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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–93–AD; Amendment 39–10442; AD 98–07–21]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 1329–23 and –25 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 1329–23 and –25 series airplanes, that requires replacement of a certain tailpipe V-band coupling with a new tailpipe V-band coupling. This amendment is prompted by reports indicating that the flight crew received a fire/overheat warning as a result of displacement of engine tailpipes, which allowed hot exhaust gases into the engine bypass duct. The actions specified by this AD are intended to prevent such displacement, which could result in escape of the hot exhaust gases from the engine tailpipe, and consequent damage to adjacent structure.

EFFECTIVE DATE: May 18, 1998.

ADDRESSES: Information pertaining to this amendment may be obtained from or examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, 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 30349; telephone (770) 703–6063; fax (770) 703–6097.

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 certain Lockheed Model 1329–23 and –25 series airplanes was published in the **Federal Register** on January 8, 1998 (63 FR 1076). That action proposed to require replacement of a certain tailpipe V-band coupling with a new tailpipe V-band coupling.

The FAA has been informed that a substantial number of airplanes already have been equipped with the subject engine tailpipe V-band couplings, part number (P/N) NH1003605–10. The FAA finds that, if new couplings already have been installed and such installation is reflected in airplane service records, independent confirmation is unnecessary. Therefore, the body of the AD has been revised to incorporate a note that allows this compliance option.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule, with the changes previously described.

Cost Impact

There are approximately 91 Model 1329–25 and –23 series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 25 Model 1329–25 (JetStar II) series airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $726 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $108,150, or $4,326 per airplane.

The FAA estimates that 35 Model 1329–23 (731 JetStar) series airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,200 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of these airplanes is estimated to be $168,000, or $4,800 per airplane.

The cost impact figures discussed above are 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.

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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. 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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–07–21 Lockheed Aeronautical Systems Company: Amendment 39–10442. Docket 97–NM–93–AD.

Applicability: Model 1329–25 series airplanes equipped with an engine tailpipe V-band coupling, part number (P/N) NH1002299–10; and Model 1329–23 series airplanes that have been modified in accordance with Supplemental Type Certificate (STC) SA2326SW, equipped with an engine tailpipe V-band coupling, P/N NH1002299–10; 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 (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 displacement of the engine tailpipes, which could result in escape of hot exhaust gases from the engine tailpipe, and consequent damage to adjacent structure, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the tailpipe V-band coupling having P/N NH1002299–10 with a new, redesigned coupling having P/N NH1003605–10, in accordance with Step 1, Figure 71–1, of Lockheed JetStar II Handbook of Operating and Maintenance Instructions, undated (for Model 1329–25 series airplanes); or Step 8, Figure 71–1(S), of Garrett Airesearch Aviation Company 731 JetStar document, undated (for Model 1329–23 series airplanes); as applicable.

Note 2: Installation of P/N NH1003605–10 prior to the effective date of this AD is considered acceptable for meeting the replacement requirement of paragraph (a) of this AD. Compliance may be demonstrated by confirmation that the airplane maintenance records reflect installation of P/N NH1003605–10 V-band couplings.

(b) As of 12 months after the effective date of this AD, no person shall install a tailpipe V-band coupling, P/N NH1002299–10, on any airplane.

(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 3: 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.

(e) This amendment becomes effective on May 18, 1998.

Issued in Renton, Washington, on March 25, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9587 Filed 4–10–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–83–AD; Amendment 39–10464; AD 98–08–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, and –300 series airplanes. This action requires repetitive detailed visual and/or borescope inspections to detect discrepancies of certain areas of the wing strut. This amendment also provides for an optional terminating action for the repetitive inspections. This amendment is prompted by reports that fatigue cracking was found in the vertical chords, midspar webs, and canted closure webs. The actions specified in this AD are intended to detect and correct fatigue cracking and stress corrosion of the wing strut, which could result in failure of the strut-to-wing interface, and consequent separation of the engine and strut from the airplane.

DATES: Effective April 28, 1998.

The incorporation by reference of Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of April 28, 1998.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 22, 1997 (61 FR 66201, December 17, 1996).

Comments for inclusion in the Rules Docket must be received on or before June 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–83–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of cracking of the vertical chords, midspar webs, and canted closure webs on the inboard and outboard struts of certain Boeing Model 747 series airplanes. Investigation has revealed that the cracking in the vertical chords was due to fatigue and stress corrosion. Additionally, the investigation revealed that the cracking in the midspar webs was due to fatigue. Such fatigue cracking and stress corrosion, if not corrected, could result in failure of the strut-to-wing interface, and consequent separation of the engine and strut from the airplane.

Other Relevant Rulemaking

AD 97–12–03, amendment 39–10045 (62 FR 31331, June 9, 1997) currently requires inspections for cracking, corrosion, and fracturing of the lower and upper horizontal clevis of the strut midspar fittings; and replacement of discrepant parts with new parts, or rework, if necessary. Boeing Alert Service Bulletin 747–54A2179, Revision 1, dated November 27, 1996, is cited in AD 97–12–03 as the appropriate service information.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997, which describes, among other actions, procedures for performing repetitive detailed visual and/or borescope inspections to detect fatigue cracking, stress corrosion, and fracturing of certain parts of the wing spar (the midspar fitting vertical legs, aft torque bulkhead vertical chords, midspar webs, and midspar canted closure webs). The alert service bulletin also describes procedures for certain repair, rework, and replacement actions. The initial inspection and repetitive intervals recommended in the alert service bulletin will detect fatigue cracking, stress corrosion, and fracturing of the subject area in a timely manner.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747–100, –200, and –300 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking, stress corrosion, or fracturing of certain areas of the wing spar (the midspar fitting vertical legs, aft torque bulkhead vertical chords, midspar webs, and midspar canted closure webs), which could cause failure of the strut-to-wing interface, and consequent separation of the engine and strut from the airplane. This AD requires repetitive inspections to detect fatigue cracking, stress corrosion, or fracturing of certain areas of the wing spar (the midspar fitting vertical legs, aft torque bulkhead vertical chords, midspar webs, and midspar canted closure webs) to be accomplished in accordance with the alert service bulletin described previously. Also, if any fatigue cracking, stress corrosion, or fracturing is detected that is within the limits specified by the alert service bulletin, certain corrective actions (repair) shall be accomplished in accordance with the alert service bulletin. Certain other corrective actions that are outside the limits specified by the alert service bulletin shall be accomplished in accordance with a method approved by the FAA.

Differences Between the Rule and the Relevant Service Information

Operators should note the following differences between the rule and the relevant alert service bulletin:

1. If any fatigue cracking, stress corrosion, or fracturing is detected during any inspections required by this AD that is outside the limits specified in the alert service bulletin, corrective actions must be accomplished in accordance with a method approved by the FAA.

2. Additionally, operators should note that, while this AD cites Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997, as the appropriate service information for this AD, this AD does not supersede the requirements of AD 97–12–03, which cites Revision 1 of the same alert service bulletin as the appropriate service information.

3. Although the alert service bulletin referenced in this AD provides procedures to detect and correct fatigue cracking, stress corrosion, or fracturing of the midspar fitting vertical legs, aft torque bulkhead vertical chords, midspar webs, and midspar canted closure webs for certain airplanes identified as Group 5 airplanes, this AD does not require any action for those airplanes. At this time, the FAA has not received any reports of cracked structure on the airplanes designated as Group 5 airplanes. However, the FAA may consider further rulemaking if additional information indicates that the identified unsafe condition is found on Group 5 airplanes.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–83–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–08–15 Boeing: Amendment 39–10464. Docket 98–NM–83–AD.

Applicability: Model 747–100, –200, and –300 series airplanes having line positions 1 through 886 inclusive, certificated in any category; excluding airplanes on which the strut/wing modification has been accomplished in accordance with AD 95–13–07, amendment 39–9287; or AD 95–10–16, amendment 39–9233; and excluding airplanes designated as Group 5 in Boeing Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997.

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 (e) 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 fatigue cracking or stress corrosion of certain areas of the wing strut (the midspar fitting vertical leg, aft bulkhead vertical chords, the midspar webs, and the canted closure webs), which could cause failure of the strut-to-wing interface, and consequent separation of the engine and strut from the airplane; accomplish the following:

(a) Perform detailed visual and/or borescope inspections to detect fatigue cracking, stress corrosion, or fracture of the midspar fitting vertical legs, the aft torque bulkhead vertical chords, the midspar webs and the midspar canted closure webs at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable; in accordance with Part III of Section III of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997. Thereafter, repeat the inspections in accordance with and at the times specified in the alert service bulletin.

(1) For airplanes identified as Group 1 in the alert service bulletin: Perform the inspections on the inboard struts and the outboard struts, prior to the accumulation of 5,000 total landings, or within 90 days after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as Group 6 in the alert service bulletin: Perform the inspections on the inboard struts, prior to the accumulation of 5,000 total landings or within 90 days after the effective date of this AD, whichever occurs later.

(3) For airplanes identified as Groups 2, 3, and 4 in the alert service bulletin: Perform the inspections on the inboard struts, prior to the accumulation of 12,000 total landings, or within 90 days after the effective date of this AD, whichever occurs later.

(b) If any fatigue cracking, stress corrosion, or fracturing is detected during any inspection required by paragraph (a) of this AD that is within the limits specified in Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997, prior to further flight, repair in accordance with the alert service bulletin.

(c) If any fatigue cracking, stress corrosion, or fracturing is detected during any inspection required by paragraph (a) of this AD that is beyond the limits specified in Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997, prior to further flight, accomplish corrective actions in accordance with a method approved by the Manager, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office (ACO), Seattle, Washington.

(d) Accomplishment of the strut/wing modification specified in paragraph (d)(1) or (d)(2) of this AD, as applicable, constitutes terminating action for the requirements of this AD.

