitute a taking. Therefore, no change to the preamble was made based upon this comment by a reviewer.

14. *Compliance with Executive Order 12630.* Several reviewers took issue with the means by which the agency satisfied the obligations of Executive Order 12630 which requires agency officials to evaluate the potential takings implications of their actions. These reviewers asserted that evaluating the agency action of publishing a proposed rule for potential takings liability was ''disingenuous,'' ''false reasoning,'' and ''make(s) a mockery'' of the Executive Order. Two of the reviewers suggested that the takings implication of the final rule should be evaluated as well.

Response: The Department disagrees with the reviewers. Executive Order 12630 was issued in 1988 to facilitate internal analysis of the potential takings implications of proposed agency actions. The objective of the Executive Order is to ensure that agency officials are notified in advance of the potential takings implications associated with proposed actions. Such advance notice should minimize inadvertent takings and may lead to modifications of the proposed action, although there is nothing in the Executive Order which requires an agency to modify proposed actions to avoid a potential taking. Executive Order 12630 specifically provides that it is ''intended only to improve the internal management of the Executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.''

The only agency action at issue in this instance was the publication of a proposed rule. As indicated previously, a proposed rule is not enforceable as law and, therefore, cannot affect private property. Furthermore, it would have been inappropriate to evaluate the underlying provisions of the proposed rule for takings implications since those provisions might be subsequently modified in the final rule.

A takings implication assessment has been prepared on this second final rule. It concludes that the action of publishing a final rule does not present the risk of a taking. It does, however, acknowledge that the regulation, as applied in a specific case, may present the risk of a taking. Since takings claims are highly fact specific, it is not prudent to engage in further conjecture at this time regarding whether private property might be taken as a result of the ''as applied'' affect of the rule on private property. Among the factors that would be considered if such a claim arose are the character of the government action, the economic impact of the government action on the property, and the reasonable investment backed expectations of the property owner. For obvious reasons, it is impossible to make judgments regarding these factors at this point. However, additional takings implication assessments will be prepared in accordance with Executive Order 12630 to evaluate potential takings risks associated with agency implementation of these supplementary regulations. No change was made to the final rule based on this comment. However, a takings implication assessment was prepared on the final rule.

Specific Comments on Proposed Subpart G

The following discussion addresses comments on specific sections of the proposed rule and, where applicable, identifies modifications in the final rule made as a result of the comments.

No comments were received on § 292.61—Definitions, § 292.66—Operating Plan Requirements, § 292.67—Operating Plan Approval, and § 292.68—Mineral Material Operations. Consequently, the final rule adopts the text of these sections as originally proposed, and no further discussion is included in this analysis.

In addition, in § 292.60, one typographical error has been corrected and paragraph (e) has been deleted. The decision to eliminate paragraph (e) which dealt with the effect of the supplementary mining regulations on ongoing mineral operations was made because there are no ongoing operations in the SRNRA at this time nor are any plans of operations currently being considered. Thus, it was determined that the deletion of paragraph (e) would simplify the supplementary regulations by eliminating a provision that discusses a contingency which does not exist. Beyond that, no additional changes were made to § 292.60 and it is not discussed further in this analysis.

Finally, citations in this final rule to these regulations or to other regulations applicable to the administration of National Forest System lands have been modified to conform with the format established by the Office of the Federal Register. These changes do not affect the rights and obligations of the Federal Government or any affected interests.

Section 292.62, Valid Existing Rights

Paragraph (a) of this section sets forth three definitions of ''valid existing rights'' that will be used to evaluate mining claims in the SRNRA. The only difference in the three definitions is the date by which the location and discovery of the valuable mineral deposit must have occurred. The definition that applies to a given mining claim will depend on whether the claim lies on federal lands within the corridor of a wild segment of a wild and scenic river designated in 1981, within that portion of the Siskiyou Wilderness designated in 1984, or within the remainder of the SRNRA. Paragraph (b) of this section provided that limited mining operations may be authorized in order to enable an operator to confirm that discovery of a valuable mineral deposit occurred prior to the applicable date of withdrawal. This paragraph provided that the operations would be ''limited in scope and duration'' but did not provide independent authority to prospect, explore, or make a new discovery.

Comment: The Forest Service is without authority to alter the United States mining laws in defining valid existing rights. One reviewer agreed

with the definition of valid existing rights in paragraph (a)(3) if it merely requires the claimant to have a valid mining claim as of the date of enactment of the Act, the claim has not been subsequently abandoned, and the appropriate fees and filings have been made. The reviewer objected to any additional requirements of the definition in paragraph (a)(3) which would allegedly alter the United States mining laws. In particular, the reviewer urged that paragraph (a)(3)(iv) be confined to the technical aspects of retaining a valid unpatented mining claim. The reviewer further stated that paragraph (a)(3)(iv) should not be construed to allow the Forest Service to evaluate the continued validity of a mining claim even though the reviewer acknowledged that the Bureau of Land Management possessed that authority.

Response: Initially, it should be noted that the United States mining laws do not contain a definition of ''valid existing rights.'' To the extent that a definition of ''valid existing rights'' exists, it is largely the product of judicial and administrative interpretations of the United States mining laws. The definition of ''valid existing rights'' in § 292.62(a) is fully consistent with the United States mining laws, relevant case law, and administrative interpretations. These authorities have long held that for a mining claim to be valid it must be properly located, supported by the discovery of a valuable deposit of a locatable mineral, located and held in good faith, and properly maintained in compliance with certain filing requirements and annual labor or fee requirements. For a mining claim located in a withdrawn area to constitute a valid existing right, the claim must have been valid prior to the effective date of the withdrawal of the area, continue to be held in good faith, continue to be maintained in compliance with filing and annual labor or fee requirements, and continue to be supported by the discovery of a valuable mineral deposit. The last element means that the mineral deposit must continue to remain valuable. In that regard, it is well established that the exhaustion of a mineral deposit or loss of its marketability will lead to a finding that the mining claimant no longer possesses valid existing rights.

To the extent that the reviewer is suggesting that the Forest Service may not examine issues relevant to the question of whether a mining claim constitutes a valid existing right, except in connection with a mineral contest initiated by the Bureau of Land Management, the position of this Department as well as the Department of the Interior is to the contrary.

> We recognize that a final determination that a claim is invalid for lack of discovery can be made only after a contest proceeding. We also recognize, however, that the mere location of a claim does not presumptively make it valid and that an agency operating under a mandate to minimize surface disturbance may properly require the mining claimant to affirmatively establish the existence of a valid existing right * * * before allowing operations to proceed.

Richard C. Swainbank, 141 IBLA 37, 44 (1997)(citation omitted). While *Swainbank* involved the National Park Service, its holding applies to the Forest Service, which, like the National Park Service, also operates under a mandate to minimize surface disturbance resulting from locatable mineral operations.

Since the Act withdrew the lands in the SRNRA from the operation of the United States mining laws subject to valid existing rights, it is not within the Department's discretion to authorize operations within the SRNRA unless the claimant can demonstrate that the mining claim satisfies all of the requirements in § 292.62(a) and, therefore, constitutes a valid existing right. No change has been made in the final rule in response to this comment.

Comment: The Forest Service must approve operations for the purpose of confirming a discovery of a valuable locatable mineral deposit. Two reviewers objected to § 292.62(b) because they contend it unlawfully gives the Forest Service broad discretion to refuse to permit operations necessary to confirm the discovery of a valuable mineral deposit consistent with the definition of valid existing rights in § 292.62(a). One of the reviewers who contended that the Forest Service must approve such operations, nonetheless, criticized the Forest Service for including this provision in the proposed rule, arguing that it simply provides another opportunity to delay a mining claimant's exercise of the rights accorded by the United States mining laws.

One of the reviewers also objected to the use of the term ''limited'' when describing operations to gather information to confirm the existence of a discovery of a valuable mineral deposit that predated the withdrawal of the SRNRA from the operation of the mining laws. The same reviewer also objected to the provision in § 292.62(b) which stated that the information gathering operations would be ''limited in scope and duration.''

The second reviewer proposed that the § 292.62(b) be revised to specifically authorize mineral operations necessary to demonstrate the quantity and quality of the mineralization.

Response: Section 292.62(b) was added to the second proposed rule to address situations that might arise in the SRNRA when a mining claimant must gather information to confirm that the discovery of a valuable mineral deposit occurred prior to the withdrawal of the SRNRA from the operation of the mining laws. In response to the comments received, this paragraph has been reworded to clarify that an authorized officer must approve a proposed plan of operations submitted by a mining claimant to conduct mineral operations which may be necessary to gather information to confirm the discovery of a valuable mineral deposit consistent with the rule's definition of ''valid existing rights.'' The claimant must, however, provide sufficient information to demonstrate that the exposure of valuable minerals on the claim predated the withdrawal of the land.

Section 292.62(b) codifies administrative interpretations of the United States mining laws which hold that, under certain circumstances, a mining claimant is entitled to an opportunity to collect further information to assist in the determination of whether the mining claim constitutes a valid existing right. The Department does not understand how a procedure that a mining claimant has voluntarily elected can constitute an impediment to an exercise of any rights which the claimant may possess. The procedure provides a mechanism for a claimant to bolster his claim of valid existing rights and presumably this procedure would not be elected by a claimant who is confident that he already possesses such rights. Accordingly, the Department sees no reason to modify § 292.62(b) based on this comment.

The Department agrees that there was no need to refer to operations conducted pursuant to § 292.62(b) as ''limited.'' Similarly, the Department agrees that there is no need to limit the scope and duration of operations carried out under § 292.62(b). Therefore, these words have been omitted from the final rule. However, these changes do not modify the Forest Service's authorities or a mining claimant's rights. The administrative interpretations of the United States mining laws on which § 292.62(b) is based, recognize that the mineral operations, which a mining claimant has the right to conduct on a claim located on withdrawn lands prior to a determination that the claim constitutes a valid existing right, are

inherently limited and those limitations are reflected in the other provisions of § 292.62(b). *See, e.g., United States* v. *Conner*, 139 IBLA 361, 372 (1997); *United States* v. *Crowley*, 124 IBLA 374, 378–379 (1992); *United States* v. *Mavros*, 122 IBLA 297, 310–311 (1992).

The Department does not agree that § 292.62(b) should be revised to require the authorized officer to approve mineral operations needed to demonstrate the quantity and quality of mineralization on a mining claim in the SRNRA. Mineral operations on withdrawn lands may not be permitted for the purpose of exposing new veins or lodes or performing work which would otherwise result in the discovery of a valuable mineral deposit. *United States* v. *Parker*, 82 IBLA 344, 384 (1984); *United States* v. *Chappell*, 42 IBLA 74, 81 (1979). Thus, the Government lacks authority to permit mineral operations pursuant to § 292.62(b) for the purpose of demonstrating the quantity and quality of mineralization on a mining claim unless those operations constitute an effort to confirm or corroborate the preexisting exposure of a valuable mineral deposit discovered prior to the withdrawal of the lands. *United States* v. *Chappell*, 42 IBLA 74, 81 (1979).

Based on the reviewers' comments, § 292.62(b) has been revised to clarify these points.

Section 292.63, Plan of Operations—Supplementary Requirements.

Paragraph (a) of this section specified that a plan of operations is required for all mineral development activities within the SRNRA where a plan would be required under 36 CFR part 228, subpart A, or when mechanical or motorized equipment would be used. Operations covered by this requirement would include, but not be limited to, those using suction dredges or sluices. Paragraph (b) specifically identified the information required in a plan of operations to evaluate an assertion of valid existing rights. Paragraph (c) identified the information required by the Forest Service to evaluate the operational details and impacts of the proposed mineral development activity as well as to determine the appropriate standards to mitigate and reclaim the affected areas.

Comment: A title report prepared by a private certified mineral title examiner should be sufficient to establish chain of title and valid existing rights. Two reviewers suggested that an operator should have an alternative way to satisfy the ''paperwork chain-of-title step'' by providing the Forest Service a report from a certified mineral title examiner or title company which shows an unbroken chain-of-title and valid existing rights.

Response: Proposed § 292.63(b) merely identified the specific information that must be furnished to the Forest Service by the operator in support of the operator's contention that the mining claim constitutes a valid existing right. The operator is free to use anyone, including private certified mineral title examiners or title companies, to collect and assemble the specified information in whatever manner the operator deems appropriate. Thus, no change is required in the rule to enable the operator to use private mineral title examiners or title companies to collect and submit the required information.

The respondents also might be suggesting that the Department should not question the opinion of a private certified mineral title examiner or title company on the issue of whether a mining claim constitutes a valid existing right. The Department does not agree with this suggestion. The Government has a duty to insure that valid mining claims are recognized, invalid mining claims are eliminated, and the rights of the public are preserved. *Cameron* v. *United States*, 252 U.S. 450, 460 (1920). This duty is significant because, as the Supreme Court also recognized in that case, unlawful mining claims result in private appropriations of land which rightfully belong to the public. The Department believes that it would be inappropriate to entrust a party retained and paid for by the proponent of an allegedly valid claim to discharge the government's duty to determine that very question.

For the same reasons, the information that is submitted to the Forest Service pursuant to § 292.63(b) cannot simply be a statement by a certified mineral title examiner or a title company that there is a continuous chain-of-title and that the mining claim constitutes a valid existing right. The submission made pursuant to § 292.63(b) must include the listed items and the information must be provided with specificity so that the government can fulfill its obligation to determine whether the operator has the right to conduct mineral operations in the SRNRA. Therefore, no change has been made to the final rule as a result of these comments.

Comment: Evidence of past or present sales of minerals cannot be required to establish valid existing rights. Three respondents objected to what they perceived to be a mandatory requirement that an operator submit evidence of past and present sales of a valuable mineral as part of a plan of operations. One respondent noted that there is no requirement in the United States mining laws that a claimant must have actually marketed the minerals discovered in order to establish the validity of the mining claim. The other two reviewers contended that the requirement is not supported by case law or legal precedent. One respondent observed that minerals may not have been produced or sold from mining claims which constitute valid existing rights, particularly with respect to lode mining claims in the developmental stage. That respondent also noted that many mining claims have been patented before any production occurred.

Response: The Department agrees that the United States mining laws do not require that a mining claimant must have marketed minerals in order to establish the validity of a mining claim. It is possible for an operator to prove that a mining claim constitutes a valid existing right without having produced minerals from the claim or having sold any minerals that have been produced. The Department also agrees that mining claims have been patented before mineral production has occurred. In proposing § 292.63(b)(9), the Department did not intend to suggest that an operator could not make an adequate showing of valid existing rights absent mineral production or absent past or present sales of minerals from the claim, or to preclude the operator from making that showing.

Nonetheless, evidence of mineral sales is relevant to the operator's assertion that valid existing rights have been established. Sales information represents confirmable documentation that mineral production has occurred on a mining claim. Evidence of mineral production is important because Department of the Interior rules recognize that ''(u)ncontradicted evidence of the absence of production over an extended period of time may, in and of itself, establish a prima facie case of invalidity.'' *United States* v. *Miller*, 138 IBLA 246, 277 n.18 (1997) (citation omitted). The Department of the Interior has explained that ''(t)his rule reflects the principle that, given the varying economic conditions present over a period of many years, a mining claim will usually be developed unless it is not commercially feasible to do so profitably. In other words, the best evidence of what a prudent man would do is what a prudent man has done.'' *United States* v. *Knoblock*, 131 IBLA 48, 88 (1994) (citation omitted).

For these reasons, no change has been made in § 292.63(b)(9) of the final rule except to insert the word ''existing'' at the beginning of the paragraph. This

change makes it clear that an operator is not required to submit evidence of sales which have not occurred or to submit evidence which no longer exists. To the extent that sales evidence exists, it is directly relevant to the determination of valid existing rights and must be provided.

Comment: The reference in the preamble to § 292.63(c)(3) regarding concurrent reclamation was erroneous. One reviewer observed that the preamble referred to a provision of the proposed rule regarding concurrent reclamation at § 292.63(c)(3) but that no such provision existed in the text of the proposed rule.