(1) For airplanes equipped with General Electric Model CF6–45 or –50 series engines, or Pratt & Whitney Model JT9D–70 series engines: Accomplish the strut/wing modification in accordance with Boeing Alert Service Bulletin 747–54A2158, Revision 2, dated August 15, 1996.

(2) For airplanes equipped with Pratt & Whitney Model JT9D series engines (excluding Model JT9D–70 engines): Accomplish the strut/wing modification in accordance with Boeing Alert Service Bulletin 747–54A2159, Revision 2, dated March 14, 1996.

(e) 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.

(f) 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.

(g) Except as provided by the requirements of paragraph (c) of this AD, the actions and the terminating modifications shall be done in accordance with Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997; Boeing Service Bulletin 747–54A2158, Revision 2, dated August 15, 1996; and Boeing Service Bulletin 747–54A2159, Revision 2, dated March 14, 1996.

(1) The detailed visual and borescope inspections shall be done in accordance with Boeing Alert Service Bulletin 747–54A2179, Revision 2, dated December 4, 1997. The incorporation by reference of that service bulletin was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The strut/wing modification, if accomplished, shall be done in accordance with the Boeing Alert Service Bulletins listed in the following table. The incorporation by reference of those documents was approved previously by the Director of the Federal Register on January 22, 1997 (61 FR 66201, December 17, 1996):

Referenced service bulletin	Revision level	Date
747–54A2158	2	Aug. 15, 1996.
747–54A2159	2	March 14, 1996.

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

(h) This amendment becomes effective on April 28, 1998.

Issued in Renton, Washington, on April 6, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9589 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–8]

Modification of Class E Airspace; Globe, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace area at Globe, AZ. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the Global Positioning System (GPS) Runway (RWY) 27 Standard Instrument Approach Procedure (SIAP) at San Carlos Apache Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations San Carlos Apache Airport, Globe, AZ.

EFFECTIVE DATE: 0901 UTC August 13, 1998.

FOR FURTHER INFORMATION CONTACT:

Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

On February 18, 1998, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Globe, AZ (63 FR 8152). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS RWY 27 SIAP at San Carlos Apache Airport. This action will provide adequate controlled airspace for IFR operations at San Carlos Apache Airport, Globe, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace area at Globe, AZ. The development of a GPS SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 27 SIAP at San Carlos Apache Airport, Globe, AZ.

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

List of Subjects in 14 CFR Part 71

Airspace Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AWP AZ E5 Globe, AZ [Revised]

San Carlos Apache Airport, AZ
(lat. 33°21′10″N, long. 110°39′51″W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 33°25′00″N, long. 110°33′34″W; to lat. 33°25′00″N, long. 110°09′00″W; to lat. 33°09′00″W, long. 110°20′00″W; to lat. 33°15′45″N, long. 110°35′34″W, thence clockwise along the 6.5-mile radius of the San Carlos Apache Airport, to the point of beginning.

* * * * *

Issued in Los Angeles, California on April 1, 1998.

Sherry Avery,

Acting Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–9644 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–3]

Establishment of Class E Airspace; Apple Valley, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Apple Valley, CA. The development of a Global Positioning System (GPS) Runway (RWY) 18 Standard Instrument Approach Procedure (SIAP) has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Apple Valley Airport, Apple Valley, CA.

EFFECTIVE DATE: 0901 UTC June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

On May 30, 1997, the FAA proposed to amend 14 CFR part 71 by establishing a Class E airspace area at Apple Valley, CA (62 FR 29312). This action will provide adequate controlled airspace to accommodate the GPS RWY 18 SIAP at Apple Valley Airport, Apple Valley, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a Class E airspace area at Apple Valley, CA. The development of a GPS SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 18 SIAP at Apple Valley Airport, Apple Valley, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Apple Valley, CA [New]

Apple Valley Airport, CA
(lat. 34°34′45″N, long. 117°11′10″W)

That airspace extending upward from 700 feet above the surface within a 8-mile radius Apple Valley Airport and within 1.8 miles each side of the 016° bearing from the Apple Valley Airport, extending from the 8-mile radius to 12.5 miles north of the airport, excluding that portion within the Victorville, CA, Class E airspace area.

* * * * *

Issued in Los Angeles, California on March 30, 1998.

Sherry Avery,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–9645 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–20]

Establishment of Class E Airspace; Davis/Woodland/Winters, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area Davis/Woodland/Winters, CA. The development of a Global Positioning System (GPS) Runway (RWY) 16 and RWY 34 and a VHF Omnidirectional Range (VOR) RWY 34 Standard Instrument Approach Procedure (SIAP) has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations Yolo County-Davis/Woodland/Winters Airport, Davis/Woodland/Winters, CA.

EFFECTIVE DATE: 0901 UTC June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725 6539.

SUPPLEMENTARY INFORMATION:

History

On May 1, 1997, the FAA proposed to amend 14 CFR part 71 by establishing a Class E airspace area at Davis/Woodland/Winters, CA (62 FR 23699). This action will provide adequate controlled airspace to accommodate the GPS RWY 16, RWY 34, and VOR RWY 34 SIAP at Yolo County-Davis/Woodland/Winters Airport, Davis/Woodland/Winter, CA. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a Class E airspace area at Davis/Woodland/Winters, CA. The development of a GPS and VOR SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 16, RWY, 34, and VOR 34 SIAP at Yolo County-Davis/Woodland/Winters Airport, Davis/Woodland/Winters, CA.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Davis/Woodland/Winters, CA [New]

Yolo County-Davis/Woodland/Winters Airport, CA
(lat. 38°34′45″N, long. 121°51′24″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Yolo County-Davis/Woodland/Winters Airport, excluding that portion within the Sacramento, CA, Class C and E airspace areas, Davis, CA, Class E airspace area, Woodland, CA, Class E airspace area, and Vacaville, CA, Class E airspace area.

* * * * *

Issued in Los Angeles, California on March 30, 1998.

Sherry Avery,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–9646 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29187; Amdt. No. 1863]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC, on April 3, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend §§ 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

* * * *Effective May 21, 1998*

Beaver Island, MI, Beaver Island, NDB RWY 27, Orig CANCELLED

Beaver Island, MI, Beaver Island, NDB or GPS RWY 27, Orig

[FR Doc. 98–9648 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29185; Amdt. No. 1861]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–30, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedures before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 3, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

Part 97—Standard Instrument Approach Procedures

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

****Effective 23 April, 1998*

Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 36L, Amdt 13
Washington, NC, Warren Field, LOC RWY 5, Amdt 1
Rhinelander, WI, Rhinelander-Onieda County, ILS RWY 9, Amdt 6

****Effective 18 June, 1998*

Fairhope, AL, Fairhope Muni, GPS RWY 1, Orig
Milledgeville, GA, Baldwin County, GPS RWY 10, Orig
Milledgeville, GA, Baldwin County, GPS RWY 28, Orig
Knoxville, IA, Knoxville Muni, NDB RWY 15, Amdt 7
Knoxville, IA, Knoxville Muni, NDB RWY 33, Amdt 6
Knoxville, IA, Knoxville Muni, GPS RWY 15, Orig
Knoxville, IA, Knoxville Muni, GPS RWY 33, Orig
Boise, ID, Boise Air Terminal/Gowen Field, GPS RWY 28L, Amdt 1
Griffith, IN, Griffith-Merrillville, GPS RWY 26, Orig
Portland, IN, Portland Muni, GPS RWY 27, Orig
Lexington, KY, Blue Grass, ILS RWY 4, Amdt 16
Lexington, KY, Blue Grass, ILS RWY 22, Amdt 17
Lexington, KY, Blue Grass, RADAR–1, Amdt 11
Murray, KY, Kyle-Oakley Field, GPS RWY 5, Orig
Murray, KY, Kyle-Oakley Field, GPS RWY 23, Orig
Hattiesburg-Laurel, MS, Hattiesburg-Laurel Regional, GPS RWY 18, Orig
Hattiesburg-Laurel, MS, Hattiesburg-Laurel Regional, GPS RWY 36, Orig
Burlington, NC, Burlington-Alamance Regional, GPS RWY 6, Orig
Burlington, NC, Burlington-Alamance Regional, GPS RWY 24, Orig
Chapel Hill, NC, Horace Williams, RADAR–1, Amdt 8
Fayetteville, NC, Fayetteville Regional/Grannis Field, RADAR–1, Amdt 6A, CANCELLED
Kenansville, NC, Duplin Co, GPS RWY 4 Orig
Kenansville, NC, Duplin Co, GPS RWY 22 Orig
Gordon, NE, Gordon Muni, NDB RWY 22, Amdt 3
Gordon, NE, Gordon Muni, GPS RWY 22, Orig
Kimball, NE, Kimball Muni/Robert E Arraj Field, NDB RWY 28, Amdt 1
Kimball, NE, Kimball Muni/Robert E Arraj Field, GPS RWY 28, Orig
Wooster, OH, Wayne County, GPS RWY 28, Amdt 1
Grove, OK, Grove Muni, GPS RWY 18, Orig
Grove, OK, Grove Muni, GPS RWY 36, Orig
Grove, OK, Grove Muni, VOR/DME RNAV RWY 18, Amdt 3
Grove, OK, Grove Muni, VOR/DME RNAV RWY 36, Amdt 3
Eugene, OR, Mahlon-Sweet Field, VOR/DME OR TACAN RWY 3, Amdt 3
Eugene, OR, Mahlon-Sweet Field, VOR/DME OR TACAN RWY 16, Amdt 4
Eugene, OR, Mahlon-Sweet Field, VOR/DME OR TACAN RWY 34, Amdt 4
Eugene, OR, Mahlon-Sweet Field, GPS RWY 3, Orig
Eugene, OR, Mahlon-Sweet Field, GPS RWY 16, Orig
Eugene, OR, Mahlon-Sweet Field, GPS RWY 34, Orig
Altoona, PA, Altoona-Blair County, GPS RWY 2, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, ILS RWY 14L, Amdt 11
Houston, TX, George Bush Intercontinental Arpt/Houston, ILS RWY 32R, Amdt 10