Response: The reviewer is correct and a change was made in the final rule. The provision concerning concurrent reclamation is set forth at § 292.69. The Department apologizes for any confusion the incorrect citation may have caused.

Section 292.64, Plan of Operations—Approval

Section 292.64 of the proposed rule sets forth the procedure that would be followed to review and approve a plan of operations submitted in conformance with § 292.63. Paragraph (a) stated that within 120 days of submission, the Forest Service would notify the applicant whether all the necessary information had been included or whether additional documentation was necessary. In addition, where all the necessary information had been included, this paragraph further explained that except for good cause shown, the Forest Service would determine whether the applicant possessed valid existing rights within 2 years. Paragraph (b) provided that if an applicant failed to demonstrate to the satisfaction of the Forest Service that valid existing rights had been established, it would notify the applicant in writing of its finding and that it would request the Bureau of Land Management to initiate a mineral contest action. Paragraph (c) stated that an assessment by the Forest Service that an applicant does not possess valid existing rights was a final agency action that was not subject to further administrative appeal within the Department. Paragraph (d) explained that when valid existing rights are present, the Forest Service would proceed to review the rest of the plan of operations which consists largely of the operational details of the mineral development activities being proposed. Paragraph (e) required the Forest Service to notify the applicant whether the plan has been approved or rejected, and paragraph (f) required the Forest Service to explain in writing the reason(s) for not approving a plan. For plans that are approved, paragraph (g) required the Forest Service to establish an approval period which would be equal to the minimum amount of time it would reasonably take a prudent operator to complete the mineral development activities set forth in the plan. Paragraph (h) identified the circumstances that would justify a modification to an approved plan of operations. Finally, paragraph (i) required an operator to develop a new plan of operations or amend a previously approved plan of operations, if the mining operations differed in type, scope, or duration from those described in the original plan, and if those differences would result in resource impacts not anticipated when the original plan was approved.

Comment: The allocation of 120 days to determine whether an applicant had included all the required information in a plan of operations was excessive. All the reviewers remarked that the Forest Service should be able to determine in less than 120 days whether a plan of operations is complete.

Response: The Department agrees. Determination of whether a plan of operations is complete should be a fairly routine task that entails a comparison of the items listed in § 292.63 of the rule with the items submitted by the applicant as part of the plan of operations. Clearly, acknowledgment that a plan is complete should not be construed as a determination that valid existing rights have been established or that the plan has been approved. It merely means that the necessary information has been supplied and that the Forest Service will use this information to conduct its review. In light of the comments received, the time to complete this task has been shortened to 60 days in the final rule.

Comment: The proposed rule turns mining law ''upside down'' by making a claimant prove valid existing rights under a burdensome and lengthy process and unlawfully provides that mineral development activities of those possessing valid existing rights are subject to regulation. One reviewer contended that because claimants are entitled to the exclusive use and possession of the valuable minerals they discover, the proposed rule violates the United States mining laws by shifting the burden from the Government to the operator to demonstrate the establishment of valid existing rights. In addition, by making this burden as onerous and time consuming as possible, the reviewer asserted that the proposed rule is an attempt to drive all mining out of the SRNRA. Finally, this reviewer contended that the proposed rule violates Congress's specific instructions that mining claimants are not to be disturbed by the Department's management of the SRNRA.

Response: The Department disagrees with this reviewer's characterizations. The exclusive use and possession referred to by this reviewer applies to other private parties but not to the United States, which, in this instance, is responsible for the administration of the National Forest System lands in the SRNRA on which the claims are located. The mere location of a claim does not presumptively make it valid and an agency operating under a mandate to minimize surface disturbance may properly require the mining claimant to establish the existence of a valid existing right before allowing operations to proceed. *Richard C. Swainbank,* 141 IBLA 37, 44 (1997).

In response to the allegation that the process was ''as onerous and time consuming as possible,'' the Department merely states that one of the primary objectives of this rule is to ensure that those conducting mineral development activities in the SRNRA have established that they possess valid existing rights. The Department does not believe that a system, requiring that the party asserting valid existing rights produce whatever evidence is in its possession to substantiate its claim, is either onerous or time consuming. It is not the intent of the Department to eliminate mining in the SRNRA in those instances where valid existing rights have been established.

Finally, the Department disagrees with the assertion that holders of valid existing rights are not to be disturbed by the Forest Service's administration of the SRNRA. Although the reviewer refers to ''Congress'' specific instructions,'' no citation to the Act is supplied. The Department believes that the reviewer may be relying on Section 8(c) of the Act for this proposition. However, Section 8(c) prohibits mineral development activity on federally owned land in the SRNRA subject to valid existing rights. 16 U.S.C. 460bbb–6(c). Section 8(c) does not address under what circumstances mineral development activities may be conducted in the SRNRA where valid existing rights have been established. That direction is set forth in Section 8(d) of the Act which provides for the issuance of supplementary mining regulations. *Id.* at section 460bbb–6(d). Unlike Section 8(c), Section 8(d) does not include a ''subject to valid existing rights'' proviso. *Id.* Thus, all mining activities in the SRNRA are subject to

the supplementary regulations, a view corroborated by legislative history. The original version of the SRNRA legislation would have prohibited all mineral development activities. As a result of concerns for the potential takings liability associated with a blanket prohibition on all mining activities, the legislation was subsequently amended to prohibit mining subject to valid existing rights and to authorize supplementary regulations governing all mining operations for which valid existing rights were established. The chief sponsor of the Act commented,

> With regard to mining, the amendments would give explicit recognition to the rights associated with valid existing claims, and direct the Secretary to issue supplementary regulations designed to 'promote and protect' the purposes for which the recreation area is created. Although I remain concerned about the potential for destructive mining, I am hopeful that the supplemental regulations will address these concerns.

136 Cong. Rec. H13045, 13046 (Oct. 26, 1990) (Statement of Rep. Bosco). The Act and the legislative history are clear that only those operators who have established valid existing rights may conduct mineral development activities in the SRNRA and, where allowed, those activities must be conducted in conformance with the provisions of this rule.

Alternatively, the reviewer may be contending that the Department lacks authority to require a mining claimant to establish that a mining claim constitutes a valid existing right which survived the withdrawal and that the only means for the Government to consider the valid existing rights issue is in connection with a mineral contest proceeding before the Bureau of Land Management. If that is the reviewer's contention, it is plainly inconsistent with the Department of the Interior's administrative interpretations of the United States mining laws.

As discussed previously, there is nothing in the Act to suggest that persons with valid mining claims predating the establishment of the SRNRA were not to be disturbed by the Department's management of the SRNRA. Rather, Congress merely withdrew the SRNRA from the operation of the United States mining laws ''subject to valid existing rights'' just as it has done many times with respect to other federally owned lands. In discussing a situation where mining operations could only be conducted as an incident of a valid existing right, the Interior Board of Land Appeals observed that ''(a)ny inference * * * that the mere location of a mining claim raises a presumption of validity, vis-a-vis the United States is plainly wrong. The mere assertion of a claim to land is simply that.'' *Southern Utah Wilderness Alliance,* 125 IBLA 175, 188 n.7 (1993). The Board also observed that even in a contest proceeding brought by the government ''it is the claimant who must establish the validity of the claim.'' *Id.* The Board then recited its holding in *Havlah Group,* 60 IBLA 349, 361 (1981) that ''it is not unreasonable to require a claimant to make a preliminary showing of facts which support a valid existing right.'' *Id.* at 188. In *Havlah Group,* where a proposed plan of operations had been submitted for lands on which all actions of the Secretary of the Interior under the statute were ''subject to valid existing rights,'' the Board noted that once the claimant had submitted a preliminary showing, the Bureau of Land Management could either bring a mineral contest challenging the validity of the claim or permit the operations to go forward. 60 IBLA at 361. *See also, Richard C. Swainbank,* 141 IBLA 37, 44 (1997); *Richard C. Behnke,* 122 IBLA 131, 140 n.13 (1992). Thus, persons holding mining claims in the SRNRA are not entitled to any presumption that those claims constitute valid existing rights. It is fully consistent with the Act and the United States mining laws for the Department, which operates under a mandate to minimize surface disturbance caused by mining operations, to require claimants ''to affirmatively establish the existence of a valid existing right * * *.'' *Richard C. Swainbank,* 141 IBLA at 44. For these reasons, no changes have been made in the final rule in response to these comments.

Comment: There was no explanation of what might constitute ''good cause'' so as to justify an extension of time beyond 2 years for the Forest Service to complete a valid existing rights determination. One reviewer objected to § 292.64(a)(1) and asserted that the proposed rule failed to explain ''good cause'' or otherwise justify why it might take longer than 2 years to complete a valid existing rights determination given that, among other things, § 292.63(b) requires the operator to provide all of the information necessary to make a valid existing rights determination. With respect to the examples of good cause mentioned in the preamble to the proposed rule, the reviewer argued that matters such as budget and manpower availability are within the control of the Forest Service and that weather considerations are unimportant because there is little need for a site visit to determine the validity of the type of mining claims occurring in the SRNRA.

Response: The Department disagrees to the extent that the respondent suggests that the Forest Service only needs the information submitted by a claimant in order to make a valid existing rights determination. The Government has a responsibility to insure that valid mining claims are recognized, invalid mining claims are eliminated, and the rights of the public are preserved. *Cameron* v. *United States,* 252 U.S. 450, 460 (1920). This responsibility is significant because as the Supreme Court recognized in that case, invalid mining claims unlawfully appropriate public lands to private use contrary to the rights of the public. The Government's independent responsibility to determine the validity of a mining claim cannot be discharged merely by accepting at face value whatever information is supplied by the claimant, who is the proponent of the allegedly valid mining claims. In all cases, the Government must perform its own field examination of the mining claim which allegedly constitutes a valid existing right to confirm the information submitted by the operator.

As explained in great detail in the preamble to the proposed rule, the field examination of a mining claim and the preparation of a written mineral report by a certified mineral examiner is a complicated and lengthy process. While the Department will use its best efforts to complete the valid existing rights determination within 2 years, many factors acting singly, or in combination, may make it impossible. Among those factors are the inaccessibility of field sites due to flooding, landslides, or fires; the unavailability of qualified personnel due to reassignments for fire fighting or other emergencies, protracted medical leave, unanticipated retirements, other previously scheduled validity, or valid existing rights determinations; the time necessary to prepare environmental documents required for sampling on the claim; or the unique technical issues presented by a mining proposal. It is not possible to identify all of the events and contingencies that could cause a justifiable delay in a valid existing rights determination. For these reasons, no change was made in § 292.64(a)(1) in the final rule.

Comment: The number of mineral examiners in the Pacific Southwest Region of the Forest Service is unclear. One reviewer noted that there appeared to be a discrepancy in the second proposed rule regarding the number of Forest Service mineral examiners in the Pacific Southwest Region.

Response: There was no discrepancy. To clarify what was stated in the second proposed rule, there are five certified mineral examiners in the region. Two of the five are also certified review mineral examiners and, therefore, are qualified to conduct mineral examinations and to serve as reviewers who approve mineral reports prepared by other mineral examiners. No change was made in the final rule based upon this comment.

Comment: The FS has adequate staffing to handle the anticipated two plans per year in less than 2 years. Two reviewers asserted that the existing cadre of certified mineral examiners in the Pacific Southwest region should be able to complete valid existing rights determinations for claims in the SRNRA in less than 2 years since only two plans of operations are estimated to be submitted per year. One reviewer also asserted that the Department can allocate its financial and human resources as it deems appropriate and that it would be improper for the Department to deploy its manpower in a fashion which precludes completion of the required examinations in less than 2 years.

Response: An employee who is not certified as a review mineral examiner or as a mineral examiner, may only work on a valid existing rights determination under the direct supervision of someone who is certified. Only certified Forest Service mineral examiners or review mineral examiners are allowed to conduct valid existing rights determinations. There are only five such employees in the Pacific Southwest Region of the Forest Service. These five individuals are responsible for conducting valid existing rights determinations in all withdrawn areas in the Pacific Southwest Region, not just the SRNRA. It would be unfair to individuals whose claims lie outside the SRNRA if the Forest Service redirected the focus and energy of the five Pacific Southwest Region examiners so that valid existing rights determinations in the SRNRA would be completed first. There is no reason that mining claimants in the SRNRA should be afforded preference over others whose mining claims are located elsewhere in the region. Accordingly, even though it is estimated that only two plans of operations will be submitted annually for mining claims in the SRNRA, those plans must be reviewed, along with other plans submitted in the region, in the order that they were received.

The Department agrees that, in theory, it is possible to reassign Forest Service personnel from other regions to complete priority work assignments in the Pacific Southwest Region. However, agency staffing levels are at a significantly lower level than a decade ago due to reduced congressional appropriations. Current staffing levels do not permit reassignment of certified mineral examiners without creating substantial delays in the completion of work which those examiners are responsible to perform in their regularly assigned region. The work that would not be completed in the originating region includes the same type of work; that is, valid existing rights determinations required before operations are authorized in the many National Forest System areas that have been withdrawn from the operation of the United States mining laws subject to valid existing rights. Thus, this comment also fails to recognize that prioritizing valid existing rights determinations for claimants in the SRNRA will prejudice similarly situated claimants in other withdrawn areas.

Furthermore, as discussed in connection with the preceding comment, it is not just personnel limitations which may result in a valid existing rights determination taking 2 or more years to complete. Other factors, which may lengthen the time to make a determination, include: The short field season in the SRNRA; the time needed to prepare environmental documents required for surface disturbing sampling operations; or the inaccessibility of the mining claims due to flooding, fire conditions, landslides, or other natural conditions. For these reasons, no change has been made in § 292.64(a)(1) of the final rule in response to these comments.

Comment: The rule should include a provision requiring ''prompt'' notification of BLM of any adverse valid existing rights determination. One reviewer observed that the proposed rule properly required that notice of an adverse valid existing rights determination be given to an operator that states, among other things, that the Forest Service will promptly notify the Bureau of Land Management of its determination and request initiation of a mineral contest. However, the reviewer faulted the proposed rule for not containing a separate requirement that the authorized officer promptly notify the Bureau of Land Management of an adverse determination and request initiation of a mineral contest.

Response: Section 292.64(b) of the proposed regulation required the Forest Service to notify the operator of a determination that there is not sufficient evidence of valid existing rights. That paragraph also required the notice to the operator to state that the Forest Service will ''promptly'' notify the Bureau of Land Management of its determination and request the initiation of a mineral contest action. The Department believed that this provision would insure quick Forest Service action on the notification to the Bureau of Land Management. However, to make it perfectly clear that this is also an affirmative requirement, paragraph (b) has been broken down into paragraphs (b)(1) and (b)(2). Paragraph (2) contains this affirmative requirement to notify the Bureau of Land Management of the Forest Service's determination and to request the initiation of a mineral contest.

Comment: The Forest Service lacks authority to treat an authorized officer's decision that there is not sufficient evidence of valid existing rights as final agency action. One reviewer contended that § 292.64(c), which stated that an authorized officer's decision that there is not sufficient evidence of valid existing rights was final agency action, rendered the BLM mining claim contest action process meaningless. The reviewer also alleged that this provision conflicts with the March 14, 1997, decision in *California Nickel Corporation* v. *Glickman*, No. C94–3904–DLJ, slip op. (N.D. Cal.). The reviewer recommended that the final rule include a provision stating that the Forest Service must change its position concerning valid existing rights if the Department of the Interior rules in favor of the operator on a Forest Service's mineral contest. The reviewer also recommended that the Department make clear in the final rule that referral of the Department's preliminary adverse valid existing rights determination to the Department of the Interior is the appropriate administrative process rather than appeal through the Forest Service or the Department of Agriculture. Finally, the reviewer recommended that the final rule state that there is no final determination of valid existing rights until the Department of the Interior administrative process has been exhausted.