[FR Doc. 98–9649 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29186; Amdt. No. 1862]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical

Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR) Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between the SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 3, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/17/98	FL	TAMPA	TAMPA INTL	8/1754	LOC RWY 36R, ORIG–A...
03/17/98	FL	TAMPA	TAMPA INTL	8/1755	RADAR–1, AMDT 11...
03/18/98	FL	GAINESVILLE	GAINESVILLE REGIONAL	8/1778	LOC BC RWY 10, AMDT 7A...
03/18/98	FL	LAKE CITY	LAKE CITY MUNI	8/1779	NDB RWY 28, AMDT 1...
03/18/98	FL	SARASOTA/BRADENTON.	SARASOTA/BRADENTON INTL	8/1787	RADAR–1 AMDT 5...
03/18/98	IN	BEDFORD	VIRGIL I. GRISSOM MUNI	8/1774	VOR/DME RWY 13 AMDT 10...
03/19/98	OK	TULSA	TULSA INTL	8/1803	NDB OR GPS RWY 36R AMDT 19C...
03/23/98	OH	SPRINGFIELD	SPRINGFIELD-BECKLEY	8/1870	VOR OR GPS RWY 6, AMDT 10...
03/23/98	OK	DUNCAN	HALLIBURTON FIELD	8/1866	LOC RWY 35, AMDT 4... THIS REPLACES FDC 8/1722.
03/25/98	AK	ST. PAUL ISLAND	ST. PAUL ISLAND	8/1890	LOC/DME BC RWY 18, AMDT 1...
03/25/98	AK	ST. PAUL ISLAND	ST. PAUL ISLAND	8/1891	MLS RWY 18, ORIG...

FDC date	State	City	Airport	FDC No.	SIAP
03/25/98	AK	ST. PAUL ISLAND	ST. PAUL ISLAND	8/1893	NDB/DME OR GPS RWY 18, AMDT 2...
03/25/98	FL	JACKSONVILLE	JACKSONVILLE INTL	8/1897	ILS RWY 7 (CAT II/III) AMDT 12A...
03/25/98	FL	JACKSONVILLE	JACKSONVILLE INTL	8/1903	RADAR–1, AMDT 6A...
03/25/98	FL	ORLANDO	ORLANDO INTL	8/1908	ILS RWY 18R, AMDT 4A...
03/25/98	MA	VINEYARD HAVEN	MARTHAS VINEYARD	8/1905	VOR OR GPS RWY 24 ORIG...
03/25/98	MA	VINEYARD HAVEN	MARTHAS VINEYARD	8/1906	ILS RWY 24 ORIG...
03/25/98	MA	VINEYARD HAVEN	MARTHAS VINEYARD	8/1907	VOR OR GPS RWY 6 ORIG...
03/26/98	PA	REEDSVILLE	MIFFLIN COUNTY	8/1920	LOC RWY 6 AMDT 7... THIS REPLACES FDC 8/1762 PUBLISHED IN TL98–08.
03/27/98	OH	COLUMBUS	OHIO STATE UNIVERSITY	8/1951	GPS RWY 9R, ORIG–A...
03/27/98	WI	GRANTSBURG	GRANTSBURG MUNI	8/1940	VOR/DME OR GPS–A, AMDT 1...
03/30/98	NH	NASHUA	BOIRE FIELD	8/1999	VOR RWY 32 ORIG...
03/30/98	OK	TULSA	TULSA INTL	8/1975	RADAR–1, AMDT 17A...
03/30/98	WI	SIREN	BURNETT COUNTY	8/1991	VOR OR GPS RWY 4, AMDT 2...
03/31/98	FL	JACKSONVILLE	JACKSONVILLE INTL	8/2027	VOR OR GPS RWY 31 ORIG–A...
03/31/98	FL	JACKSONVILLE	JACKSONVILLE INTL	8/2028	NDB OR GPS RWY 7, AMDT 9A...

St. Paul Island

ST. PAUL ISLAND
Alaska
LOC/DME BC RWY 18, AMDT 1...
FDC Date: 03/25/98

FDC 8/1890 /SNP/ FI/P ST. PAUL ISLAND, ST. PAUL ISLAND, AK. LOC/DME BC RWY 18, AMDT 1...S–LOC–18 MDA 440/HAT 377 ALL CATS. THIS IS LOC/DME BC RWY 18, AMDT 1A.

St. Paul Island

ST. PAUL ISLAND
Alaska
MLS RWY 18, ORIG...
FDC Date: 03/25/98

FDC 8/1891 /SNP/ FI/P ST. PAUL ISLAND, ST. PAUL ISLAND, AK. MLS RWY 18, ORIG...S–AZ–18 MDA 440/HAT 377 ALL CATS. THIS IS MLS RWY 18, ORIG–A.

St. Paul Island

ST. PAUL ISLAND
Alaska
NDB/DME OR GPS RWY 18, AMDT 2...
FDC Date: 03/25/98

FDC 8/1893 /SNP/ FI/P ST. PAUL ISLAND, ST. PAUL ISLAND, AK. NDB/DME OR GPS RWY 18, AMDT 2...TERMINAL ROUTE FROM BRG 098.06 SPY NDB/DME CCW TO BRG 005.00 ALTITUDE 2300. TERMINAL ROUTE FROM BRG 237.37 SPY NDB/DME CW TO BRG 005.00 ALTITUDE 2300. THIS IS NDB/DME OR GPS RWY 18, AMDT 2A.

Tampa

TAMPA INTL
Florida
LOC RWY 36R, ORIG–A...
FDC Date: 03/17/98

FDC 8/1754 /TPA/ FI/P TAMPA INTL, TAMPA, FL. LOC RWY 36R, ORIG–A...S–36R MDA 500/HAT 479 ALL CATS. VIS CAT D 1 1/2. CHART VDP AT I–TWJ2.9 DME/1.35 NM FOR THR. THIS IS LOC RWY 36R, ORIG–B.

Tampa

TAMPA INTL
Florida
RADAR–1, AMDT 11...
FDC Date: 03/17/98

FDC 8/1755 /TPA/ FI/P TAMPA INTL, TAMPA, FL. RADAR–1, AMDT 11...S–36R MDA 500/479 ALL CATS. THIS IS RADAR–1, AMDT 11A.

Gainesville

GAINESVILLE REGIONAL
Florida
LOC BC RWY 10, AMDT 7A...
FDC Date: 03/18/98

FDC 8/1778 /GNV/ FI/P GAINESVILLE REGIONAL, GAINESVILLE, FL. LOC BC RWY 10, AMDT 7A...DELETE TERMINAL ROUTE... TAY VORTAC TO BRAINS INT. DELETE GNV LR–315. THIS IS LOC BC RWY 10, AMDT 7B.

Lake City

LAKE CITY MUNI
Florida
NDB RWY 28, AMDT 1...
FDC Date: 03/18/98

FDC 8/1779 /31J/ FI/P LAKE CITY MUNI, LAKE CITY, FL. NDB RWY 28, AMDT 1...DELETE TERMINAL ROUTE... TAY VORTAC TO LCQ NDB. THIS IS NDB RWY 28, AMDT 1A.

Sarasota/Bradenton

SARASOTA/BRADENTON INTL
Florida
RADAR–1 AMDT 5...
FDC Date: 03/18/98

FDC 8/1787 /SRQ/ FI/P SARASOTA/BRADENTON INTL, SARASOTA/BRADENTON, FL. RADAR–1 AMDT 5...S–14... MDA 480 HAT/456 ALL CATS. VIS CAT C 3/4. DELETE NOTE... WHEN CONTROL ZONE NOT IN EFFECT PROCEDURE NOT AUTHORIZED. CHANGE INOPERATIVE TABLE NOTE TO READ... FOR INOPERATIVE MALSR INCREASE S–ASR 32 CAT D VISIBILITY TO 1 1/4. ALTERNATE MNMS STANDARD. THIS IS RADAR–1, AMDT 5A.

Jacksonville

JACKSONVILLE INTL
Florida
ILS RWY 7 (CAT II/III) AMDT 12A...
FDC Date: 03/25/98

FDC 8/1897 /JAX/ FI/P JACKSONVILLE INTL, JACKSONVILLE, FL. ILS RWY 7 (CAT II/III) AMDT 12A... MISSED APPROACH... CLIMB TO 1000 THEN CLIMBING LEFT TURN TO 2000 VIA HEADING 250 AND CRG R–290 TO MONIA/CRG 29.18 DME/RADAR AND HOLD. HOLD WEST, LT 110 INBOUND. DME OR RADAR REQUIRED. THIS IS ILS RWY 7 AMDT 12B.

Jacksonville

JACKSONVILLE INTL
Florida
RADAR–1, AMDT 6A...
FDC Date: 03/25/98

FDC 8/1903 /JAX/ FI/P JACKSONVILLE INTL, JACKSONVILLE, FL. RADAR–1, AMDT 6A...S–ASR 25 VIS CAT A/B RVR 2400, CAT C RVR

4000, CAT D/E RVR 5000. THIS IS RADAR–1, AMDT 6B.

Orlando

ORLANDO INTL
Florida
ILS RWY 18R, AMDT 4A...
FDC Date: 03/25/98

FDC 8/1908 /MCO/ FI/P ORLANDO INTL, ORLANDO, FL. ILS RWY 18R, AMDT 4A... CHANGE PLAN VIEW NOTE... ADF AND RADAR REQUIRED. THIS IS ILS RWY 18R, AMDT 4B.