Response: The term ''final agency action'' in § 292.64(c) resulted in unintended confusion. This term was used merely to clarify that an authorized officer's determination would not be subject to appeal within the Department because the previous paragraph requires the issue to be referred to the Bureau of Land Management. In response to this comment and to avoid misinterpretation of the provision, the term ''final agency action'' has been omitted from § 292.64(c) in the final rule.

Other changes have been made to this section in the final rule to make it clear that resorting to the BLM contest

proceeding is not meaningless and to emphasize that the Forest Service will recognize that a claimant has valid existing rights if that is the final determination of the Department of the Interior or of a court reviewing the Department of the Interior's decision in the contest action. Specifically, § 292.64(b)(1) has been revised to clarify that the effect of the authorized officer's determination that there is insufficient evidence of valid existing rights is to stay further consideration of the proposed plan of operations pending final action on the valid existing rights issue by the Department of the Interior or by final judicial review. Also, § 292.64(d) has been revised to require the authorized officer to resume consideration of the plan of operations if the final agency action by the Department of the Interior or final judicial review of the Department of the Interior decision determines that valid existing rights exist.

Finally, to address the reviewer's concerns, the remainder of the language in § 292.64(c) has been retained to make it clear that a decision finding insufficient evidence of valid existing rights is not subject to appeal in this Department.

Comment: Once a valid existing rights determination is made in favor of the operator, the rule should make the authorized officer's review of the plan of operations subject to the Forest Service's general mining regulations set forth at 36 CFR 228.5. The proposed rule provides an unlimited amount of time to complete the review of the operational aspects of the mineral operation. One reviewer contended that there is no reason why the applicable time limitations in the Forest Service's general mining regulations should not apply to consideration of the operational aspect of a proposed plan of operations for the SRNRA. With regard to one of the reasons given by the Department in the second proposed rule for the absence of definite time limitations for reviewing a plan of operations (the need to comply with the National Environmental Policy Act (NEPA) for approval of large-scale operations), the reviewer noted that general regulations provide that the authorized officer must notify the operator no later than 30, or at times 90, days after the filing of a plan of operations that it cannot be approved until completion of NEPA compliance. The operator contended that this feature of the general mining regulations keeps the process moving while the proposed SRNRA regulations institutionalize delay.

Response: The reviewer may have overlooked several reasons, in addition to NEPA compliance, given by the Department for the absence of definite time limitations for reviewing proposed plans of operations. As was stated in the preamble to the second proposed rule, NEPA is just one of the statutes with which the Forest Service must comply in reviewing a proposed plan of operations. Compliance with the requirements of the Endangered Species Act (ESA) can take several years, and, in contrast to NEPA where the Forest Service is usually in charge of the compliance process, the priorities and resources of the National Marine Fisheries Service or the United States Fish and Wildlife Service often determine the pace of compliance with the ESA.

The reviewer also may be implying that § 228.5 of this chapter adequately reflects the requirements of NEPA by providing more than 90 days for NEPA compliance. That is not necessarily correct. While 36 CFR 228.5 provides for more than 90 days for review of a plan of operations when NEPA requires the preparation of an environmental impact statement, the regulations do not provide more than 90 days for review of a plan of operations when NEPA requires the preparation of an environmental assessment. However, the preparation of environmental assessments usually requires substantially more time than 90 days.

In relying on 36 CFR 228.5, the reviewer overlooks the fact, recognized in *Baker* v. *United States Department of Agriculture,* 928 F. Supp. 1513, 1519 (D.Idaho 1996), that a ''conspicuous conflict[] occurs between 36 CFR 228.5 and the requirements of the NEPA and the ESA.'' In *Baker,* the court found that the conflict arose because 36 CFR 228.5 was promulgated in 1974, before the 1978 promulgation of regulations concerning environmental assessments and before the 1986 promulgation of regulations under the Endangered Species Act. The *Baker* court held that the 90-day time limit in § 228.5 and the regulatory requirements of the NEPA and the ESA are in ''irreconcilable conflict.'' Therefore, the court held that ''the 90-day limit must give way'' due to the conflict with the more recent NEPA and ESA regulations. *Id.* at 1520. However, as the court held, this result does not mean that the ''Forest Service is unencumbered by time limitations in examining [plans of operations]'' because there are other time limits in the NEPA and ESA process as well as ''a general rule prohibiting unreasonable delays.'' *Id.* Consequently, even if the requirements of § 228.5 of this chapter are not applicable, Forest Service review of a proposed plan of operations ''remains subject to time constraints * * * '' and the SRNRA regulations will not institutionalize delay. *Id.*

For these reasons, the Department believes that it would be senseless and misleading to persons asserting that they possess valid existing rights to conduct locatable mineral operations in the SRNRA, to adopt supplementary regulations which rely on the time limitations for reviewing a plan of operations set forth in the Forest Service's general mining regulations as requested by the reviewer. While the Forest Service will make every effort to process plans of operations as expeditiously as possible, the Department has made no changes to the text of this section in the final rule.

Comment: The rejection of a plan of operations by the Forest Service is unlawful and would constitute a taking. One reviewer asserted that the Forest Service cannot simply refuse to approve a plan of operations as suggested in paragraphs 292.64(e) and (f). The reviewer alleged that a refusal to approve a plan of operations would preclude a claimant from working his claim and constitute a taking of the claimant's property. The reviewer argued that there was no comparable provision in the Department's general mining regulations at part 228, subpart A, of this title and no administrative basis for departing from those regulations. However, the reviewer also argued that § 228.5(a)(3) of this title, at least requires the authorized officer to ''[n]otify the operator of any changes in, or additions to, the plan of operations to meet the purpose of the regulations in this part.''

Response: The Department agrees that it does not have the authority to refuse to approve a reasonable plan of operations which is not otherwise prohibited by law. However, the Department is not obligated to allow unreasonable mining operations to be conducted on National Forest System lands. Thus, even with respect to mining operations which were being conducted before the promulgation of 36 CFR part 228, subpart A, it was held that the Department could prohibit unreasonable mining operations pursuant to the Surface Resources Act of 1955, 30 U.S.C. 611–14. *United States v. Richardson,* 599 F.2d 290, 291, 294–95 (9th Cir. 1979). The reason for the court's conclusion was that this statute ''supersede(d) and modif[ied] the pre-existing recognition of broad rights under 30 U.S.C. 26 * * *.'' *Id.* at 295.

This authority did not change with the promulgation of 36 CFR part 228,

subpart A. While the reviewer may argue that 36 CFR part 228, subpart A, does not allow the Forest Service to refuse to approve a plan of operations, that argument is inconsistent with 36 CFR 228.5(a)(3), a provision cited by the reviewer, which is only relevant when the Forest Service has refused to approve a proposed plan of operations. Indeed, in cases involving mining operations subject to 36 CFR part 228, subpart A, courts have found that Forest Service may refuse to approve an unreasonable plan of operations or a plan otherwise prohibited by a law such as the Endangered Species Act. ''(T)he Forest Service clearly has the power to reject an unreasonable plan (of operations).'' *Baker* v. *United States Department of Agriculture,* 928 F. Supp. 1513, 1518 (D. Idaho 1996). ''Of course, the Forest Service would have the authority to deny an unreasonable plan of operations or a plan otherwise prohibited by law. *E.q.* 16 U.S.C. 1538 (endangered species located at the mine site.).'' *Havasupai Tribe* v. *United States,* 752 F. Supp. 1471, 1492 (D. Ariz. 1990), *aff'd sub nom. Havasupai Tribe* v. *Robertson,* 943 F.2d 32 (9th Cir. 1991).

The second proposed rule did not embody a meaningful departure from 36 CFR 228.5(a). Proposed § 292.64(e) and (f) each specifically provided that disapproval of a plan of operations is an option available to the authorized officer. Similarly, when 36 CFR 228.5(a)(1) and (a)(3) are read together there is no doubt that disapproval of a plan of operations is also an option available to the Forest Service under the Department's general mining regulations. Also, while 36 CFR 228.5(a)(3) requires the authorized officer to ''(n)otify the operator of any changes in, or additions to, the plan of operations to meet the purpose of the regulations in this part,'' proposed § 292.64(f) requires the authorized officer to ''explain why the proposed plan of operations cannot be approved.'' The variation between 36 CFR 228.5 and 292.64(e) and (f) of this rule appears to be a distinction without a difference. At most, the difference is that under these final regulations, the Department gives the operator the discretion to propose an alternative plan of operations which, while addressing the authorized officer's concerns, also best meets the operator's objectives instead of prescribing the approach that the operator must adopt.

To avoid any confusion, it should be understood that the Forest Service will, where necessary, make every effort to resolve differences and to negotiate plans of operations that are acceptable to the operator and to the Forest Service before exercising the authority to refuse to approve a plan of operations. However, as a last resort, the Forest Service may in certain circumstances, be left no alternative except to refuse a plan of operations. Whether refusing to approve a plan of operations would constitute a taking cannot be ascertained at this juncture. However, to the extent that one of the factors considered in any regulatory takings claim is the reasonable, investment backed expectations of the property owner, it may be difficult for an operator to demonstrate that the agency's refusal to approve an unreasonable plan of operations requires payment of just compensation under the Fifth Amendment. For these reasons, no changes were made to the final rule in response to this comment.

Comment: The proposed time period for the mineral operations fails to give recognition to the operator's rights under the United States mining laws and provides another opportunity to delay mining. One reviewer argued that § 292.64(g) of the second proposed rule, which would establish a time period for the mineral operations authorized by an approved plan of operations equal to the minimum amount of time reasonably necessary for a prudent operator to complete the mineral development activities covered by the plan, would limit the length of time that the operator may engage in mining operations on a mining claim and consequently nullify the operator's rights under the United States mining laws, which do not include such a restriction. The reviewer contended that recognition of valid existing rights means that the Government must give respect and effect to the entirety of an operator's rights under the mining laws. The reviewer also contended that proposed § 292.64(g) provides another opportunity for the Forest Service to delay mining while the operator challenges the Forest Service's determination of the amount of time that would be reasonably necessary for a prudent operator to complete the mineral activities. Finally, the reviewer asserted that there is no reason why the final rule should not emulate the Forest Service's general mining regulations by merely requiring that the plan of operations describe the duration of the expected operations.

Two other reviewers also objected to the proposal to set the operating timeframe for the minimum amount of time necessary, arguing that unforeseen events, such as changes in market conditions, severe weather, strikes, acts of God, or force-majeure can delay start-up and completion timeframes. Both reviewers also noted that additional mineral reserves may be identified after production begins so that additional time is required to mine the deposit. One reviewer recommended that the timeframe be left open ended or at the very least set for 300 percent of the minimum amount of time anticipated. That reviewer also stated that a guaranteed right to extend the operating timeframe must be provided. Finally, that reviewer contended that § 292.64(g) could cause a takings by making financing unavailable and stated that a takings impact analysis had not been prepared for this provision. The other reviewer recommended that the timeframe be left open ended or set by the miner.

Response: Several reviewers appear to have assumed that it was not possible to obtain an extension of the time period provided in an approved plan of operations to conduct authorized operations. This interpretation was not the Department's intent. Accordingly, a new § 292.64(h)(4), is included in the final rule. This new paragraph makes it clear that a plan of operations may be modified to extend its term or scope when the criteria set forth in § 292.64(i) for submission of a supplemental plan of operations or a modification of the plan of operations pursuant to 36 CFR 228.5, are not triggered. The final rule consequently cannot be construed as preventing an operator from fully mining a valuable locatable mineral deposit in the SRNRA on a mining claim which continues to constitute a valid existing right.

The other comments concern the standard included in proposed § 292.64(g) for establishing the term of approval for a plan of operations. The United States mining laws do not address the question of the duration of mining operations. However, judicial and administrative interpretations of the mining laws have long made it clear that ''(u)nder the mining laws Congress has made public lands available to people for the purpose of mining valuable mineral deposits and not for other purposes.'' *United States* v. *Coleman,* 390 U.S. 599, 602 (1968). Indeed, the ''all-pervading purpose of the mining laws is to further the speedy and orderly development of the mineral resources of our country.'' *United States* v. *Nogueira,* 403 F.2d 816, 823 (9th Cir. 1968)(citation omitted). Mining claims which do not ''conform to the law under which they are initiated * * * work an unlawful private appropriation in derogation of the rights of the public.'' *Cameron* v. *United States,* 252 U.S. 450, 460 (1920). Thus it is beyond dispute

that the Government has a definite interest in seeing that operations on mining claims are diligently pursued to a conclusion, that the lands are reclaimed, and that the reclaimed lands are restored to other public uses, particularly where Congress has given the lands a special designation and management emphasis such as in the case of the SRNRA. These interests are all fostered by requiring the completion of mining operations within the time provided for in proposed § 292.64(g) of this part. Therefore, this provision does not conflict with the United States mining laws. For the same reasons, it would be inappropriate to adopt a final rule which provides that the term of approval of a plan of operations is open-ended, is 300 percent of the minimum amount of time reasonably necessary for a prudent operator to complete the authorized operations, or is unilaterally established by the operator.

Limiting the period of approval of a plan of operations, as provided in the second proposed rule, does not conflict with a determination that an operator has valid existing rights because that determination is time dependent and not conclusive of present conditions and rights. It is beyond dispute that a mining claim, which constituted a valid existing right at one time, may lose that status. A claim can become invalid due to a change in markets which results in a loss of the discovery or due to failure to make certain filings or payments. Even if a discovery can be shown to exist on a mining claim, the claim can be invalidated upon a showing that it was not located or held in good faith for mining purposes. *In re Pacific Coast Molybdenum Co.,* 75 IBLA 16, 35 (1983). Moreover, where valid existing rights continue to be maintained and an operator requires additional time to complete operations, such time can be provided pursuant to either § 292.64(h)(4) or § 292.64(i) of the final rule. These final rules appropriately consider and recognize valid existing rights. Therefore, no change was made to the rule in response to these comments.

The Department agrees that severe weather, strikes, acts of God, and force-majeure situations can delay start-up and completion of mineral operations. However, delays occur regardless of what criteria the Government selects to determine the time period for approval of a plan of operations. Rather than adjusting the final rule to provide additional time for the conduct of operations, which in many cases might be unnecessary, the Department believes that the course of action consistent with the long-standing interpretations of the United States mining laws is to approve operations for the minimum amount of time reasonably necessary for a prudent operator to complete the operations and to provide for an extension if, and when, there is a delay in the start-up or completion of the approved operations. However, the Department cautions that changes in market conditions, in and of itself, would not necessarily warrant an extension in the approval period since it might actually result in the loss of a discovery and of the valid existing right. Similarly, the suggestion that an operator is entitled to an extension of the term of approval for a plan of operations where operations have not been completed overlooks the fact that a variety of circumstances can result in the loss of a valid existing right to conduct operations on a mining claim after the initial approval of a plan of operations. Therefore, it might be inconsistent with the United States mining laws to extend the term of approval of the plan of operations in some circumstances where the suggested criteria are met. Accordingly, the final rule was not changed in response to these suggestions.

The Department agrees that more time in addition to that authorized by a plan of operations may be required to mine additional mineral reserves identified after mineral production begins pursuant to the approved plan. However, this fact does not justify the suggestion that the original term of approval of a plan should be inflated to cover such a contingency. It is well established that mining activities are subject to regulation to protect the environment. Congress also has specifically declared that the policy of the Federal Government is to encourage private enterprise in ''the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment * * *.'' 30 U.S.C. 21a. The environmental impacts of mining mineral reserves that are identified after approval of a plan obviously could not have been adequately considered or mitigated by the authorized officer in reviewing the proposed plan. Thus, it would be inconsistent with 30 U.S.C. 21a and probably other environmental statutes, for the Forest Service to permit the mining of reserves identified after mineral production begins without review of those operations pursuant to § 292.64(h)(4) or § 292.64(i) of this final rule, as applicable. Consequently, the possibility that additional reserves might be identified after mineral production begins does not justify the suggestion that the period of approval for a plan of operations should be longer than the minimum amount of time reasonably necessary for a prudent operator to complete the approved mineral development activities. The final rule has not been changed in response to this comment.