Jacksonville

JACKSONVILLE INTL
Florida
VOR OR GPS RWY 31 ORIG–A...
FDC Date: 03/31/98

FDC 8/2027 /JAX/ FI/P JACKSONVILLE INTL, JACKSONVILLE, FL. VOR OR GPS RWY 31 ORIG–A... MISSED APPROACH... CLIMB TO 1000 THEN CLIMBING LEFT TURN TO 2000 VIA HEADING 250 AND CRG R–290 TO MONIA/CRG 29.18 DME/RADAR AND HOLD. HOLD WEST, LT 110 INBOUND. DME OR RADAR REQUIRED. THIS IS VOR OR GPS RWY 31 ORIG–B.

Jacksonville

JACKSONVILLE INTL
Florida
NDB OR GPS RWY 7, AMDT 9A...
FDC Date: 03/31/98

FDC 8/2028/JAX/FI/P JACKSONVILLE INTL, JACKSONVILLE, FL. NDB OR GPS RWY 7, AMDT 9A...MISSED APPROACH...CLIMB TO 1000 THEN CLIMBING LEFT TURN TO 2000 VIA HEADING 250 AND CRG R–290 TO MONIA/CRG 29.18 DME/RADAR AND HOLD. HOLD WEST, LT 110 INBOUND. DME OR RADAR REQUIRED. THIS IS NDB OR GPS RWY 7, AMDT 9B.

Bedford

VIRGIL I. GRISSOM MUNI
Indiana
VOR/DME RWY 13 AMDT 10...
FDC Date: 03/18/98

FDC 8/1774/BFR/FI/P VIRGIL I. GRISSOM MUNI, BEDFORD, IN. VOR/DME RWY 13 AMDT 10...ADD NOTE...OBTAIN LCL ALSTG ON CTAF; WHEN NOT RECEIVED USE INDIANAPOLIS INTERNATIONAL ALSTG. THIS IS VOR/DME RWY 13, AMDT 10A.

Vineyard Haven

MARTHAS VINEYARD
Massachusetts
VOR OR GPS RWY 24 ORIG...
FDC Date: 03/25/98

FDC 8/1905/MVY/FI/P MARTHAS VINEYARD, VINEYARD HAVEN, MA. VOR OR GPS RWY 24 ORIG...S–24...VIS CAT A AND B RVR 2400, CAT C RVR 4000, CAT D RVR 5000. OTIS ANGB ALTIMETER SETTING MNMS. S–24... VIS CAT A AND B RVR 2400, CAT C RVR 4000, CAT D RVR 5000. DELETE NOTE...FOR INOP MALSR, INCREASE S–24 CAT D VIS TO 1 1/4. ADD NOTE... VOR OR GPS MNMS... FOR INOP MALSR INCREASE CAT D VIS TO RVR 6000. THIS IS VOR OR GPS RWY 24 ORIG–A.

Vineyard Haven

MARTHAS VINEYARD
Massachusetts
ILS RWY 24 ORIG...
FDC Date: 03/25/98

FDC 8/1906/MVY/FI/P MARTHAS VINEYARD, VINEYARD HAVEN, MA. ILS RWY 24 ORIG...S–ILS RWY 24... VIS RVR 2400 ALL CATS. S–LOC–24... VIS CATS A, B AND C RVR 2400, CAT D 4000. OTIS ANGB ALTIMETER SETTING MNMS S–ILS 24... VIS RVR, 2400 ALL CATS. S–LOC 24... VIS CAT A AND B RVR 2400, CAT C AND D 4000. THIS IS ILS RWY 24 ORIG–A.

VINEYARD HAVEN
MARTHAS VINEYARD
Massachusetts
VOR OR GPS RWY 6 ORIG...
FDC Date: 03/25/98

FDC 8/1907 /MVY/ FI/P MARTHAS VINEYARD, VINEYARD HAVEN, MA. VOR OR GPS RWY 6 ORIG...S–6... VIS RVR 5000 ALL CATS OTIS ANGB ALTIMETER SETTINGS MNMS S–6... VIS CAT A, B AND C RVR 5000, CAT D RVR 6000. THIS IS VOR OR GPS RWY 6 ORIG–A.

Nashua

BOIRE FIELD
New Hampshire
VOR RWY 32 ORIG...
FDC Date: 03/30/98

FDC 8/1999/ASH/FI/P BOIRE FIELD, NASHUA, NH. VOR RWY 32 ORIG... ALTN MNMS... STANDARD, EXCEPT CAT C 800–2 1/2, CAT D 800–2 1/2. THIS IS VOR RWY 32 ORIG–A.

Springfield

SPRINGFIELD-BECKLEY
Ohio
VOR OR GPS RWY 6, AMDT 10...
FDC Date: 03/23/98

FDC 8/1870/SGH/FI/P SPRINGFIELD-BECKLEY, SPRINGFIELD, OH. VOR OR GPS RWY 6, AMDT 10...S–6 MDA 1480/HAT 428 ALL CATS. VIS CAT C 1 1/4, CAT D 1 1/2. WRIGHT PATTERSON AFB ALSTG MNMS. S–6 MDA 1540/HAT 488 ALL CATS. THIS IS VOR OR GPS RWY 6, AMDT 10A.

Columbus

OHIO STATE UNIVERSITY
Ohio
GPS RWY 9R, ORIG–A...
FDC Date: 03/27/98

FDC 8/1951 /OSU/ FI/P OHIO STATE UNIVERSITY, COLUMBUS, OH. GPS RWY 9R, ORIG–A...S–9R MDA 1360/HAT 454 ALL CATS, VIS CAT C 3/4. THIS IS GPS RWY 9R, ORIG–B.

Tulsa

TULSA INTL
Oklahoma
NDB OR GPS RWY 36R AMDT 19C...
FDC Date: 03/19/98

FDC 8/1803 /TUL/ FI/P TULSA INTL, TULSA, OK, NDB OR GPS RWY 36R AMDT 19C...S–36R DME MNMS...MDA 1220/HAT 571 ALL CATS. VIS CAT C 1. CIRCLING CAT A/B/C MDA 1220/HAA 543. THIS IS NDB OR GPS RWY 36R AMDT 19D.

Duncan

HALLIBURTON FIELD
Oklahoma
LOC RWY 35, AMDT 4...
FDC Date: 03/23/98

THIS REPLACES FDC 8/1722.

FDC 8/1866/DUC/FI/P HALLIBURTON FIELD, DUNCAN, OK. LOC RWY 35, AMDT 4...CIRCLING CAT A MDA 1560/HAA 447. HENRY POST AAF, FT SILL ALTM MNMS... CIRCLING CAT A—C MDA 1640/HAA 527. THIS IS LOC RWY 35, AMDT 4A.

Tulsa

TULSA INTL
Oklahoma
RADAR–1, AMDT 17A...
FDC Date: 03/30/98

FDC 8/1975/TUL/FI/P TULSA INTL, TULSA, OK. RADAR–1, AMDT 17A...S–36L MDA 1180/HAT 503 ALL CATS. VIS CAT C/D 1 1/2. CIRCLING CAT A/B/C MDA 1180/HAA 503. THIS IS RADAR–1, AMDT 17B.

Reedsville

MIFFLIN COUNTY
Pennsylvania
LOC RWY 6 AMDT 7...
FDC Date: 03/26/98

THIS REPLACES FDC 8/1762 PUBLISHED IN TL98–08.

FDC 8/1920/RVL/FI/P MIFFLIN COUNTY, REEDSVILLE, PA. LOC RWY 6 AMDT 7...CIRCLING CAT C MDA 1560/HAA 741, CAT D MDA 2360/HAA 1541. VIS CAT C2 1/4, CAT D 3. THIS IS LOC RWY 6 AMDT 7A.

Grantsburg

GRANTSBURG MUNI
Wisconsin
VOR/DME OR GPS–A, AMDT 1...
FDC Date: 03/27/98

FDC 8/1940/GTG/ FI/P GRANTSBURG MUNI, GRANTSBURG,

WI. VOR/DME OR GPS–A, AMDT 1...CHANGE NOTE TO READ...USE CAMBRIDGE, MN ALTIMETER SETTING. THIS IS VOR/DME OR GPS–A, AMDT 1A.

Siren

BURNETT COUNTY
Wisconsin
VOR OR GPS RWY 4, AMDT 2...
FDC Date: 03/30/98

FDC 8/1991 /RZN/ FI/P BURNETT COUNTY, SIREN, WI. VOR OR GPS RWY 4, AMDT 2...CHG CAMBRIDGE ALSTG MNMS TO READ... CAMBRIDGE, MN ALSTG MNMS. CHG NOTE TO READ... OBTAIN LOCAL ALSTG ON CTAF; WHEN NOT RECEIVED, USE CAMBRIDGE, MN ALSTG. THIS IS VOR OR GPS RWY 4, AMDT 2A.

[FR Doc. 98–9650 Filed 4–10–98; 8:45 am]
BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 241

[Release No. 34–39829; File No. S7–10–98]

Confirmation and Affirmation of Securities Trades; Matching

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive release; request for comments.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing its interpretation that a ''matching'' service that compares securities trade information from a broker-dealer and the broker-dealer's customer is a clearing agency function. The Commission also is soliciting comment on two possible approaches for providing exemptive relief from full clearing agency regulation for qualified electronic trade confirmation (''ETC'') vendors that fall within the Commission's interpretation of clearing agency because they provide a matching service.

DATES: The interpretation contained in Section III of this release is effective April 13, 1998.

Comments should be submitted on or before June 12, 1998.

ADDRESSES: Interested persons should submit comments in triplicate to Jonathan Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549–6009. Comments can be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–10–98; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW, Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director; Jeffrey Mooney, Special Counsel; or Theodore R. Lazo, Attorney; at 202/942–4187, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Recently, the New York Stock Exchange (''NYSE''), the National Association of Securities Dealers (''NASD''), and the Municipal Securities Rulemaking Board (''MSRB'') (collectively ''SROs'') filed proposed rule changes under Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] to amend their rules dealing with the post-trade processing of trades executed by their members. The SROs' current rules require their broker-dealer members to use the facilities of a securities depository[2] for the electronic confirmation and affirmation of transactions where the broker-dealer provides delivery-versus-payment (''DVP'') or receive-versus-payment (''RVP'')[3] privileges to its customer (''SRO confirmation rules'').[4] As a practical matter, the SRO confirmation rules require broker-dealers to use The Depository Trust Company's (''DTC'') Institutional Delivery (''ID'') system because it is the only confirmation/affirmation service offered by a securities depository.[5] Under the proposed amendments to the SRO confirmation rules, broker-dealers will be permitted to use entities that are not registered clearing agencies for the confirmation and affirmation of RVP/DVP transactions as long as the entities are qualified ETC vendors as defined by the SRO rules. A qualified ETC vendor intermediary will only transmit information between the parties to a trade, and the parties will confirm and affirm the accuracy of the information.

The Commission understands that the next step in the evolution of post-trade processing will be the development of matching services. ''Matching'' is the term used to describe the process by which an intermediary reconciles trade information from the broker-dealer and its customer to generate an affirmed confirmation which is then used in effecting settlement of the trade.

The Commission is of the view that matching constitutes a clearing agency function within the meaning of the clearing agency definition under Section 3(a)(23) of the Exchange Act.[6] Specifically, matching constitutes ''comparison of data respecting the terms of settlement of securities transactions.'' The Commission concludes that matching is so closely tied to the clearance and settlement process that it is different not only in degree but also different in kind from the current confirmation and affirmation process. The purpose of this release is to seek comment on the concept of providing exemptive relief either through registration as clearing agencies subject to reduced requirements or through the grant of a conditional exemption from registration to qualified ETC vendors that provide a matching service.

II. Background

A. Confirmation and Affirmation Process

The confirmation/affirmation process refers to the transmission of messages among broker-dealers, institutional investors, and custodian banks regarding the terms of a trade executed for the institutional investor. Because the trades of institutional investors involve larger sums of money, larger amounts of securities, more parties, and more steps between order entry and final settlement, institutional trades are usually more complex than retail transactions.

[1] 15 U.S.C. 78s(b)(1).

[2] A ''securities depository'' is defined in the SRO confirmation rules as a clearing agency that is registered under Section 17A of the Exchange Act, 15 U.S.C. 78q–1.

[3] RVP services allow an institutional seller to require cash payment before delivering its securities at settlement. DVP services allow an institutional buyer to pay for its purchased securities only when the securities are delivered. Generally, bids only extend RVP/DVP privileges to their institutional customers.

[4] The confirmation rules are: MSRB Rule G–15(d)(ii); NASD Rule 11860(a)(5); and NYSE Rule 387(a)(5). The SROs and the Commission have separate rules requiring customer confirmations and specifying their content. *See, e.g.*, Exchange Act Rule 10b–10, NASD Rule 2230; NYSE Rule 409. These rules are not the subject of this proceeding.

[5] Previously, the Philadelphia Depository Trust Company and the Midwest Securities Trust Company offered confirmation/affirmation services, but these securities depositories no longer provide any depository services.

[6] 15 U.S.C. 78c(a)(23).

1. Confirmation Using the ID System

The typical components of the ''customer-side'' settlement of an institutional trade under the current SRO confirmation rules are illustrated in Figure 1.[7]

BILLING CODE 8010–01–P

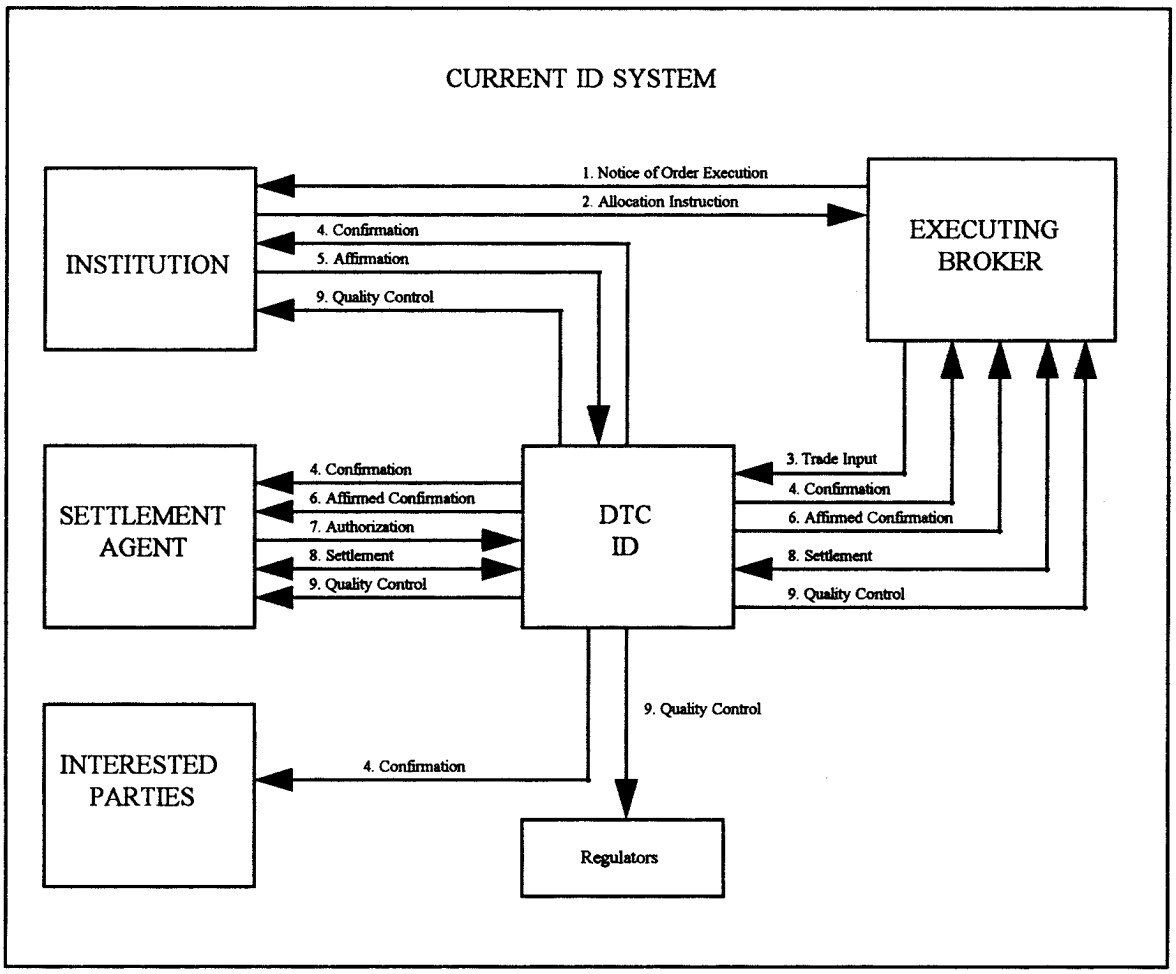

Figure 1

Typically, an institutional trade will begin with the institution's investment manager placing an order with the broker-dealer. After the broker-dealer executes the trade, the broker-dealer will advise the institution of the execution details. This is commonly referred to as giving notice of execution (step 1 of Figure 1). The institution then advises the broker-dealer as to how the trade should be allocated among its accounts (step 2 of Figure 1).[8] The broker-dealer then submits the trade data to DTC (step 3 of Figure 1).

Next, DTC adds the transaction to the ID system's trade database, assigns an ID control number, and forwards an electronic confirmation to the institution, the broker-dealer, the institution's settlement agent, and other interested parties (e.g., trustees, plan administrators, or correspondent banks) (step 4 of Figure 1). The institution reviews the confirmation for accuracy. If accurate, the institution or its designated affirming agent affirms the trade through the ID system (step 5 of Figure 1). DTC then generates an affirmed confirmation and sends it to the broker-dealer and to the institution's settlement agent (step 6 of Figure 1).[9] At this point, the trade is sent into DTC's settlement system (*i.e.*, the ID system is not a settlement system in that no money or securities move through it) and must be authorized by the party obligated to deliver the securities (*i.e.*, the selling party) institution or the settlement agent before settlement occurs (steps 7 and 8 of Figure 1). ''Quality Control'' involves DTC's monitoring and production of various reports for regulators and ID system users which show such things as when a confirmation was sent and the affirmation was received (step 9 of Figure 1).

2. Confirmation Using a Qualified ETC Vendor

Under the proposed SRO rule changes, a qualified ETC vendor may be used for the confirmation/affirmation process. The broker-dealer submits trade data to the qualified ETC vendor which generates and sends a confirmation to the institution (steps 3 and 4 of Figure

[7] This is a separate process from the ''street-side'' settlement of the trade which is carried out between the buying and selling broker-dealers involved in the trade.

[8] The current confirmation rules do not require use of any system or type of system for notice of execution or allocation instructions.

[9] In the ID system, the affirming party may be the institution, the institution's agent, or another party designated by the institution (*i.e.*, an ''interested party'').