The Department agrees that mining operations might be delayed as a consequence of an operator's decision to challenge the Forest Service's determination of the amount of time that would be reasonably necessary for a prudent operator to complete the approved mineral operations. The same is true with respect to all requirements included in an approved plan of operations and, for that matter, in all authorizations issued by the Government. The only way to eliminate this risk would be to permit mining claimants to engage in unrestricted and unregulated mining on National Forest System lands. Congress rejected that option in 1897 when it enacted the Organic Administration Act which authorized the Department of Agriculture to promulgate reasonable rules and regulations to protect the surface of National Forest System lands from the adverse impacts of locatable mineral operations. 16 U.S.C. 551. In enacting 30 U.S.C. 21a, Congress restated that the policy of the Federal Government is to encourage private enterprise in ''the reclamation of mined land so as to lessen any adverse impact of mineral extraction and processing upon the physical environment * * *.'' Thus, the fact that an operator's challenge that the term of approval of a plan of operations might delay the commencement of the approved operations does not warrant a change in § 292.64(g). The likelihood that a challenge to an approved plan of operations will delay the start-up of such operations is a risk that the operator must evaluate and assume in deciding whether to bring the challenge. No change to the rule was made based upon these suggestions.

From a legal standpoint, the Department disagrees with the reviewer's contention that the inability to secure financing, in and of itself, may result in a taking and we are unaware of any case which supports such a proposition. As described in some detail previously, takings cases are highly fact specific inquiries which generally require a court to consider the following factors: the character of the governmental action, the economic impact of that action, and the reasonable investment-backed expectations of the property owner. The inability to obtain financing may have some bearing on

one or more of the aforementioned factors, but it is not dispositive.

From a practical standpoint, however, it seems somewhat counter intuitive to contend that an operator would be unable to obtain financing based on the establishment of an approval period that was calculated to be sufficient for a prudent operator to complete the mining operations as documented in the plan of operations. However, in light of the change made to the final rule which expressly allows for extensions in the approval period, the Department believes that this reviewer's concern about the potential takings implications of this provision has been resolved.

For these reasons, § 292.64(g) of this part is reasonable and within the authority of the agency. This provision is preferable to the agency's general mining regulations which do not specifically address the issue of the term of approval of a plan of operations other than to require that the proposed plan of operations submitted by the operator must describe the period during which the proposed activity will take place.

The Department believes that adopting the requirement in § 292.64(g) of this subpart may result in the following benefits. Specifying the term of approval of a plan of operations should result in increasing the promptness with which mining operations are pursued to a conclusion, and the promptness with which the lands are reclaimed and restored to other public uses. Regrettably, past experience suggests that, on occasion, operators behave less diligently once the mining phase ceases and the reclamation phase begins because reclamation operations are costly rather than profitable. Where the term of a plan of operations is fixed rather than open-ended, sanctions can be imposed for failure to complete the reclamation activities by the plan's termination date. This fosters the well recognized purposes of the United States' laws of furthering the speedy and orderly development of the nation's mineral resources and insuring that federal lands are not in an unreclaimed state, or reclaimed at public expense, to the detriment of the right of the American people to use public lands. These goals are particularly important where, as in the case of the SRNRA, Congress has withdrawn lands from the operation of the United States mining laws subject to valid existing rights and specified special purposes for which the lands are to be administered.

Also knowing when mineral operations must be completed will improve the agency's ability to evaluate the environmental impacts of those activities because those impacts are dependent on the rate at which the activities are conducted as well as the nature of the activities. Better information regarding the likely impacts of mineral operations should result in the preparation of better environmental documents required by procedural statutes such as the National Environmental Policy Act and better compliance with substantive environmental statutes such as the Endangered Species Act. Better information about the likely impacts of mining also will allow the Government to make more accurate determinations regarding the amount of the bond that an operator should be required to post.

For these reasons, § 292.64(g) of this part was not revised in response to the comments. However, a new § 292.64(h)(4), was included in the final rule to clarify that it is possible to modify an approved plan of operations to extend its term or scope.

Comment: Section 292.64(i) of the proposed rule contains an erroneous reference to § 292.64. One reviewer detected that § 292.64(i) included a reference to § 292.64 rather than § 292.63.

Response: The Department recognizes the potential for confusion resulting from including a reference to § 292.64 in § 292.64. To rectify the matter, this final rule paragraph has been changed to eliminate any reference to a section of the supplementary regulations. It should be well understood that if a new or supplemental plan of operations is necessary, it will be subject to the review and approval provisions of these supplementary regulations.

Section 292.65, Plan of Operations—Suspension

This section of the second proposed rule authorized the Forest Service to suspend mineral development activities if the operations are being conducted in violation of applicable law, regulation, or the terms and conditions of the operator's approved plan of operations. Except in cases where the violations present an imminent threat of harm to public health, safety, or the environment, this provision required the Forest Service to give the operator 30 days advance notice of the suspension. The 30-day notice should, in most instances, give the operator sufficient time to correct the violations prior to the suspension taking effect. In cases where mineral operations present an imminent threat of harm to public health, safety, or the environment (or where such harm is already occurring), regardless of whether the operator is in violation of applicable laws, regulations, or the terms and conditions of the plan of operations, the second proposed rule authorized the Forest Service to take immediate action to suspend the mineral development activity. In these cases, the rule directed the Forest Service to notify the operator of the reason for the action as soon as it is reasonably practicable after the suspension.

Comment: Suspension authority is duplicative of existing authority and may result in regulatory abuse. One reviewer noted that the Forest Service already has broad enforcement authority to suspend mining operations and that this provision in the rule is, therefore, unnecessary and will lead to regulatory abuses by the Forest Service.

Response: The current United States Department of Agriculture regulations at 36 CFR part 228, subpart A, do not contain a provision authorizing the Forest Service to suspend a mineral operation, in whole or in part, if an operator is not in compliance with applicable statutes, regulations or terms and conditions of the approved plan of operations. Where there is an immediate threat to public health, safety, or the environment, presented by the mining operation, this provision allows the Forest Service to respond quickly. The potential for regulatory abuse, if any, is significantly reduced by requiring written notice to the operator which informs him or her of the basis for the suspension.

Where there is no threat to public health, safety or the environment, there realistically is no potential for ''regulatory abuse'' feared by this reviewer since the Forest Service must inform the operator in writing of the proposed suspension 30 days before it takes effect. Generally, it is presumed that 30 days should be sufficient time for the operator to address the concern which led to the issuance of the suspension notice. For these reasons, no change has been made to the second final rule as a result of this comment.

Section 292.69, Concurrent Reclamation.

The second proposed rule stipulated that reclamation of National Forest System lands and resources should occur concurrently with the mineral operation ''to the maximum extent practicable.''

Comment: The operator, not the Forest Service, should determine what is reasonable and practicable reclamation. One reviewer acknowledged that concurrent reclamation is a reasonable requirement to protect the SRNRA so long as it is interpreted sensibly. However, the reviewer asserted that

what is reasonable and practicable should be left to the judgment of the operator, not the Forest Service.

Response: The regulations being adopted to govern mineral operations in the SRNRA provide the operator an opportunity to give input concerning reclamation measures appropriate for lands disturbed by the mining activities. Section 292.63(b) of this part requires the operator to submit a proposed plan of operations. Section 292.63(c) requires the proposed plan to address environmental protection requirements, including reclamation. Presumably an operator would not propose reclamation activities considered to be impracticable. Assuming that the Forest Service agrees that the proposed plan of operations provides, to the maximum extent possible, that reclamation shall proceed concurrently with the mineral operations and satisfies the other requirements of 36 CFR 228.8, the reclamation would be approved. It is standard Forest Service practice to work with an operator to fashion a mutually agreeable solution in cases where the Forest Service concludes that the proposed reclamation is unreasonable.

However, for a number of reasons, the Department cannot agree that the operator should be given unilateral permission to determine how reclamation of National Forest System lands should occur. Most importantly, the statute, which extended the United States mining laws to National Forest System lands reserved from the public domain, charged the Department to ''insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction * * *.'' 16 U.S.C. 551. Adopting the policy advocated by the reviewer would effectively delegate the Department's statutory duties to those whom the Department is required to regulate.

The manner in which lands are reclaimed also has an enormous bearing on their ability to be restored to other productive uses. The Forest Service has the ultimate responsibility to specify the manner in which mined lands are reclaimed so that the rights of the public in those lands are preserved.

Finally, there are great economic incentives for operators to perform as little reclamation as possible, because reclamation represents the most controllable cost of mineral operations. Letting operators determine the type and scope of reclamation would likely result in lesser protection being afforded the lands and resources within the SRNRA than is provided outside the SRNRA. This practice would be contrary to the statutory requirements to protect and preserve the values of the SRNRA. For these reasons, no change has been made to § 292.69 as a result of the comment.

Comment: The extreme requirements in the concurrent reclamation provision are not justified. One reviewer objected to the requirement in proposed § 292.69 that plans of operations should provide, to the maximum extent practicable, that reclamation proceed concurrently with the mineral operation. The reviewer asserted that there is no administrative justification for departure from the agency's general mining regulations which provide that reclamation must occur upon the exhaustion of the mineral deposit or at the earliest practicable time during operations, or within 1 year of the completion of operations, unless a longer time is allowed by the authorized officer. The reviewer also asserted that there is no administrative justification for departure from the reclamation provision of the first final rule which called for concurrent reclamation when practicable, not to the maximum extent practicable. The reviewer asserts that § 292.69 provides another opportunity for the Forest Service to impose unreasonable and expensive procedures upon an operator and, thereby, deprive him of his property rights.

Response: As discussed previously, past experience demonstrates that operators tend to be less diligent once mining ceases and reclamation begins because reclamation of operations are costly rather than profitable. The Department believes that requiring concurrent reclamation to the maximum extent practicable will result in reclamation being initiated and completed sooner than it would be under the standards set forth in 36 CFR 228.8 of the Department's general mining regulations or the April 3, 1996, final rule. This result is important for a number of reasons.

The first involves the purposes of the Act. Section 2 of the Act specifically enumerated the features that led to the designation of the SRNRA. Some of these features included: (1) It represents one of the last wholly intact vestiges of an invaluable legacy of wild and scenic rivers, (2) it exhibits a richness of ecological diversity unusual in a basin of its size, and (3) it offers exceptional opportunities for a wide range of recreational activities, including wilderness, water sports, fishing, hunting, camping, and sightseeing. The purposes of the Act are to ensure ''* * * the preservation, protection, enhancement, and interpretation for present and future generations of the Smith River watershed's outstanding wild and scenic rivers, ecological diversity, and recreation opportunities while providing for the wise use and sustained productivity of its natural resources * * *.'' 16 U.S.C. 460bbb–2(a).

The SRNRA was recognized by Congress as a unique area to be protected to the extent allowable by law. In addition, in Section 8 of the Act entitled ''Minerals,'' Congress directed the Secretary of Agriculture to promulgate supplementary regulations to promote and protect the purposes for the recreation area is designated. 16 U.S.C. 460bbb–6(d). Therefore, this rule is specifically designed to supplement the current locatable mineral regulations at 36 CFR part 228, subpart A, and thus provide a greater degree of protection for the federal lands and resources in the SRNRA than may be available for federal lands and resources administered elsewhere.

One additional protective measure is the concurrent reclamation requirement in § 292.69. This requirement will ensure that mined land is restored to another productive use in the shortest possible time. Reclamation will be required to the fullest extent practicable. This will fulfill the Department's statutory obligation under the Act to promote and protect the values for which the SRNRA was designated.

Secondly, requiring concurrent reclamation to the maximum extent practicable will foster the Federal Government's policy to encourage private enterprise in ''the reclamation of mined lands, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment'' as established by Congress in 30 U.S.C. 21a. Reclamation either eliminates or dramatically reduces the adverse impacts of mineral extraction upon the environment. In most, if not all cases, requiring more prompt reclamation will reduce the amount of environmental impacts caused by mineral extraction.

Finally, the benefits of requiring concurrent reclamation to the maximum extent practicable—increasing the promptness with which mined lands are returned to other productive uses and reducing the overall quantum of adverse impacts of mineral extraction upon the environment—are consistent with the Department's charge to ''ensure the objects of such reservations, namely to regulate their occupancy and use and to preserve the forests thereon from destruction * * *.'' 16 U.S.C. 551. Thus, the departure from the reclamation requirements in 36 CFR 228.8 and the April 3, 1996, final rule is reasonable and adequately justified.

Mining claimants in the SRNRA have no right to conduct mineral operations without adhering to reclamation requirements. The law, which extended the United States mining laws to National Forest System lands reserved from the public domain, specifically provides that persons entering national forests for the purposes of prospecting, locating, and developing the mineral resources thereof, ''must comply with the rules and regulations covering such national forests.'' 16 U.S.C. 478. Moreover, another section of that statute charged the Department to ''insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction * * *.'' 16 U.S.C. 551. Also, while the reclamation requirement in § 292.69 of the second proposed rule is admittedly stricter than the reclamation requirements in 36 CFR part 228, subpart A, or the April 3, 1996, final rule, it only requires concurrent reclamation to the ''maximum extent practicable,'' which is by definition, achievable. The concurrent reclamation requirement by its own terms, therefore, does not amount to a prohibition on a mining claimant's entitlement to conduct mineral operations on a mining claim in which valid existing rights have been established. Consequently, the assertion that the concurrent reclamation requirement in § 292.69 effects a taking of the claimant's property rights is without merit.

For these reasons, no change has been made in § 292.69 as a result of the comment.

Section 292.70, Indemnification.

The second proposed rule specified that the owners and/or operators of mining claims and the owners and/or lessees of outstanding mineral rights would be liable for the following: (1) Indemnifying the United States for injury, loss, or damage which the United States incurs as a result of any mining operation in the SRNRA; (2) payments made by the United States in satisfaction of claims, demands, or judgments for such injury, loss, or damage; and (3) costs incurred by the United States, including attorney's fees and expenses, for any action involving noncompliance with an approved plan of operations or activities outside a mutually agreed to operating plan.

Comment: The indemnification provision is vague and of questionable legal authority. In addition to suggesting that this section was vague and potentially over inclusive, one reviewer requested the agency to specify the authority under which it may seek indemnification from operators to recover costs associated with, among other things, injury, loss, or damage to National Forest System lands and resources resulting from mineral operations in the SRNRA. This reviewer concluded that since this is a new provision for the SRNRA, there must be new statutory authority or a recent change in the law from which it is derived. If no such new authority exists, the reviewer argued that this provision must be deleted.

Response: The authority for the indemnification provision in the supplementary regulations for mining in the SRNRA is derived from the Organic Administration Act of 1897, 16 U.S.C. 551, which states in relevant part that,

> The Secretary of Agriculture shall make provisions for the protection against destruction by fire and depredations upon the public forests and national forests which may have been set aside or which may be hereafter set aside * * * and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction * * *.

The reviewer's presumption that the Forest Service must be able to point to a recent change in the law to support the inclusion of an indemnification provision in this rule because it is ''new and unique'' in the SRNRA is unfounded. The authority dates back to 1897 with the enactment of the Organic Administration Act. Similar indemnification provisions are incorporated into several other regulations which prescribe the terms for various uses of National Forest System lands. For example, the regulations governing issuance of special use authorizations for uses such as rights-of-way, ski areas, and communications facilities contain an indemnification provision (36 CFR 251.56(d)). The regulations governing the leasing and development of oil and gas resources on National Forest System lands also includes an indemnification provision (36 CFR 228.110).

The Department does not find the indemnification provision unconstitutionally vague or overly inclusive. In *Village of Hoffman Estates* v. *The Flipside, Hoffman Estates, Inc.*, 455 U.S. 489 (1982), the Supreme Court enumerated a number of factors which affect the degree of vagueness which the Constitution tolerates. For example, a less strict vagueness test will apply if a regulation is economic in nature, does not contain criminal sanctions, and does not implicate constitutionally protected rights. In *United States* v. *Doremus*, 888 F.2d 630 (9th Cir. 1989), the United States Court of Appeals for the Ninth Circuit rejected a vagueness challenge to a Forest Service regulation prohibiting certain types of conduct related to mining activities on National Forest System lands.