1). After reviewing the confirmation, the institution sends an affirmation to the broker-dealer through the facilities of the qualified ETC vendor (step 5 of Figure 1). At some point in this process, the qualified ETC vendor forwards the confirmation to DTC in an ID system format in order that DTC can assign an ID control number to the trade. DTC sends the confirmation with the control number back to the qualified ETC vendor, and the qualified ETC vendor provides the control number to the broker-dealer and the institution. After receipt of the affirmation from the institution, the qualified ETC vendor sends the affirmed confirmation with the ID control number to DTC in ID system format. In this process, a qualified ETC vendor only transmits information between the parties to the trade and the parties verify the accuracy of the information.

B. Matching Services

The components of customer-side settlement of an institutional trade through a ''matching'' system are illustrated in Figure 2.

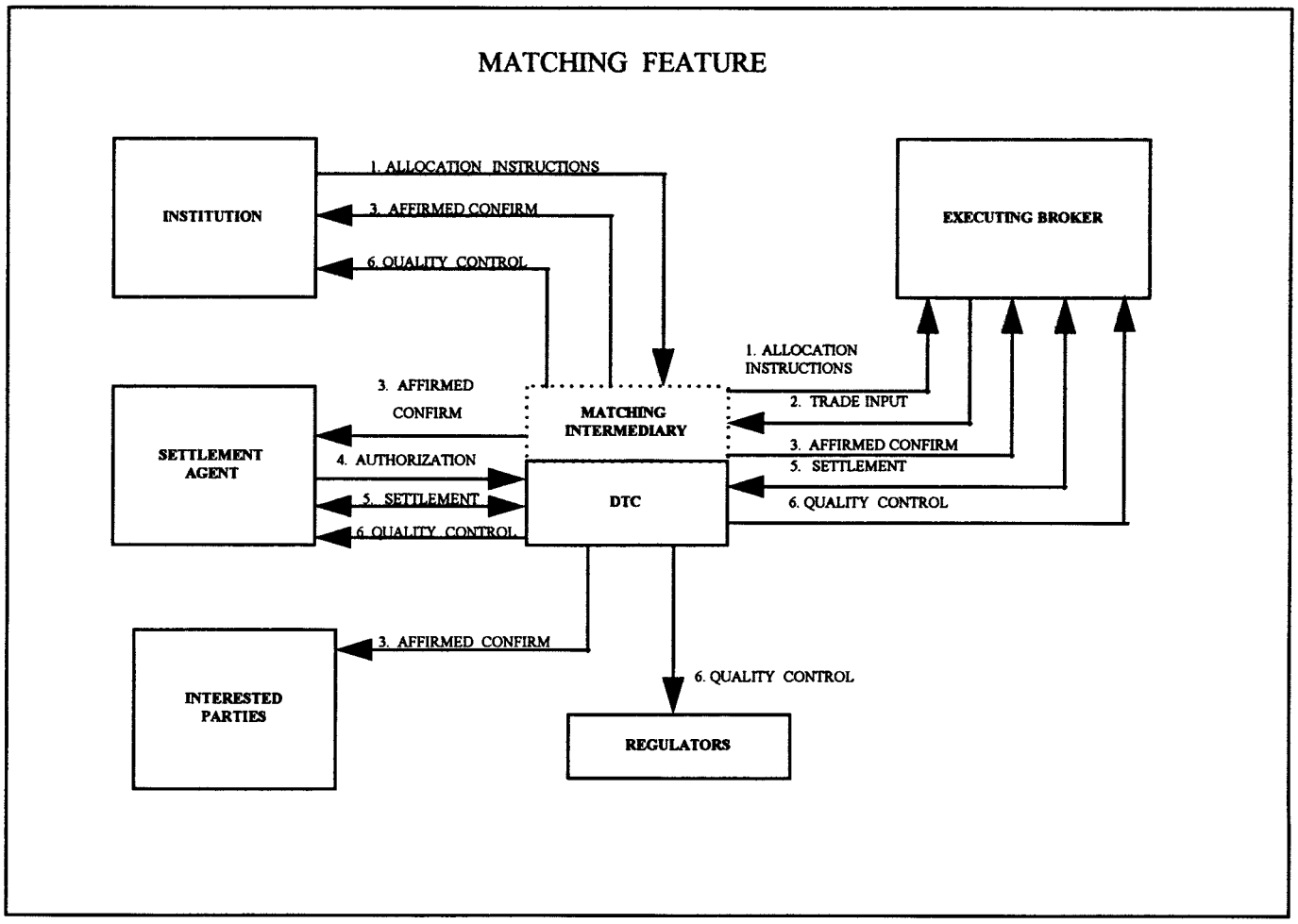

Figure 2

''Matching'' is the term that is used to describe the process whereby an intermediary compares the broker-dealer's trade data submission (step 2 of Figure 2) with the institution's allocation instructions (step 1 of Figure 2) to determine whether the two descriptions of the trade agree.[10] If the trade data and institution's allocation instructions match, an affirmed confirmation is produced (step 3 of Figure 2). This would eliminate the separate steps of producing a confirmation (step 4 of Figure 1) for the institution to review and affirm (step 5 of Figure 1). At this point, the trade goes into DTC's settlement process but must be authorized by the delivering party agent before settlement occurs (steps 4 and 5 of Figure 2).[11]

III. Matching as a Clearing Agency Function

Section 3(a)(23)(A) of the Exchange Act defines a clearing agency broadly as ''any person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of

[10] Figure 2 illustrates a ''matching intermediary'' other than DTC matching the Institution's allocation instructions with the Executing Broker's trade data. The Commission has approved a proposed rule change filed by DTC that will allow DTC to provide matching services. Securities Exchange Act Release No. 39832 (April 6, 1998), File No. SR–DTC–95–23. Currently, no one provides the type of services described in DTC's matching proposal.

[11] This authorization and settlement process is the same process for the authorization and settlement of institutional trades where a matching service is not used (steps 7 and 8 of Figure 1).

securities settlement responsibilities.''[12] Section 17A of the Exchange Act and Rule 17Ab2–1 thereunder require any person who engages in any of these functions to register with the Commission as a clearing agency or obtain an exemption from registration.[13]

Based on the language, purposes, and policies of Section 3(a)(23) and 17A, the Commission concludes that an intermediary that captures trade information from a buyer and a seller of securities and performs an independent reconciliation or matching of that information is providing facilities for the comparison of data within the scope of Exchange Act Section 3(a)(23).[14] As a result, the intermediary is performing a clearing agency function. Accordingly, under this interpretation, only an entity that is registered as a clearing agency or is exempt from such registration may provide a matching service.

The legislative history of the Securities Acts Amendments of 1975 (''1975 Amendments'') supports this statutory interpretation,[15] including the purposes of establishing a national clearance and settlement system and the scope of authority granted to the Commission. Moreover, considering a matching service to be a clearing agency function is consistent with the purposes of the Exchange Act regulation of the clearance and settlement system. Congress viewed the clearance and settlement system in the early 1970s as inadequate and in the 1975 Amendments directed the Commission to facilitate the development of an improved national clearance and settlement system. Congress articulated the goals of this national system in Section 17A of the Exchange Act,[16] and gave the Commission the authority and responsibility to regulate, coordinate, and direct the operations of all persons involved in processing securities transactions toward the goal of a national system for the prompt and accurate clearance and settlement of securities transactions.[17] Congress specifically declined to address the merits of any particular system or to dictate the shape a national clearance and settlement system should take.[18] Instead, Congress recognized that ''data processing and communications techniques'' involved in clearance and settlement processes would continue to evolve.[19] As a result, the Commission was given broad authority over the clearance and settlement system and wide discretion in determining what activities fall within the clearing agency function triggering the requirement to register as a clearing agency.

In fact, the clearance and settlement process for institutional trades has evolved dramatically. When the 1975 Amendments were enacted, the processing of institutional trades was carried out directly between the broker-dealer and the institution with little or no automation. The SROs' rules requiring the use of electronic confirmation and affirmation of institutional trades were adopted in response to the increased complexity of institutional trades and the need to automate the process. Today, the volume of institutional trades has grown to an extent that they now account for a large portion of the trading activity in the U.S. securities markets.[20] Because of the increased volume and complexity of institutional trades, virtually all of them are now processed through electronic systems.

Matching is inextricably intertwined with the clearance and settlement process. A vendor that provides a matching service will actively compare trade and allocation information and will issue the affirmed confirmation that will be used in settling the transaction.[21] In addition, matching addresses two areas that the Commission and the securities industry view as critical to maintaining a sound clearance and settlement system: reducing errors and reducing the amount of settlement time.

As noted above, matching combines certain steps in the confirmation and affirmation process and therefore can help to reduce errors. Effective matching also will be critical in any effort to shorten the settlement cycle.[22] At the same time, matching concentrates processing risk in the entity that performs matching instead of dispersing that risk more broadly to broker-dealers and their institutional customers. In particular, matching eliminates a separate affirmation step that would allow the detection of errors that could delay settlement or cause the trade to fail.[23]

Accordingly, the Commission believes that an entity providing matching would have a significant impact on the national clearance and settlement system. The breakdown of a matching system's ability to accurately compare the trade information from hundreds of institutions and broker-dealers involving thousands of transactions and millions of dollars worth of securities could result in a widespread systemic failure of the national clearance and settlement system.[24] Without any regulatory authority over matching vendors, the Commission would have only limited ability to guard against

[12] 15 U.S.C. 78c(a)(23)(A).

[13] 15 U.S.C. 78q–1; 17 CFR 240.17Ab2–1.

[14] A matching service conducted by an intermediary falls within the literal terms of the definition of clearing agency. A matching service conducted by an intermediary clearly provides a facility in which the terms of transactions between broker-dealers and their institutional customers are compared to each other to assure that both parties agree to the terms of the trades before they are submitted for settlement.

Other portions of the statute also support this interpretation. Section 3(a)(23)(B) of the Exchange Act, 15 U.S.C. 78c(a)(23)(B), specifically excludes broker-dealers (and other entities) from the definition of clearing agency if they would fall within the definition solely because they perform clearing agency functions as a part of their customary activities, such as brokerage. Therefore, in connection with its customary business as a broker-dealer, a broker-dealer may match trades among its own customers without triggering clearing agency registration. Furthermore, Section 3(a)(23)(A) of the Exchange Act, 15 U.S.C. 78c(a)(23)(A), also contains another definition that includes an entity that ''otherwise permits or facilitates the settlement of securities transactions * * *.''

[15] Pub. L. No. 94–29, 89 Stat. 97 (1975). The definition of clearing agency in Section 3(a)(23) of the Exchange Act was adopted as part of the 1975 Amendments.

[16] 15 U.S.C. 78q–1. Section 17A(a)(2) of the Exchange Act, 15 U.S.C. 78q–1(a)(2), states that the Commission is directed: (i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities, and (ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.

[17] *Id.* at 232.

[18] *Id.* at 184.

[19] *See* Section 17A(a)(1)(C) of the Exchange Act, 15 U.S.C. 78q–1(a)(1)(C); S. Rep. 75, 94th Cong., 1st Sess. 54 (1975); H. Rep. 123, 94th Cong., 1st Sess. 44 (1975).

[20] Using block trades (*i.e.*, 10,000 shares or more) as a proxy for institutional trades, in 1996 institutional trading accounted for 55.9% of NYSE volume and 34.1% of Nasdaq National Market volume. NYSE, *Fact Book for the Year 1996*, p. 16 (1997); The Nasdaq Stock Market, Inc., *1997 Fact Book & Company Directory*, p. 27 (1997).

[21] In contrast, a vendor that provides confirmation/affirmation services only will exchange messages between a broker-dealer and its institutional customer. The broker-dealer and its institutional customer will compare the trade information contained in those messages, and the institution itself will issue the affirmed confirmation.

[22] The vast majority of the comment letters that the Commission received regarding DTC's matching proposal supported the proposal. Twenty-two of the commenters specifically noted matching's effect on shortening the settlement cycle as a reason for their support.

[23] This is in contrast to a Qualified ETC Vendor which would transmit confirmations and affirmations between broker-dealers and their customers for their review and therefore would involve less concentration of risk.

[24] Based on conversations between Commission staff and DTC, the Commission understands that over the last five months of 1997 the ID system received an average of 165,000 trade inputs per day. On the highest volume day during that period, the ID system received approximately 310,000 trade inputs.

such failure. Congress granted the Commission broad power to establish a centralized system of regulation over the national clearance and settlement system in order to prevent such a situation from occurring.[25] Given the significant role played by matching services and the scope of the definition, the Commission believes that some form of regulation is appropriate to assure the prompt and accurate clearance and settlement of securities.[26]

IV. Possible Regulatory Approaches

Even though matching services fall within the definition of clearing agency, the Commission preliminarily is of the view that an entity that limits its clearing agency functions to providing matching services need not be subject to the full panoply of clearing agency regulation. The Commission has broad exemptive authority under Section 17A. Section 17A(b)(1) authorizes the Commission to exempt (conditionally or unconditionally) any clearing agency from any provision of Section 17A if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of Section 17A.

Two alternative approaches may provide an appropriate regulatory structure for entities providing matching facilities: limited registration or conditional exemption. Under either approach only those regulatory requirements that the Commission views as necessary and appropriate to achieve the goals of Section 17A would be applicable to an entity providing a matching facility.[27] The limited registration alternative is a ''scaled back'' approach, which would register the matching service provider as a clearing agency while providing exemptions from individual clearing agency requirements. The conditional exemption alternative is a ''building block'' approach, which would exempt the entity from clearing agency registration subject to appropriate conditions.[28] Under either approach, the Commission would publish for comment a notice of the qualified ETC vendor's application for limited registration or conditional exemption, including the proposed terms of the registration or exemption, before approving the application.[29]

The Commission requests commenters' views on whether limited clearing agency registration or conditional exemption from clearing agency registration is the best alternative for regulating qualified ETC vendors that provide matching services. Does either or both of these proposed alternatives provide a prudent method to ensure the safety and soundness of the national system for clearance and settlement of securities transactions and the continued development of linked and coordinated clearance mechanisms subject to uniform standards? Generally speaking, what clearing agency requirements under Section 17A(b) would be necessary and appropriate for matching services, and which would not? Are there other alternatives by which the Commission could maintain oversight of matching by qualified ETC vendors that would ensure the safety and soundness of the national clearance and settlement system?

List of Subjects in 17 CFR Part 241

Securities.

Amendment of the Code of Federal Regulations

For the reasons set out in the preamble, Title 17 Chapter II of the Code of Federal Regulations is amended as set forth below:

[25] S. Rep. 75, 94th Cong., 1st Sess. 55 (1975); H. Rep. 123, 94th Cong., 1st Sess. 78–79 (1975).

[26] *Letter regarding Bradford National Corporation* (June 1, 1981), CCH Transfer Binder, ¶ 76,853.

[27] Under either approach, an entity would have to meet the requirements to become qualified as an ETC vendor under the SRO rules. The requirements needed to become a qualified ETC vendor are necessary elements but in themselves are not sufficient for an entity that provides a matching function.

[28] Under the exemptive approach, the Commission anticipates that an entity seeking an exemption for matching would be required to: (1) provide the Commission with information on its matching services and notice of material changes to its matching services; (2) establish an electronic link to a registered clearing agency that provides for the settlement of its matched trades; (3) allow the Commission to inspect its facilities and records; and (4) make periodic disclosures to the Commission regarding its operations.

Applicants requesting exemption from clearing agency registration are required to meet standards substantially similar to those required of registrants under Section 17A in order to assure that the fundamental goals of that section are furthered (*i.e.*, safety and soundness of the national clearance and settlement system). *See, e.g.*, Securities Exchange Act Release Nos. 36573 (December 12, 1995), 60 FR 65076 (order approving application for exemption from clearing agency registration for the Clearing Corporation for Options and Securities); 38328 (February 24, 1997), 62 FR 9225 (order approving application for exemption from clearing agency registration for Cedel Bank, société anonyme; and 38589 (May 9, 1997), 62 FR 26833 (notice of application for exemption from clearing agency registration by Morgan Guaranty Trust Company of New York, Brussels Office, as operator of the Euroclear System).

[29] *See* Section 19(a) of the Exchange Act, 15 U.S.C. 78s(a), and Exchange Act Rule 17Ab2–1, 17 CFR 240.17Ab2–1.

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

Part 241 is amended by adding Release No. 34–39829 and the release date of April 6, 1998 to the list of interpretive releases.

By the Commission.

Dated: April 6, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9594 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Bacitracin Zinc; Corrections

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations for bacitracin zinc to correct several regulations concerning the use of new animal drugs in animal feeds. Those corrections concern a codified designated source of bacitracin zinc for use in combination with several other new animal drugs. This document corrects those errors.

EFFECTIVE DATE: April 13, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 4, 1992 (57 FR 7652), FDA published a document reflecting the change of sponsor of several new animal drug applications from Pittman-Moore, Inc., to American Cyanamid Co. In that document, FDA failed to change several regulations regarding the source of bacitracin zinc in combination with other new animal drugs, namely at 21 CFR 558.175(d)(1)(iii)(*b*) and (d)(1)(iv)(*b*), 558.195(d) in the table under ''Limitations,'' 558.311(e)(1)(ii) in the table under ''Limitations,'' and 558.515(d)(1)(vi)(*b*). Consequently, FDA also failed to include these citations in a change of sponsor from American Cyanamid Co. to Hoffmann-La Roche, Inc. (61 FR 18081, April 24, 1996).

Instead, they were incorrectly included in a change of sponsor from Mallinckrodt Veterinary, Inc. (formerly Pittmann-Moore, Inc.) to Schering-Plough Animal Health Corp. (62 FR 61624, November 19, 1997). Sections 558.175, 558.195, 558.311, and 558.515 are amended to reflect the correct source of bacitracin zinc.

List of Subjects in 21 CFR Part 558

–Animal drugs, Animal feeds.

–Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

–1. The authority citation for 21 CFR part 558 continues to read as follows:

–Authority: 21 U.S.C. 360b, 371.

§ 558.175 [Amended]

–2. Section 558.175 *Clopidol* is amended in paragraph (d)(1)(iii)(*b*) and (d)(1)(iv)(*b*) by removing ''000061'' and adding in its place ''000004''.

§ 558.195 [Amended]

–3. Section 558.195 *Decoquinate* is amended in the table in paragraph (d) in the entry for ''27.2 (0.003 pct.), Roxarsone 11 to 45 (0.0012–0.005 pct.) plus Bacitracin 12 to 50'' under the ''Limitations'' column, by removing ''No. 000061'' and adding in its place ''Nos. 000004, 011716, and 046573''.

§ 558.311 [Amended]

–4. Section 558.311 *Lasalocid* is amended in the table in paragraph (e)(1)(ii), under the ''Limitations'' column, in the fifth paragraph, by removing ''000061'' and adding in its place ''000004''.

§ 558.515 [Amended]

–5. Section 558.515 *Robenidine hydrochloride* is amended in paragraph (d)(1)(vi)(*b*) by removing the phrase ''Nos. 000004, 000061,'' and adding in its place ''Nos. 000004''.

Dated: March 26, 1998.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–9575 Filed 4–10–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 980331080–8080–01; I.D. 032398C]

RIN 0648–AK66

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this interim final rule to amend the regulations that require most shrimp trawlers to use Turtle Excluder Devices (TEDs) in the southeastern Atlantic, including the Gulf of Mexico, to reduce the incidental capture of endangered and threatened sea turtles during shrimp trawling. Specifically, this interim final rule allows the use of a new design of soft TED—the Parker soft TED—subject to certain limitations. The intent of this rule is to allow shrimpers the option of using a new design of soft TED.