This second final rule meets all the factors required by the Supreme Court ruling. Consequently, there have been no changes made to the text of the final rule based on this comment.

Comment: The provision authorizing collection of attorneys' fees and expenses is unlawful. One reviewer asserted that the Department lacks the statutory authority to include attorneys' fees and expenses in § 292.70(c) as items for which the Government can be indemnified, in the event an operator is found to be conducting mineral development activities in the SRNRA where a plan of operations or operating plan has not been approved or where the activities are not in compliance with an approved plan of operations or an approved operating plan.

Response: Although the Department does not agree that the authority to recover attorneys' fees and expenses does not exist, the final rule has been modified to eliminate these items from the rule. However, to the extent independent authority exists to recover attorneys' fees and expenses under statutes including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.* or the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, the Department reserves the right to seek such a recovery in the event unauthorized mineral operations in the SRNRA result in violations of one or more of these authorities.

Regulatory Impact

This second final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this regulation is not a significant rule. It will not have an annual effect of $100 million or more on the economy and will not adversely affect productivity, competition, jobs, the environment, public health and safety, or State and local governments.

This second final rule will not interfere with an action taken or planned by another agency and it will not raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. In short, little or no effect on the National economy will result from this second final rule, since it affects only mining activities on

National Forest System lands in the SRNRA. Accordingly, this final rule is not subject to OMB review under Executive Order 12866.

Moreover, this final rule has been considered in light of the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the RFA because of its limited scope and application. Also, this second final rule does not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in local or foreign markets.

Environmental Impact

An environmental assessment and a Finding of No Significant Impact titled ''Regulation of Mineral Operations on National Forest System Lands within the Smith River National Recreation Area'' have been prepared and both documents are available upon request by calling the contact listed earlier in this rulemaking under **FOR FURTHER INFORMATION CONTACT**.

Controlling Paperwork Burdens on the Public

The second proposed rule modified a previously approved information collection to include the requirement that a plan of operations include additional information identifying hazardous or toxic materials used in the operation, the mineral wastes that might be generated, and how public health and safety are to be maintained.

This information collection modification was discussed in the preamble of the second proposed rule and comment was requested specifically on the information collection. As discussed in the comment and response section, the one comment received on the collection stated that the time for collecting the additional information was not sufficient. The agency has increased the estimate of burden hours from 2 hours to 20 hours in response to this comment.

The final information collection package for this rulemaking has been reviewed by the Office of Management and Budget according to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320. The information requirements in this rule have been assigned control number 0596–0138 for use through September 30, 1998.

No Takings Implications

In compliance with Executive Order 12630 and the Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings, the takings implications of the second final rule have been reviewed and considered. It has been determined that there is no risk of a taking.

Civil Justice Reform Act

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Upon adoption of this rule: (1) All State and local laws and regulations that are in conflict with this final rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this final rule and; (3) it would not require administrative proceedings before parties would file suit in court challenging its provisions.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on state, local, and tribal governments and the private sector. This rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 292

Administrative practice and procedure, Environmental protection, Mineral resources, National forests, and National recreation areas.

Therefore, for the reasons set forth in the preamble, part 292 of Chapter II of Title 36 of the Code of Federal Regulations is amended by adding a new subpart G to read as follows:

PART 292—NATIONAL RECREATION AREAS

Subpart G—Smith River National Recreation Area

Sec.
292.60 Purpose and scope.
292.61 Definitions.
292.62 Valid existing rights.

Locatable Minerals

292.63 Plan of operations—supplementary requirements.
292.64 Plan of operations—approval.
292.65 Plan of operations—suspension.

Outstanding Mineral Rights

292.66 Operating plan requirements—outstanding mineral rights.
292.67 Operating plan approval—outstanding mineral rights.

Mineral Materials

292.68 Mineral material operations.

Other Provisions

292.69 Concurrent reclamation.
292.70 Indemnification.Subpart G—Smith River National Recreation Area

Subpart G—Smith River National Recreation Area

Authority: 16 U.S.C. 460bbb *et seq.*

§ 292.60 Purpose and scope.

(a) *Purpose.* The regulations of this subpart set forth the rules and procedures by which the Forest Service regulates mineral operations on National Forest System lands within the Smith River National Recreation Area as established by Congress in the Smith River National Recreation Area Act of 1990 (16 U.S.C. 460bbb *et seq.*).

(b) *Scope.* The rules of this subpart apply only to mineral operations on National Forest System lands within the Smith River National Recreation Area.

(c) *Applicability of other rules.* The rules of this subpart supplement existing Forest Service regulations concerning the review, approval, and administration of mineral operations on National Forest System lands including, but not limited to, those set forth at parts 228, 251, and 261 of this chapter.

(d) *Conflicts.* In the event of conflict or inconsistency between the rules of this subpart and other parts of this chapter, the rules of this subpart take precedence, to the extent allowable by law.

§ 292.61 Definitions.

The special terms used in this subpart have the following meaning:

Act means the Smith River National Recreation Area Act of 1990 (16 U.S.C. 460bbb *et seq.*).

Authorized officer means the Forest Service officer to whom authority has been delegated to take actions pursuant to the provisions of this subpart.

Hazardous material means any hazardous substance, pollutant, contaminant, hazardous waste, and oil or other petroleum products, as those terms are defined under any Federal, State, or local law or regulation.

Outstanding mineral rights means the rights owned by a party other than the surface owner at the time the surface was conveyed to the United States.

SRNRA is the abbreviation for the Smith River National Recreation Area, located within the Six Rivers National Forest, California.

§ 292.62 Valid existing rights.

(a) *Definition.* For the purposes of this subpart, valid existing rights are defined as follows:

(1) *For certain ''Wild'' River segments.* The rights associated with all mining claims on National Forest System lands within the SRNRA in ''wild'' segments of the Wild and Scenic Smith River, Middle Fork Smith River, North Fork Smith River, Siskiyou Fork Smith River, South Fork Smith River, and their designated tributaries, except Peridotite Creek, Harrington Creek, and the lower 2.5 miles of Myrtle Creek, which:

(i) Were properly located prior to January 19, 1981;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to January 19, 1981, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(2) *For Siskiyou Wilderness.* The rights associated with all mining claims on National Forest System lands within the SRNRA in the Siskiyou Wilderness except, those within the Gasquet-Orleans Corridor addition or those rights covered by paragraph (a)(1) of this section which:

(i) Were properly located prior to September 26, 1984;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to September 26, 1984, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(3) *For all other lands.* The rights associated with all mining claims on National Forest System lands in that portion of the SRNRA not covered by paragraph (a)(1) or (a)(2) of this section which:

(i) Were properly located prior to November 16, 1990;

(ii) Were properly maintained thereafter under the applicable law;

(iii) Were supported by a discovery of a valuable mineral deposit within the meaning of the United States mining laws prior to November 16, 1990, which discovery has been continuously maintained since that date; and

(iv) Continue to be valid.

(b) *Operations to confirm discovery.* The authorized officer shall authorize those mineral operations that may be necessary for the purpose of gathering information to confirm or otherwise demonstrate the discovery of a valuable mineral deposit consistent with the definition in paragraph (a) of this section or to obtain evidence for a contest hearing regarding the claim's validity, upon receipt of a proposed plan of operations as defined in § 292.63 of this subpart to conduct such operations and of sufficient information from the operator to show an exposure of valuable minerals on a claim that predates the withdrawal of the federal land from the operation of the United States mining laws. The authorized officer shall authorize only those operations that may be necessary to confirm or demonstrate the discovery of a valuable mineral deposit prior to the date of withdrawal of the federal land on which the claim is situated. Pursuant to this paragraph, the authorized officer shall not authorize any operations which would constitute prospecting, exploration, or otherwise uncovering or discovering a valuable mineral deposit.

Locatable Minerals

§ 292.63 Plan of operations—supplementary requirements.

(a) *Applicability.* In addition to the activities for which a plan of operations is required under § 228.4 of this chapter, a plan of operations is required when a proposed operation within the SRNRA involves mechanical or motorized equipment, including a suction dredge and/or sluice.

(b) *Information to support valid existing rights.* A proposed plan of operations within the SRNRA must include at least the following information on the existence of valid existing rights:

(1) The mining claim recordation serial number assigned by the Bureau of Land Management;

(2) A copy of the original location notice and conveyance deeds, if ownership has changed since the date of location;

(3) A copy of affidavits of assessment work or notices of intention to hold the mining claim since the date of recordation with the Bureau of Land Management;

(4) Verification by the Bureau of Land Management that the holding or maintenance fees have been paid or have been exempted;

(5) Sketches or maps showing the location of past and present mineral workings on the claims and information sufficient to locate and define the mining claim corners and boundaries on the ground;

(6) An identification of the valuable mineral that has been discovered;

(7) An identification of the site within the claims where the deposit has been discovered and exposed;

(8) Information on the quantity and quality of the deposit including copies of assays or test reports, the width, locations of veins, the size and extent of any deposit; and

(9) Existing evidence of past and present sales of the valuable mineral.

(c) *Minimum information on proposed operations.* In addition to the requirements of paragraph (b) of this section, a plan of operations must include the information required at §§ 228.4 (c)(1) through (c)(3) of this chapter which includes information about the proponent and a detailed description of the proposed operation. In addition, if the operator and claim owner are different, the operator must submit a copy of the authorization or agreement under which the proposed operations are to be conducted. A plan of operations must also address the environmental requirements of § 228.8 of this chapter which includes reclamation. In addition, a plan of operations also must include the following:

(1) An identification of the hazardous materials and any other toxic materials, petroleum products, insecticides, pesticides, and herbicides that will be used during the mineral operation, and the proposed means for disposing of such substances;

(2) An identification of the character and composition of the mineral wastes that will be used or generated and a proposed method or strategy for their placement, control, isolation, or removal; and

(3) An identification of how public health and safety are to be maintained.

§ 292.64 Plan of operations—approval.

(a) *Timeframe for review.* Except as provided in paragraph (b) of § 292.62 of this subpart, upon receipt of a plan of operations, the authorized officer shall review the information related to valid existing rights and notify the operator in writing within 60 days of one of the following situations:

(1) That sufficient information on valid existing rights has been provided and the anticipated date by which the valid existing rights determination will be completed, which shall not be more than 2 years after the date of notification; unless the authorized officer, upon finding of good cause with written notice and explanation to the operator, extends the time period for completion of the valid existing rights determination.

(2) That the operator has failed to provide sufficient information to review a claim of valid existing rights and, therefore, the authorized officer has no obligation to evaluate whether the operator has valid existing rights or to process the operator's proposed plan of operations.

(b)(1) If the authorized officer concludes that there is not sufficient

evidence of valid existing rights, the officer shall so notify the operator in writing of the reasons for the determination, inform the operator that the proposed mineral operation cannot be conducted, advise the operator that the Forest Service will promptly notify the Bureau of Land Management of the determination and request the initiation of a mineral contest action against the pertinent mining claim, and advise the operator that further consideration of the proposed plan of operations is suspended pending final action by the Department of the Interior on the operator's claim of valid existing rights and any final judicial review thereof.

(2) If the authorized officer concludes that there is not sufficient evidence of valid existing rights, the authorized officer also shall notify promptly the Bureau of Land Management of the determination and request the initiation of a mineral contest action against the pertinent mining claims.

(c) An authorized officer's decision pursuant to paragraph (b) of this section that there is not sufficient evidence of valid existing rights is not subject to further agency or Department of Agriculture review or administrative appeal.

(d) The authorized officer shall notify the operator in writing that the review of the remainder of the proposed plan will proceed if:

(1) The authorized officer concludes that there is sufficient evidence of valid existing rights;

(2) Final agency action by the Department of the Interior determines that the applicable mining claim constitutes a valid existing right; or

(3) Final judicial review of final agency action by the Department of the Interior finds that the applicable mining claim constitutes a valid existing right.

(e) Upon completion of the review of the plan of operations, the authorized officer shall ensure that the minimum information required by § 292.63(c) of this subpart has been addressed and, pursuant to § 228.5(a) of this chapter, notify the operator in writing whether or not the plan of operations is approved.

(f) If the plan of operations is not approved, the authorized officer shall explain in writing why the plan of operations cannot be approved.

(g) If the plan of operations is approved, the authorized officer shall establish a time period for the proposed operations which shall be for the minimum amount of time reasonably necessary for a prudent operator to complete the mineral development activities covered by the approved plan of operations.

(h) An approved plan of operations is subject to review and modification as follows:

(1) To bring the plan into conformance with changes in applicable federal law or regulation; or

(2) To respond to new information not available at the time the authorized officer approved the plan, for example, new listings of threatened or endangered species; or

(3) To correct errors or omissions made at the time the plan was approved, for example, to ensure compliance with applicable federal law or regulation; or

(4) To permit operations requested by the operator that differ in type, scope, or duration from those in an approved plan of operations but that are not subject to paragraph (i) of this section.

(i) If an operator desires to conduct operations that differ in type, scope, or duration from those in an approved plan of operations, and if those changes will result in resource impacts not anticipated when the original plan was approved, the operator must submit a supplemental plan or a modification of the plan for review and approval.

§ 292.65 Plan of operations—suspension.

(a) The authorized officer may suspend mineral operations due to an operator's noncompliance with applicable statutes, regulations, or terms and conditions of the approved plan of operations.

(1) In those cases that present a threat of imminent harm to public health, safety, or the environment, or where such harm is already occurring, the authorized officer may take immediate action to stop the threat or damage without prior notice. In such case, written notice and explanation of the action taken shall be given the operator as soon as reasonably practicable following the suspension.

(2) In those cases that do not present a threat of imminent harm to public health, safety, or the environment, the authorized officer must first notify the operator in writing of the basis for the suspension and provide the operator with reasonably sufficient time to respond to the notice of the authorized officer or to bring the mineral operations into conformance with applicable laws, regulations, or the terms and conditions of the approved plan of operations.

(b) Except as otherwise provided in this section, the authorized officer shall notify the operator not less than 30 days prior to the date of the proposed suspension.

Outstanding Mineral Rights

§ 292.66 Operating plan requirements—outstanding mineral rights.

(a) Proposals for mineral operations involving outstanding mineral rights within the SRNRA must be documented in an operating plan and submitted in writing to the authorized officer.

(b) An operating plan for operations involving outstanding mineral rights within the SRNRA must include the following:

(1) The name and legal mailing address of the operator, owner, and any lessees, assigns, and designees;

(2) A copy of the deed or other legal instrument that conveyed the outstanding mineral rights;

(3) Sketches or maps showing the location of the outstanding mineral rights, the proposed area of operations, including, but not limited to, existing and/or proposed roads or access routes identified for use, any new proposed road construction, and the approximate location and size of the areas to be disturbed, including existing or proposed structures, facilities, and other improvements to be used;

(4) A description of the type of operations which includes, at a minimum, a list of the type, size, location, and number of structures, facilities, and other improvements to be used;

(5) An identification of the hazardous materials and any other toxic materials, petroleum products, insecticides, pesticides, and herbicides that will be used during the mineral operation and the proposed means for disposing of such substances;

(6) An identification of the character and composition of the mineral wastes that will be used or generated and a proposed method or strategy for their placement, control, isolation, remediation, or removal; and

(7) A reclamation plan to reduce or control on-site and off-site damage to natural resources resulting from mineral operations. The plan must:

(i) Provide reclamation to the extent practicable;

(ii) Show how public health and safety are maintained;

(iii) Identify and describe reclamation measures to include, but not limited to, the following:

(A) Reduction and/or control of erosion, landslides, and water runoff;

(B) Rehabilitation of wildlife and fisheries habitat to be disturbed by the proposed mineral operation; and

(C) Protection of water quality.

(iv) Demonstrate how the area of surface disturbance will be reclaimed to a condition or use that is consistent

with the Six Rivers National Forest Land and Resource Management Plan.

§ 292.67 Operating plan approval—outstanding mineral rights.

(a) Upon receipt of an operating plan, the authorized officer must review the information related to the ownership of the outstanding mineral rights and notify the operator that:

(1) Sufficient information on ownership of the outstanding mineral rights has been provided; or

(2) Sufficient information on ownership of outstanding mineral rights has not been provided, including an explanation of the specific information that still needs to be provided, and that no further action on the plan of operations will be taken until the authorized officer's receipt of the specified information.

(b) If the review shows outstanding mineral rights have not been verified, the authorized officer must notify the operator in writing that outstanding mineral rights have not been verified, explain the reasons for such a finding, and that the proposed mineral operation cannot be conducted.

(c) If the review shows that outstanding mineral rights have been verified, the authorized officer must notify the operator in writing that outstanding mineral rights have been verified and that review of the proposed operating plan will proceed.

(d) The authorized officer shall review the operating plan to determine if all of the following criteria are met:

(1) The operating plan is consistent with the rights granted by the deed;

(2) The operating plan is consistent with the Six Rivers National Forest Land and Resource Management Plan; and

(3) The operating plan uses only so much of the surface as is necessary for the proposed mineral operations.

(e) Upon completion of the review of the operating plan, the authorized officer shall notify the operator in writing of one of the following:

(1) The operating plan meets all of the criteria of paragraphs (d)(1) through (d)(3) of this section and, therefore, is approved;

(2) The operating plan does not meet one or more of the criteria in paragraphs (d)(1) through (d)(3) of this section. Where feasible, the authorized officer may indicate changes to the operating plan that would satisfy the criteria in paragraphs (d)(1) through (d)(3) of this section and, thus, if accepted by the operator, would result in approval of the operating plan.

(f) To conduct mineral operations beyond those described in an approved operating plan, the owner or lessee must submit, in writing, an amended operating plan to the authorized officer at the earliest practicable date. New operations covered by the proposed amendment may not begin until the authorized officer has reviewed and responded in writing to the proposed amendment. The authorized officer shall review a proposed amendment of an approved operating plan to determine that the criteria in paragraphs (d)(1) through (d)(3) of this section are met.

Mineral Materials

§ 292.68 Mineral material operations.

Subject to the provisions of part 228, subpart C, and part 293 of this chapter, the authorized officer may approve contracts and permits for the sale or other disposal of mineral materials, including but not limited to, common varieties of gravel, sand, or stone. However, such contracts and permits may be approved only if the material is not within a designated wilderness area and is to be used for the construction and maintenance of roads and other facilities within the SRNRA or the four excluded areas identified by the Act.

Other Provisions

§ 292.69 Concurrent reclamation.

Plans of operations involving locatable minerals, operating plans involving outstanding mineral rights, and contracts or permits for mineral materials should all provide, to the maximum extent practicable, that reclamation proceed concurrently with the mineral operation.

§ 292.70 Indemnification.

The owner and/or operator of mining claims and the owner and/or lessee of outstanding mineral rights are jointly and severally liable in accordance with Federal and State laws for indemnifying the United States for the following:

(a) Costs, damages, claims, liabilities, judgments, injury and loss, including those incurred from fire suppression efforts, and environmental response actions and cleanup and abatement costs incurred by the United States and arising from past, present, and future acts or omissions of the owner, operator, or lessee in connection with the use and occupancy of the unpatented mining claim and/or mineral operation. This includes acts or omissions covered by Federal, State, and local pollution control and environmental statutes and regulations.

(b) Payments made by the United States in satisfaction of claims, demands, or judgments for an injury, loss, damage, or costs, including for fire suppression and environmental response action and cleanup and abatement costs, which result from past, present, and future acts or omissions of the owner, operator, or lessee in connection with the use and occupancy of the unpatented mining claim and/or mineral operations.

(c) Costs incurred by the United States for any action resulting from noncompliance with an approved plan of operations or activities outside an approved operating plan.

Dated: March 12, 1998.

Brian Eliot Burke,

Deputy Under Secretary, NRE.

[FR Doc. 98–7924 Filed 3–26–98; 8:45 am]

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federal register

Friday
March 27, 1998

Part IV

Environmental Protection Agency

Public Review Draft Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5988–3]

Public Review Draft Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Solicitation of comments on public review draft.

SUMMARY: In this Public Notice, the Environmental Protection Agency (EPA) is seeking comments on the public review draft ''Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems.'' The public review draft guidelines are published in the Supplementary Information section of this notice.

DATES: Submit written comments on or before June 25, 1998.

ADDRESSES: Send written comments on these draft guidelines to the Operator Certification Comment Clerk: Water Docket MC–4101 (docket #W–98–07), Environmental Protection Agency: 401 M Street, S.W., Washington DC 20460. Please submit an original and three copies of your comments and enclosures (including references).

Those who comment and want EPA to acknowledge receipt of their comments must enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to ow-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by Docket #W–98–07. Comments and data will also be accepted on disks as a WordPerfect 5.1 or 6.1 file. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The record for these guidelines has been established under Docket #W–98–07, and includes supporting documentation as well as printed paper versions of electronic comments. The record is available for review at EPA's Water Docket: 401 M Street, S.W., Washington DC 20460. For access to the Docket materials, call 202–260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment and reference Docket #W–98–07.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, for general information about and copies of this document. For technical inquiries, contact Richard Naylor, Implementation and Assistance Division, Office of Ground Water and Drinking Water (4606), U.S. EPA, 401 M Street, SW, Washington, DC, 20460. The telephone number is (202) 260–5135 and the e-mail address is naylor.richard @epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction
A. Statutory Requirements
B. Process for Developing Guidelines
II. Key Certification Issues
A. Baseline Standards
B. Grandparenting of Operators
C. Operator Testing
D. Operator Training
E. Renewal period
F. Size Categories for Systems
G. Exemptions
H. Indian Tribes
I. Expense Reimbursement
III. Operator Certification Guidelines
A. Public Health Objectives
B. Antibacksliding
C. Baseline Standards
1. Authorization
2. Classification of Systems, Facilities, and Operators
3. Operator Qualifications
4. Enforcement
5. Certification Renewal
6. Resources Needed to Implement the Program
7. Recertification
8. Stakeholder Involvement
9. Program Review
IV. Program Submittal Process
A. Requirements
1. Submittal Schedule
2. Submittal Contents
B. Approval Process
C. Disapproval Process
D. Withholding of Funds
E. Reallotment of Funds
V. Definitions
VI. Acronyms

I. Introduction

Statutory Requirements

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182) direct the Administrator of the United States Environmental Protection Agency (EPA), in cooperation with the States, to publish guidelines in the **Federal Register** specifying minimum standards for certification and recertification of operators of community and nontransient noncommunity public water systems. The final guidelines are required to be published by February 1999. States then have two years to adopt and implement an operator certification program that meets the requirements of these guidelines. After that date, if a State has not adopted and implemented an approved program, the Administrator must withhold 20 percent of the funds a State is otherwise entitled to receive in its Drinking Water State Revolving Fund (DWSRF) capitalization grants under section 1452 of SDWA.

All of the requirements contained in these guidelines are requirements to avoid DWSRF capitalization grant withholding. There are no other sanctions for States with operator certification programs that do not meet the requirements of these guidelines.

B. Process for Developing Guidelines

The draft guidelines consist of nine baseline standards. In the development of the nine baseline standards, EPA utilized the combined knowledge and expertise of two working groups that it appointed on operator certification. One work group, the State-EPA Work Group, was appointed to fulfill EPA's responsibility under section 1419(a) to publish guidelines on operator certification ''in cooperation with States.'' This work group was composed of seven State and ten EPA representatives. The other work group, the Operator Certification Working Group of the National Drinking Water Advisory Council (NDWAC), also referred to as the Partnership, was formed to provide EPA with views in addition to those of States. This group was composed of 23 members representing public water systems, environmental and public interest advocacy groups, State drinking water program representatives, EPA, U.S. Department of Agriculture, U.S. Public Health Service, Indian Health Service, and other interest groups.

Procedurally, the two groups worked closely together. The Partnership identified potential categories for which minimum standards would be developed. The State-EPA Work Group then developed draft issue papers for these categories. The Partnership and the State-EPA Work Group exchanged reviews of the proposed language on what both groups referred to as ''baseline standards,'' and worked toward achieving consensus on these standards. The baseline standards were then forwarded by the Partnership to the NDWAC. In October 1997, the NDWAC formally transmitted its recommended baseline standards to the EPA. The baseline standards contained in these guidelines are based on the formal recommendations of the NDWAC.

II. Key Certification Issues

During the development of the baseline standards upon which these guidelines are based, the work groups debated a number of certification issues. Included here, as background for the reader, is a discussion of the key issues along with a brief explanation of how

the groups chose to address each issue. EPA would like to draw the public's attention to these issues to encourage review and comment.

A. Baseline Standards

Should training, coverage and reciprocity be separate baseline standards? The Partnership, in identifying the baseline standards for operator certification, initially debated whether to make training, coverage and reciprocity separate baseline standards. After considerable discussion, the group decided that training and coverage should be appropriately included as elements within other baseline standards. It was decided that reciprocity should not be a requirement, but States should be encouraged to develop reciprocity procedures between certifying authorities.

B. Grandparenting of Operators

Should the guidelines provide for the grandparenting of operators? The terminology ''grandparenting of operators,'' as used in the context of these draft guidelines, means exempting existing operators from the initial certification requirements such as having to have a high school education or equivalent and passing an exam. The consensus of the work groups was that grandparenting may be necessary to allow the many competent operators who have been successfully operating treatment facilities and/or distribution systems but who may not meet the initial requirements of certification to become certified. It does not make sense to put people out of work. Also, some members felt that a grandparenting provision was important because of their concern that it may not be legal in some States to impose requirements that could cause someone to lose their present job if they did not meet the initial certification requirements. Furthermore, it was felt that grandparenting may be necessary to provide a transition period for some States to accomplish the certification of operators (identify, notify, test, etc.) for which certification had not previously been required. The intent of the work groups was to make grandparenting a short-lived option available only to facilitate the transition to the new guidelines. The decision to allow grandparenting would be left to the State's discretion. Some States may not offer grandparenting; however, if a State chooses to allow grandparenting the guidelines impose certain restrictions.

C. Operator Testing

Should written exams be mandatory? Some members argued that a written exam was essential to ensure that an operator could read directions, warning labels, regulations, etc. Others felt that certain individuals did not perform well on written exams, especially those with a disability such as dyslexia and therefore, should have available an alternative to a written exam. Some members felt that a performance exam was superior. The consensus was to allow the States to decide what type of exam would be the most appropriate—written, oral, performance-based, or a combination, as long as the exam demonstrates that the applicant has the necessary skills, knowledge, ability and judgement that is appropriate for the classification.

D. Operator Training

Should the guidelines specify training requirements? Under the guidelines, training is required in order for an operator to renew his/her certification. Some members felt that the guidelines should be more specific about the continuing education requirements that are necessary for certification renewal. The consensus was to allow the States to decide what type and amount of training is appropriate.

E. Renewal Period

Should the guidelines specify a maximum time for renewal or should States decide what is appropriate? The consensus was that the guidelines should require States to have a fixed cycle of renewal; however, it was not a clear consensus as to whether the guidelines should specify a period of time or leave it up to the States. The majority of members voted for a fixed cycle of renewal not to exceed three years. Most States already have a renewal cycle of three years or less.

F. Size Categories for Systems

The work groups discussed establishing size categories for systems and tailoring certification requirements to the size of the system. All States currently have a method for categorizing systems within the State. Establishing nationally uniform size categories would be very disruptive with little benefit. The consensus was that defining the size of systems should be left up to the States.

G. Exemptions

Should small or certain types of systems be exempt from the requirement to have a certified operator? Some members of the work groups felt that there should be exemptions from the requirement to have a certified operator for some systems such as small ground water systems with no treatment. However, small water systems historically violate drinking water requirements significantly more often than those serving larger communities. Competent operating personnel are vitally important to the long term, safe operation of small water systems. The Partnership felt it was Congress' intent that small systems should be covered by the operator certification guidelines. Hence, the reimbursement provision for the training and certification costs for operators of systems serving 3,300 or less. Accordingly, the guidelines do not provide any categorical exemptions to the certification requirements. Instead, the guidelines do provide the States with the flexibility to decide what is the appropriate level of training and type of examination for certification. For example, in the case of a small ground water system with no treatment and only on-site plumbing, it may be only necessary for the operator to be trained and tested on proper sampling procedures to become certified.

H. Indian Tribes

The Partnership, through the NDWAC, made the following recommendation to EPA concerning operator certification for Indian Tribes:

> The Council recognizes that the SDWA, with regard to operator certification, is silent as to whether these guidelines apply to Indian Tribes. The Council believes that all users of public water supplies are entitled to safe water and that a program for operator certification is one means of helping to ensure this basic need. As a result, the Council recommends that EPA, seek clarification and resolve this omission, and consult to the greatest extent practicable, and to the extent permitted by law, with the Tribal governments prior to taking action on operator certification issues that impact Tribes or Tribal systems. We recommend using the operator certification baseline standards to initiate discussions with Tribes.

EPA is currently pursuing this recommendation.

I. Expense Reimbursement

The SDWA authorizes the Administrator to provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to these guidelines. The reimbursement will be provided through grants to States. EPA is in the process of developing an estimate of the reimbursable expenses of training and certification of small system operators and will work with stakeholders to develop an appropriate grant allocation methodology.

III. Operator Certification Guidelines

A. Public Health Objectives

The public health objectives of the guidelines are to ensure that:

- Customers of any public water system be provided with an adequate supply of safe, potable drinking water.
- Consumers are confident that their water is safe to drink.
- Public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards.

Ongoing training is necessary to the public health objectives of this program.

B. Antibacksliding

Because these guidelines represent only minimum standards, it is expected that States whose current operator certification program requirements go beyond or exceed these minimum standards not lower their operator certification program requirements. EPA will not approve the operator certification program of any State that reduces its standards below the level that existed 12 months prior to the effective date of these guidelines unless the reduction can be justified by the State and is approved by EPA.

C. Baseline Standards

Each State operator certification program must include as a minimum the essential elements of the nine baseline standards described below. Essential elements to avoid DWSRF withholding are introduced by words such as ''the States must.'' For each essential element, the State must describe how its operator certification program complies with the requirement. Additionally, several of the baseline standards include highly recommended elements that are intended to complement, improve, and expand the parameters of essential elements of an operator certification program. These highly recommended elements are introduced by words such as ''the States should.''

1. Authorization

As evidenced by an Attorney General's certification, the State must have the legal authority to implement the program requiring the certification of operators of all community and nontransient noncommunity water systems and to require that the systems comply with the appropriate requirements of the program.

2. Classification of Systems, Facilities, and Operators

To avoid DWSRF withholding, a State's program must meet the following requirements:

- It must classify and rank all community and nontransient noncommunity water systems based on indicators of potential health risk such as but not limited to: a) complexity, size and source water for treatment facilities, and b) complexity and size for distribution systems.
- It must require owners of all community and nontransient noncommunity water systems to place the direct supervision of their water system, including each treatment facility and/or distribution system, under the responsible charge of an operator(s) holding a valid certification equal to or greater than the classification of the treatment facility and/or distribution system.
- It must require, at a minimum, that the operator(s) in responsible charge or equivalent must hold a valid certification equal to or greater than the classification of their water system, including each treatment facility and distribution system, as determined by the State.
- It must require that all operating personnel making process control/system integrity decisions about water quality or quantity that affect public health be certified.
- It must require that a designated certified operator must be available for each operating shift.

3. Operator Qualifications

To avoid DWSRF withholding, States must require operator applicants to:

- Take and pass an exam that demonstrates that the applicant has the necessary skills, knowledge, ability and judgement as appropriate for the classification. All exam questions must be State validated to ensure no illegal bias, and they must be based on a job analysis and related to the classification of the system or facility.
- Have a high school diploma or a general equivalency diploma (GED).

Have the defined minimum amount of on-the-job experience for each appropriate level of certification. The amount of experience required increases with each classification level. Experience that is used to meet the experience requirement for any class of certification may not be substituted for education. Education that is used to meet the education requirement for any class of certification may not be substituted for experience.

States may allow experience and/or relevant training to be substituted for a high school diploma or GED. Post high school education may be substituted for experience. Credit may be given for experience in a related field (e.g., wastewater). Experience and education may not be used more than once as a substitution.

Grandparenting

EPA recognizes that there are many competent small system operators that may not meet the initial requirements to become certified. EPA believes that some States may need a transition period to allow these operators to become certified and that this can be accomplished through ''grandparenting'' the requirements in some circumstances. It is recommended that grandparenting determinations be based on factors such as system compliance history, operator experience and knowledge, system complexity, and lack of treatment.

If States choose to include a grandparenting provision in their programs, it must include the following requirements:

- During this initial transition period, grandparenting is permitted only to existing Operator(s) in Responsible Charge of existing systems which, because of State law changes to meet these guidelines, must for the first time have a certified operator.
- There are two options offered for consideration and comment concerning the time period within which a system must apply to the State for grandparenting. Because a clear consensus was not achieved during the deliberations of the work groups both options are presented here.

(1) The system must apply for grandparenting within two years of the effective date of the State's regulation; or

(2) The system must apply for grandparenting within one year of the effective date of the State's regulation.

- Grandparenting shall be site specific and non-transferable.
- After an operator is grandparented, he or she must, within some time period specified by the State, meet all requirements to obtain certification including the payment of any necessary fees, acquiring necessary training to meet the renewal requirements, and demonstrating the skills, knowledge, ability and judgement for that classification.
- If the classification of the plant or distribution system changes to a higher level, then the grandparented certification will no longer be valid.

4. Enforcement

To avoid DWSRF withholding, the State agency with primary enforcement responsibility for the Public Water System Supervision (PWSS) Program must have regulations requiring community water systems and nontransient noncommunity water systems to comply with State operator certification requirements. In nonprimacy States, the Governor shall determine which State Agency shall have this responsibility. States must have appropriate enforcement capabilities such as, but not limited to: administrative orders, bilateral compliance agreements, criminal or civil administrative penalties, and stipulated penalties.

States must have the ability to revoke operator certifications.

States must also have the ability to suspend operator certifications or take other appropriate action for operator misconduct such as, but not limited to: fraud, falsification of application, falsification of operating records, gross negligence in operation, incompetence, or failure to use reasonable care or judgement in the performance of duties.

5. Certification Renewal

To avoid DWSRF withholding, the State must establish training requirements for renewal based on the level of certification held by the operator.

States must require operators to acquire necessary amounts and types of approved training. States may determine other requirements as deemed necessary.

States must have a fixed cycle of renewal not to exceed three years.

The State must consider a certificate to have lapsed and the individual must recertify, if the individual fails to renew or qualify for renewal and is beyond a grace period (not to exceed two years).

6. Resources Needed To Implement the Program

To avoid DWSRF withholding, the States must provide sufficient resources to adequately fund and sustain the operator certification program (including components such as, but not limited to: staff, data management, testing, enforcement, administration, and training approval). EPA recommends that States establish a dedicated fund that is self-sufficient.

7. Recertification

To avoid DWSRF withholding, the States must have a process for recertification of individuals whose certification has lapsed. This process must include: review of the individual's experience and training, and reexamination. The State must consider the certificate to have lapsed and the individual must recertify, if the individual fails to renew or qualify for renewal and is beyond a grace period (not to exceed 2 years). The State may develop more stringent requirements for recertification for individuals whose certificates have been revoked or suspended.

8. Stakeholder Involvement

Stakeholder involvement is important to the public health objectives of the program. It helps to ensure the relevancy and validity of the program, and the confidence of all interested parties.

To avoid DWSRF withholding, States must include ongoing stakeholder involvement in the revision and operations of State operator certification programs. A stakeholder board or advisory committee is strongly recommended.

9. Program Review

To avoid DWSRF withholding, States must perform reviews of their operator certification programs. EPA recommends that States perform periodic internal reviews and occasional external/peer reviews. Examples of reviews include, but are not limited to: regulations, exams and exam scores for bias, exam items for relevancy and validity, compliance, enforcement, budget and staffing, training relevancy, training needs through examination performance, and data management system.

IV. Program Submittal Process

A. Requirements

1. Submittal Schedule

Not later than two years after the guidelines are published, to avoid DWSRF withholding, States must have adopted and implemented a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of or is substantially equivalent to these guidelines. States are encouraged to submit their operator certification programs to the appropriate EPA Regional Administrator for review as early as possible. Any State that expects to receive its FY 2000 or FY 2001 capitalization grant after February 6, 2001, should submit its operator certification program to EPA by August 2000. Also, any State that intends to enforce its existing operator certification program in lieu of these guidelines must submit its program to EPA by August 2000. EPA must determine whether an existing State operator certification program is substantially equivalent to these guidelines.

Future annual submittals of state operator certification programs to EPA must be submitted either before or with the annual capitalization grant application.

2. Submittal Contents

The submittal of operator certification programs to EPA by States must include the following:

(1) The State Attorney General's certification that the State has the legal authority to implement the program requiring the certification of operators of all community and nontransient noncommunity water systems and to require that the systems comply with the appropriate requirements of the program;

(2) A full description and explanation of how the State's operator certification program complies with or is substantially equivalent to the requirements of these guidelines;

(3) A copy of the State operator certification regulations; and

(4) All annual program submittals subsequent to the initial submittal must include documentation and evaluation of ongoing program implementation.

B. Approval Process

EPA must approve or disapprove a State program within nine months after submittal. If there is no EPA action within the nine month period, a State program will be deemed approved and/or substantially equivalent to the guidelines.

C. Disapproval Process

If the Regional Administrator determines that a program (or portion thereof) is to be disapproved, EPA will send a written statement of the reasons for such disapproval to the State.

Within six months of EPA's written statement to the State, the State must submit a modified program to EPA to avoid DWSRF withholding. The State's modifications to the program must be based upon the recommendations of EPA. If EPA disapproves the program (or portion thereof), EPA will advise the State of any deficiencies in an expeditious manner to ensure that the State has an opportunity to develop an approvable program.

EPA must then make a decision on whether to approve or disapprove a State's re-submittal.

D. Withholding of Funds

The Administrator shall withhold 20% of a State's funds that it is entitled

to receive under the DWSRF program (section 1452) unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of these guidelines. This withholding provision will begin two years after the effective date of these guidelines.

E. Reallotment of Funds

All funds withheld by the Administrator because the State does not develop and implement an operator certification program that meets the requirements of these guidelines shall be reallotted using the allotment formula that was used to distribute funds for that year, except that the Administrator may reserve and allocate 10 percent of the amount for financial assistance to Indian Tribes. None of these funds reallotted by the Administrator shall be allotted to a State unless the State has met the requirements of these guidelines.

V. Definitions

Administrator—means the Administrator of the United States Environmental Protection Agency.

Available—Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner.

Community Water System (CWS)—a public water system providing water to at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Distribution Complexity—Such as, but not limited to, pressure zones, booster stations, storage tanks, fire protection, chlorination, non-residential consumers, cross connection potential, and demand variations.

Distribution Size—Such as, but not limited to, population served, number of service connections, size of pipes, total distance of pipe, and quantity.

Distribution System—Any combination of pipes, tanks, pumps, etc. which delivers water from the source(s) and/or treatment facility(ies) to the consumer.

Grandparenting—The exemption for the existing operator(s) in responsible charge, as of the effective date of the State's regulation, from meeting the initial education and/or examination requirements for the class of certification the system has been assigned.

Nontransient Noncommunity (NTNC) Water Systems—is a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year. Common types of NTNC water systems are those serving schools, day care centers, factories, restaurants, nursing homes, and hospitals.

Operating Shift—That period of time during which operator decisions that affect public health are necessary for proper operation of the system.

Primacy—Primary enforcement responsibility for administration and enforcement of the primary drinking water regulations and related requirements applicable to public water systems within a State.

Responsible Charge—The Operator(s) in Responsible Charge or his/her equivalent is defined as the person(s) designated by the owner to be the certified operator(s) who makes decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality and/or quantity of drinking water.

Source Water—Such as but not limited to: type (surface water, groundwater, groundwater under the influence of surface water, purchase), quality (variability), protection (e.g., wellhead protection)

Treatment Size—Such as but not limited to, population served, number of service connections, and plant flow.

Treatment Facility—Any place(s) where a community water system or nontransient non-community water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system.

Treatment Complexity—Such as, but not limited to, difficulty in controlling water quality, potential effect to the consumer and safety of the operator.

VI. Acronyms

CWS—Community Water System
DWSRF—Drinking Water State Revolving Fund
EPA—United States Environmental Protection Agency
GED—General Equivalency Diploma
NDWAC—National Drinking Water Advisory Council
NTNCWS or NTNC—Nontransient Noncommunity Water System
PWSS Program—Public Water System Supervision Program
SDWA—Safe Drinking Water Act

Dated: March 23, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water, Environmental Protection Agency.

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Federal Register

Vol. 63, No. 59

Friday, March 27, 1998

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Federal Register/Code of Federal Regulations

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The United States Government Manual	**523–5227**
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FEDERAL REGISTER PAGES AND DATES, MARCH

10123–10288 2
10289–10490 3
10491–10742 4
10743–11098 5
11099–11358 6
11359–11580 9
11581–11818 10
11819–11984 11
11985–12382 12
12383–12602 13
12603–12976 16
12977–13110 17
13111–13328 18
13329–13480 19
13481–13772 20
13773–14018 23
14019–14328 24
14329–14600 25
14601–14802 26
14803–15068 27

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7068 10289
7069 10487
7070 10489
7071 10741
7072 11983
7073 12973
7074 12975

Executive Orders:
12957 (See Notice of March 4, 1998) 11099
12959 (See Notice of March 4, 1998) 11099
13059 (See Notice of March 4, 1998) 11099
13077 12381
13078 13111

Administrative Orders:
Presidential Determinations:
No. 98–15 of February 26, 1998 12937
No. 98–16 of March 4, 1998 13109
No. 98–17 of March 9, 1998 14329
No. 98–18 of March 9, 1998 14331
No. 98–19 of March 13, 1998 14019

Memorandums:
March 5, 1998 12377

5 CFR

581 14756
582 14756
880 10291
2610 13115

Proposed Rules:
300 13564

7 CFR

2 11101
6 13481
56 13329
301 12603
319 .....12383, 13482
401 14333
454 14333
457 14333
723 11581
900 10491
925 14601
929 10491
930 14021
966 12396
980 12396
982 10491
985 14334
989 .....10491, 11585
999 12977
1496 11101
1728 11589

Proposed Rules:
28 14839
800 14840
1000 12417
1001 12417
1002 12417
1004 12417
1005 12417
1006 12417
1007 12417
1012 12417
1013 12417
1030 12417
1032 12417
1033 12417
1036 12417
1040 12417
1044 12417
1046 12417
1049 12417
1050 12417
1064 12417
1065 12417
1068 12417
1076 12417
1079 12417
1106 12417
1124 12417
1126 12417
1131 12417
1134 12417
1135 12417
1137 12417
1138 12417
1139 12417

8 CFR

103 12979
204 12979
208 12979
209 12979
244 12979
245 12979
264 12979
299 12979
316 12979
332 12979
335 12979

9 CFR

2 10493
3 10493
78 14335
94 12603
381 11359
417 11104

Proposed Rules:
92 12700
93 12700
94 12700
95 12700
96 12700

97 12700
98 12700
130 12700
145 12036

10 CFR

9 12988
30 13773
32 13773
40 13773
50 13773
52 13773
60 13773
61 13773
70 13773
71 13773
72 ....13372, 13773
110 13773
150 13773
430 13308
600 10499
1500 13485
1502 13485
1504 13485
1506 13485
1530 13485
1534 13485
1535 13485

Proposed Rules:

Ch. I 11169
33 14381
72 12040
430 10571

11 CFR

Proposed Rules:

100 10783
114 10783

12 CFR

205 14528
225 14803
357 10293
575 11361
614 ....10515, 12401
627 12401
701 ....10743, 14025
704 10743
708 ....10515, 10518
712 10743
724 14025
740 10743
792 14336

Proposed Rules:

202 ....12326, 14552
203 12329
205 14555
210 12700
213 14538
226 14548
229 12700
230 14533
357 10349
563f 14844
574 14844
611 13564

13 CFR

115 12605

14 CFR

23 14794
25 ....12862, 13773, 14794
33 14794
39 ....10295, 10297, 10299, 10301, 10519, 10523, 10527, 10758, 11106, 11108, 11110, 11112, 11113, 11114, 11116, 11367, 11819, 11820, 11821, 11823, 11985, 11987, 12401, 12403, 12405, 12407, 12408, 12605, 12607, 12609, 12611, 12613, 12614, 12615, 12617, 13116, 13332, 13333, 13335, 13487, 13489, 13491, 13493, 13495, 13497, 13498, 13500, 13502, 13505, 13507, 13508, 13510, 13512, 13514, 14026, 14603, 14804
71 ....11118, 11989, 11990, 11991, 12410, 12618, 12619, 12620, 12622, 12623, 12624, 12625, 12627, 12628, 12629, 12630, 12632, 12633, 12634, 12635, 12637, 12638, 12639, 12640, 12988, 12989, 12991, 12992, 13775, 13776, 13778, 13779, 14344, 14345, 14346, 14347, 14348, 14604, 14606, 14607, 14608
91 10123
95 13118
97 ....10760, 10761, 10763, 11992, 11994, 11995
198 13734
382 ....10528, 11954
1274 12992

Proposed Rules:

25 14381
39 ....10156, 10157, 10349, 10572, 10573, 10576, 10579, 10783, 11169, 11171, 11381, 11631, 12042, 12418, 12419, 12707, 12709, 13013, 13151, 13374, 13376, 13378, 13379, 13381, 13566, 13569, 13570, 13572, 13574. 13576, 13577, 13579, 13581, 13800, 13801, 14043, 14044, 14047, 14049, 14051, 14055, 14383, 14385, 14651, 14652, 14654, 14656, 14658, 14660, 14849, 14850, 14851, 14853, 14855, 14857, 14859, 14861, 14863
71 ....11382, 11853, 12043, 12044, 12045, 12047, 12048, 12049, 12050, 12051, 12052, 12053, 12054, 12055, 12710, 12712, 13015, 13016, 13803, 13804, 13805, 13807, 13808, 13809, 14387, 14388

15 CFR

70 10303
770 14028
774 14028
902 ....11591, 14030

Proposed Rules:

960 10785
2004 10159

16 CFR

305 14034
1203 11712

Proposed Rules:

Ch. II 13017
243 14865
1700 13019

17 CFR

1 11368
5 11368
31 11368
230 13916
231 14806
232 13916
239 ....13916, 14814
240 13916
241 14806
270 13916
271 14806
274 ....13916, 14814
276 14806

Proposed Rules:

1 ....12713, 13025
140 14866
200 11173
230 ....10785, 13988
239 13988
240 ....11173, 12056, 12062
249 11173
270 13988
274 13988

19 CFR

7 10970
10 10970
19 11825
101 ....11825, 12994
133 11996
142 12995
145 10970
146 11825
161 11825
173 10970
174 10970
178 10970
181 10970
191 ....10970, 13105
351 13516

Proposed Rules:

101 13025
122 ....11383, 13025
133 14662

20 CFR

656 13756

Proposed Rules:

404 11854
422 11856

21 CFR

Ch. 1 14035
14 11596
73 14814
101 ....14349, 14814
104 ....11597, 14814
135 14814
173 11118
184 14608
211 14355
310 13526
314 14611
510 ....11597, 14612
514 10765
520 13121
522 ....11597, 13121, 13122, 14818
524 14035
528 14035
556 ....13122, 13337, 14035
558 ....10303, 11598, 11599, 13123, 14356, 14613
600 14611
1220 12996

Proposed Rules:

101 ....13154, 14390
184 12421
314 11174
801 14390
803 14390
804 14390
806 14390
807 14390
809 10792
810 14380
820 14390
821 14390
864 10792
880 11632
1002 14390
1020 14390

22 CFR

41 ....10304, 13026
514 13337

24 CFR

597 10714
888 11956
950 12334
953 12334
955 12334
1000 ....12334, 13105
1003 12334
1005 ....12334, 13105

Proposed Rules:

206 12930

25 CFR

256 10124
514 12312

Proposed Rules:

Ch. III 10798, 12323
518 12319

26 CFR

1 ....10305, 10772, 12410, 12641, 14613
301 ....13124, 14613

Proposed Rules:

1 ....11177, 11954, 12717, 13383, 14391, 14669
301 ....10798, 14669

27 CFR

9 11826
55 12643
72 12643
178 12643
179 12643

Proposed Rules:

9 13583

28 CFR

60 11119
61 11120

Proposed Rules:

511 11818

29 CFR

4044 12411

Proposed Rules:

1910 13338
1915 13338
1926 13338
2200 10166

30 CFR

7 12647
31 12647
32 12647
36 12647

70 12647
75 12647
870 10307
914 12648
916 10309
918 11829
920 13781
943 10317
Proposed Rules:
206 ....11384, 14057
243 11634
250 ....11385, 11634
290 11634

31 CFR

2 14356
358 11354
500 10321
505 10321
515 10321

32 CFR

21 12152
22 12152
23 12152
28 12152
32 12152
34 12152
40a 11831
220 11599
706 13340
Proposed Rules:
220 11635
323 11198
507 11858

33 CFR

100 ....14036, 14818
117 ....10139, 10777, 11600, 14037, 14620
165 ....14620, 14621
Proposed Rules:
Subch. S 13583
100 14057
117 ....11641, 11642
175 13586

36 CFR

7 13341
292 15042
Proposed Rules:
7 13383
1192 14571

38 CFR

2 11121
3 11122
17 11123
21 14037
36 12152

39 CFR

20 13124
111 14820
Proposed Rules:
111 ....11199, 12864

40 CFR

9 15006
52 ....11370, 11372, 11600, 11831, 11833, 11836, 11839, 11840, 11842, 13343, 13525, 13784, 13787, 13789, 13795, 14357, 14623
62 ....11606, 13531
63 ....13533, 15006
70 13346
81 ....11842, 12007, 12652, 13343, 14623
82 11084
85 14626
86 ....11374, 11847
131 10140
180 ....10537, 10543, 10545, 10718, 13126, 13128, 13129, 13541, 14360, 14363, 14371
264 11124
265 11124
300 ....11332, 11375
302 13460
355 13460
721 11608
Proposed Rules:
52 ....11386, 11387, 11643, 11862, 11863, 11864, 11865, 13154, 13385, 13587, 13810, 13811, 14673
60 13587
62 ....11643, 13154, 13589
63 ....14182, 15034
70 14392
81 ....11865, 13385, 14673
131 10799
180 ....10352, 10722, 13156
264 11200
265 11200
300 ....10582, 11340, 13385, 13816
721 11643
799 ....14866, 14869, 14871

41 CFR

302–11 14637

42 CFR

400 11147
409 11147
410 11147
411 11147
412 11147
413 11147
424 11147
440 11147
441 10730
485 11147
488 11147
489 ....10730, 11147
498 11147
Proposed Rules:
Ch. IV 10732
400 13590
401 14506
403 14506
405 14506
410 14506
411 ....11649, 14506
413 14506
421 13590
424 11649
435 11649
447 14506
455 11649
466 14506
473 14506
493 14506
1003 14393
1005 14393
1006 14393

43 CFR

5040 13130
Proposed Rules:
4 11634
414 12068
2620 14874
4200 13608

44 CFR

64 ....11609, 13543
65 ....10144, 10147, 14821, 14823
67 ....10150, 14826
Proposed Rules:
67 ....10168, 14874
206 10816

45 CFR

1305 12652
1611 11376
Proposed Rules:
60 14059
283 10264
302 14402
304 14402
307 ....10173, 14402
1215 12068
1602 11393
2507 12068

46 CFR

56 10547
71 10777

47 CFR

1 ....10153, 10780, 12013, 12658, 13610
21 12658
22 10338
24 ....10153, 10338, 12658
26 12658
27 ....10338, 12658
61 13132
64 ....11612, 13798
73 ....10345, 10346, 11376, 11378, 11379, 12412, 12413, 13347, 13545, 13546
74 13546
90 ....10338, 12658
95 12658
101 ....10338, 10778, 10780, 14039
Proposed Rules:
1 ....10180, 13610
25 11202
73 ....10354, 10355, 11400, 11401, 12426, 12427, 13027, 13158, 13612, 13818
100 11202

48 CFR

Ch. V 12969
201 11522
202 11522
204 11522
209 ....11522, 11850, 14836
212 ....11522, 11850
213 11850
214 11522
215 11522
216 11522
217 ....11522, 11850
219 ....11522, 14640
222 11850
223 11522
225 11522
226 11522
227 11522
229 11522
231 ....11522, 12862, 14640
232 11522
233 11522
234 11522
235 11522
236 11522
237 11522
239 11522
241 11522
242 11522
243 11522
250 11522
252 ....10499, 11522, 11850, 14836
253 11522
532 12660
552 12660
927 10499
952 10499
970 10499
1511 10548
1515 10548
1552 11074
1801 11479
1802 11479
1803 11479
1804 11479
1805 11479
1806 12997
1807 12997
1814 11479
1815 11479
1816 ....11479, 12997, 13133
1817 11479
1819 12997
1832 ....11479, 14039
1833 14041
1834 11479
1835 11479
1837 12997
1842 11479
1844 11479
1852 ....11479, 13133, 14039
1853 11479
1871 11479
1872 11479
Proposed Rules:
31 13771
32 11074
46 13770
52 11074
228 14885
232 11074
252 ....11074, 14885
806 11865

49 CFR

1 10781
191 12659
192 12659
194 10347
195 12659
199 ....12998, 14041
209 11618
213 11618
214 11618
215 11618
216 11618
217 11618
218 11618
219 11618
220 11618
221 11618
223 11618
225 11618

228 11618
229 11618
230 11618
231 11618
232 11618
233 11618
234 11618
235 11618
236 11618
240 11618
377 11624
386 12413
571 12660

Proposed Rules:

37 14560
38 14571
383 10180
384 10180
571 ..... 10355, 14674
653 10183
654 10183

50 CFR

17 ..... 12664, 13134, 14378, 14641
21 10550
38 11624
227 13347
300 13000
600 10677
622 ..... 10154, 10561, 11628
630 12687
644 14030
648 ..... 11160, 11591, 11852, 13563
660 10677
678 14837
679 ..... 10569, 11160, 11161, 11167, 11629, 12027, 12415, 12416, 12688, 12689, 12697, 12698, 13009, 13150, 13798, 14379
697 ..... 10154, 14042

Proposed Rules:

17 ..... 10817, 13819, 13825, 14060, 14414, 14885, 14892
20 ..... 13748, 14415
36 13158
222 ..... 11482, 13832
226 ..... 11482, 11750, 11774
227 ..... 11482, 11750, 11774, 11798, 13832
300 ..... 11401, 11649
600 ..... 11402, 12427
648 13028
660 ..... 13833, 14675
679 ..... 10583, 13161

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 27, 1998

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic billfishes; published 3-24-98

DEFENSE DEPARTMENT

Acquisition regulations:

Defense contracts; list of firms not eligible; published 3-27-98

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Aerospace manufacturing and rework facilities; published 3-27-98

Air quality implementation plans; approval and promulgation; various States:

Illinois; published 1-26-98

Toxic substances:

Significant new uses—

Methylenebistrisubstituted aniline, etc.; withdrawn; published 2-25-98

Organotin lithium compound; published 2-25-98

FEDERAL RESERVE SYSTEM

Bank holding companies and change in bank control (Regulation Y):

Nonbank subsidiaries underwriting and dealing in securities; prudential restrictions eliminated; clarification to section 20 orders; published 3-27-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Technical amendments; published 3-27-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community development block grants:

Hispanic-serving institutions work study program; published 2-25-98

PERSONNEL MANAGEMENT OFFICE

Retirement, health benefits, and life insurance, Federal employees:

Decennial census employees with dual appointments; continuity of coverage requirements; exemption; published 2-25-98

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

North Carolina; published 2-25-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Fokker; published 3-12-98¶

RULES GOING INTO EFFECT MARCH 29, 1998

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Benefits applicants and petitioners fingerprinting fees and requirements for conducting criminal background checks before final naturalization adjudication; published 3-17-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Melons grown in Texas; comments due by 3-30-98; published 1-29-98

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Livestock markets; handling of reactors; comments due by 3-30-98; published 1-27-98

Plant-related quarantine, domestic and foreign:

Karnal bunt disease—

Regulated areas; movement from; comments due by 3-30-98; published 1-28-98

Plant-related quarantine, domestic:

Fire ant, imported; comments due by 3-30-98; published 1-28-98

Plant-related quarantine, foreign:

Karnal bunt disease—

Mexicali Valley, Mexico; comments due by 3-30-98; published 1-27-98

AGRICULTURE DEPARTMENT

Forest Service

Forest development transportation system administration; comments due by 3-30-98; published 1-28-98

Temporary suspension of road construction in roadless areas; proposed interim rule; comments due by 3-30-98; published 1-28-98

Temporary suspension of road construction in roadless areas; comments due by 3-30-98; published 2-27-98

National Forest System projects and activities; notice, comment, and appeal procedures; prohibition on appeals by Forest Service employees removed; comments due by 3-30-98; published 1-28-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; comments due by 3-31-98; published 3-16-98

Atlantic coastal fisheries

Lobsters; comments due by 4-1-98; published 3-2-98

Magnuson Act provisions

Exempted fishing permit applications; comments due by 3-30-98; published 3-13-98

International fisheries regulations:

Land Remote Sensing Policy Act of 1992—

Private land remote-sensing space systems; licensing provisions; comments due by 4-2-98; published 12-12-97

Oil Pollution Act:

Natural resource damage assessments; comments due by 3-30-98; published 2-11-98

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

Personnel:

Personnel security policies for granting access to classified information; comments due by 3-31-98; published 1-30-98

Reciprocity of facilities; national policy and implementation guidelines; comments due by 3-31-98; published 1-30-98

Technical surveillance countermeasures; national policy; comments due by 3-31-98; published 1-30-98

DEFENSE DEPARTMENT

Navy Department

Personnel:

Employee conduct standards and reporting procedures on defense related employment; CFR parts removed; comments due by 3-30-98; published 1-27-98

ENVIRONMENTAL PROTECTION AGENCY

Drinking water:

National primary drinking water regulations—

Consumer confidence reports; comments due by 3-30-98; published 2-13-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Food packaging impregnated with insect repellant; jurisdiction transferred to FDA; comments due by 4-3-98; published 3-4-98

Food packaging impregnated with insect repellent; jurisdiction transferred to FDA; comments due by 4-3-98; published 3-4-98

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Arkansas; comments due by 3-30-98; published 2-13-98

Kansas; comments due by 3-30-98; published 2-13-98

New York; comments due by 3-30-98; published 2-13-98

Texas; comments due by 3-30-98; published 2-13-98

FEDERAL RESERVE SYSTEM

Securities credit transactions:

Margin regulations; periodic review; comments due by 4-1-98; published 1-16-98

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift savings plan:

Administrative errors correction; comments due by 3-30-98; published 1-29-98

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Child support enforcement program:

Computer support enforcement systems; automated data processing funding limitation; comments due by 4-1-98; published 3-2-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Labeling of drug products (OTC)—

Standardized format; comments due by 3-30-98; published 2-13-98

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal National Mortgage Association (Fannie Mae) and Federal Home Mortgage Corporation (Freddie Mac):

Non-mortgage investments; regulatory requirements; comments due by 3-30-98; published 12-30-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Pecos pupfish; comments due by 3-31-98; published 1-30-98

San Bernardino kangaroo rat; comments due by 3-30-98; published 1-27-98

Willamette daisy, Fender's Blue butterfly, and Kincaid's lupine; comments due by 3-30-98; published 1-27-98

Endangered Species Convention:

Appendices and amendments; comments due by 3-31-98; published 1-30-98

INTERIOR DEPARTMENT

Reclamation Bureau

Colorado River Water Quality Improvement Program:

Offstream storage of Colorado River water and interstate redemption of storage credits in the lower division States; comments due by 4-3-98; published 2-27-98

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Arkansas; comments due by 3-30-98; published 2-26-98

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Employment eligibility verification process; number of acceptable documents reduced and other changes; comments due by 4-3-98; published 2-2-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Electronic data interchange transactions; shipment evidence; comments due by 3-30-98; published 1-27-98

NUCLEAR REGULATORY COMMISSION

Practice rules:

Domestic licensing proceedings—

High-level radioactive waste disposal at geologic repository; comments due by 3-30-98; published 2-2-98

Production and utilization facilities; domestic licensing:

Nuclear power plants—

Components; construction, inservice inspection, and inservice testing; industry codes and standards; comments due by 4-3-98; published 1-26-98

SECURITIES AND EXCHANGE COMMISSION

Securities:

Net capital rule—

Capital requirements for broker-dealer's proprietary positions; statistical models; comments due by 3-30-98; published 12-30-97

Capital requirements for broker-dealers; net worth charges (''haircuts'') for computing interest rate instruments; comments due by 3-30-98; published 12-30-97

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Freedom of Information Act; implementation; comments due by 4-1-98; published 3-2-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Repair assessment for pressurized fuselages; comments due by 4-2-98; published 1-2-98

Airworthiness directives:

Airbus; comments due by 4-3-98; published 3-4-98

Airbus Industrie; comments due by 3-30-98; published 2-27-98

Boeing; comments due by 4-3-98; published 2-2-98

Cessna; comments due by 3-30-98; published 2-5-98

Eurocopter France; comments due by 4-2-98; published 3-3-98

Hartzell Propeller Inc.; comments due by 3-30-98; published 1-28-98

Pilatus Aircraft Ltd.; comments due by 4-3-98; published 3-3-98

Raytheon; comments due by 3-31-98; published 2-2-98

Class E airspace; comments due by 3-30-98; published 2-12-98

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Air brake systems—

Medium and heavy vehicles stability and control during braking; malfunction indicator lamps; comments due by 4-3-98; published 2-17-98

TREASURY DEPARTMENT

Customs Service

Articles conditionally free, subject to a reduced rate, etc.:

Andean Trade Preference Act; duty preference provisions; implementation; comments due by 3-31-98; published 1-30-98

Seizures, penalties, and liquidated damages; relief petitions; comments due by 4-3-98; published 2-2-98

TREASURY DEPARTMENT

Internal Revenue Service

Excise taxes:

Deposit safe harbor rules and fuel floor stocks taxes; cross reference; comments due by 3-30-98; published 12-29-97

Income taxes:

Foreign investment—

Passive foreign investment company preferred shares; special income exclusion; cross reference; comments due by 4-2-98; published 1-2-98

Loans to plan participants from qualified employer plans; comments due by 4-2-98; published 1-2-98

Qualified long-term care insurance contracts; consumer protection; comments due by 4-2-98; published 1-2-98

Qualified plans and individual retirement plans; required distributions; comments due by 3-30-98; published 12-30-97

Procedure and administration:

Agreements for tax liability installment payments; comments due by 3-31-98; published 12-31-97

Unauthorized collection actions, civil cause of action; comments due by 3-31-98; published 12-31-97

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