DATES: This rule is effective April 13, 1998. Comments on this rule are requested, and must be received by June 12, 1998.

ADDRESSES: Requests for a copy of the environmental assessment (EA) prepared for this interim final rule and comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Requests for copies of the reports on 1997 TED testing should be addressed to the Chief, Harvesting Systems Division, Mississippi Laboratories, Southeast Fisheries Science Center, NMFS, P.O. Drawer 1207, Pascagoula, MS 39568–1207.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 227, subpart D. Existing sea turtle conservation regulations (50 CFR 227, subpart D) require most shrimp trawlers operating in the Gulf and Atlantic Areas, defined at 50 CFR 217.12, to have a NMFS-approved TED installed in each net rigged for fishing, year round. TEDs currently approved by NMFS for shrimp trawling include single-grid hard TEDs, hooped hard TEDs conforming to a generic description, and two types of special hard TEDs.

On December 19, 1996, NMFS promulgated a final rule (61 FR 66933) that concluded a rulemaking process that had begun with an advance notice of proposed rulemaking published on September 13, 1995 (61 FR 47544). The final rule established the Atlantic and Gulf Shrimp Fishery-Sea Turtle Conservation Areas (SFSTCAs) with special conservation requirements to reduce the mortality and subsequent strandings of sea turtles associated with intensive shrimp trawling in nearshore waters. Included in the requirements for the SFSTCAs was the prohibition, effective March 1, 1997, of the use of soft TEDs. The December 19, 1996 final rule also removed the approval of all existing soft TEDs in the rest of the Gulf and Atlantic Areas, effective December 19, 1997. Some of the factors considered in the determination to remove the approval of soft TEDs were the difficulty of installing soft TEDs correctly in various styles of nets, observations of sea turtle takes in the then-approved soft TEDs during commercial trawling, and poor turtle release during retesting of approved soft TEDs in various styles of nets.

TED Certification Procedures

New TED designs must undergo and pass certification trials by the designer and NMFS gear experts before they can be approved for use by the Assistant Administrator for Fisheries (AA). Two different certification protocols were published by NMFS, one on June 29, 1987 (52 FR 24244), and the other on October 9, 1990 (55 FR 41092). The notices publishing these protocols provide a detailed description of the testing procedures and criteria. Both

protocols target a 97-percent exclusion rate of turtles. The original protocol, referred to as the Canaveral protocol, was established for the testing of TEDs in the Cape Canaveral, Florida, navigation channel which had been known for its historical high abundance of loggerhead sea turtles. The exclusion rate was determined by comparing the turtle capture rates of two simultaneously towed nets, one equipped with the candidate TED and the other with no TED installed. By 1989, however, there were not enough turtles at Canaveral to conduct TED testing. NMFS developed an alternate testing protocol using juvenile, captive-reared turtles. In this protocol, referred to as the small turtle protocol, a known number of turtles are introduced into a TED-equipped trawl and the number of escapes in a series of 25 introductions is recorded. The turtle exclusion rate of the candidate TED must statistically equal or exceed the exclusion rate of the control TED to pass the certification trial. A technical review committee, composed of industry and conservation representatives, is convened to review and confirm the video-taped documentation of all test results.

Both protocols also rely on evaluation by an experienced team of NMFS divers who are familiar with working in and around operating trawls and who conduct preliminary observations and make underwater video recordings of candidate TED designs. Videotapes are then reviewed by the candidate TED designer or representative in order to determine whether tuning or modifications are necessary prior to testing. When the designer is satisfied with the configuration of the candidate TED, testing is initiated. This process has resulted in significant on-site modifications to some candidate soft TED designs and has corrected design and installation problems that could otherwise have caused the failure of the design. Under this process, four soft TEDS passed certification and were approved for use: The Morrison, Parrish, Andrews, and Taylor. The Morrison and Parrish TEDs were approved after being tested under the Canaveral protocol, and the Taylor and Andrews TEDs were approved based on testing under the small turtle protocol. All four of the soft TED designs were tested and then approved on the basis of testing conducted in only one size and style of net.

Changes to the TED Testing Protocol

In the preamble of the December 19, 1996, final rule, that prohibited the use of soft TEDs, NMFS acknowledged that the two existing scientific protocols used in approving TEDs did not address some deficiencies in soft TEDs. The discussion in the preamble of that rule stipulated that future testing of soft TEDs would address soft TED-specific problems with the testing protocols, to assure that any subsequently approved soft TED would effectively exclude turtles. In conducting this year's testing of soft TEDs and in developing this interim final rule, NMFS has adopted changes to the methods, statistical risks of error, and application of results of the small turtle test protocol (originally published at 55 FR 41092, October 9, 1990).

One of the changes in methodology has been the adoption of a top-opening, curved-bar style (e.g., the SuperShooter™ design) hard TED, with an accelerator funnel and extended webbing flap, as the control TED. The old control, the NMFS TED, was not representative of gear in actual commercial use, and the metal-framed door over the escape opening in the original NMFS TED occasionally hindered the escape of the small turtles used in the testing. This change in the control TED should tend to make the small turtle protocol more conservative in approving new TED designs. For instance, in comparison testing conducted in 1995, the NMFS TED excluded 24 out of 25 turtles, while the top-opening, curved-bar, hard TED excluded 25 out of 25 turtles, with a shorter average escape time.

An additional change to the method was made by alternating the release position of the turtles in the net among the center, port, and starboard sides of the net. Previously, turtles had been released only at the center of the net. In testing hard TEDs, releasing turtles in the center posed no problem because the hard TED is compact and is installed in the aft portion of the net. All 25 turtles in the test sample encountered and successfully negotiated all the components of the hard TED (the accelerator funnel, the grid, the escape opening, and the webbing flap) to escape. In testing soft TEDs, however, test turtles released at the center of the headrope tended to pass straight down the center of the net and rarely contacted the sides of the soft TED. The sides, or wings, of soft TEDs are the most likely areas to observe pocketing or slack areas of webbing, and the wing areas of candidate soft TEDs accounted for most of the turtle captures observed, even though many turtles in a trial sample never encountered the wings. TED testing of commercially purchased Andrews soft TEDs in June 1996 first revealed the possible bias from using all center releases when testing soft TEDs. Turtles introduced into the trawl in front of the wings of the Andrews TEDs were captured in 21 out of 30 trials, while 15 out of 15 turtles escaped when introduced at the center line. To eliminate this potential bias and to better test the effectiveness of all parts of soft TEDs, the 1997 TED testing sessions were conducted with turtle releases in the port, starboard, and center of the trawls for both the control and candidate TEDs.

The statistical protocol applied to the TED testing results has also been modified to be more conservative in approving new candidate TEDs. The turtle exclusion rate of the candidate TED must statistically equal or exceed the exclusion rate of the control TED to pass the certification trial. Depending on the exclusion rate of the control TED, the number of captures by a candidate TED would prove it to be statistically worse than the control TED and cause it to fail the certification trial. Depending on the capture level used to reject a candidate TED, there is a risk that the failed candidate TED was actually an acceptable TED that happened to perform poorly within the limits of the trial. If a higher number of captures are selected as the failure point, the risk of rejecting an acceptable TED is reduced; however, the risk of accepting an unacceptable TED is correspondingly increased. In applying the TED testing results from the small turtle protocol prior to 1997, the number of captures required to fail a TED was selected so that the risk of rejecting a good TED would be approximately 10 percent. For the 1997 TED testing, NMFS determined that a higher risk of rejecting a good candidate TED would be adopted to lower the risks of approving a poor candidate TED. For the 1997 TED testing session, the risk of rejecting a good TED was increased to approximately 20 percent (the actual failure points selected corresponded to 15 percent and 22 percent risks for the June and September testing sessions, respectively). This change in the statistical protocol meant that candidate TEDs had to show a higher standard of turtle exclusion, relative to the control TED, than in any previous TED testing session.

The most important change in the TED testing protocol, however, is the application of the testing results only to the specific trawl and TED combinations tested. The four previously approved soft TED designs were tested only once in one size and style of net prior to approval. The TEDs were then approved for use in any style and size of net. The testing of commercially purchased Morrison soft

TEDs in 1994 and Andrews soft TEDs in 1996 revealed that soft TED incompatibility with some net types and high variability in installations were problems with the effectiveness of those soft TEDs. Under the new protocol, the approval of successful candidate soft TEDs will be limited to demonstrably compatible net sizes and styles.

Development of Improved Soft TEDs

In March 1997, NMFS gear experts began working with members of the shrimp industry to plan research and development for improved soft TEDs. Based on comments received during the 1996 rulemaking and through consultation with the shrimp industry, priority was placed on researching improvements for a top-opening, panel-style soft TED similar to the Morrison TED and for a bottom-opening, funnel-style soft TED similar to the Andrews TED. Shrimp fishermen and net makers proposed a variety of alternative soft TEDs, most of them variations on the Andrews or Morrison TED, for testing. From March to May 1997, NMFS issued 12 permits to fishermen to conduct commercial fishing efficiency testing with the experimental soft TEDs.

NMFS conducted a series of TED tests using the small turtle protocol from June 5 through 19, 1997. At the outset of the testing, eight different soft TEDs were identified for investigation. These candidates had been developed through cooperation with the shrimp industry and commercial fishing trials. The eight soft TEDs included five variations on the Morrison TED, two variations on the Andrews TED, and one soft TED that was similar to the Morrison and Taylor TEDs. Over the course of the testing, a total of 18 different soft TEDs were examined and tested as successive modifications were made to eliminate any identified design problems. Complete copies of the June 1997 TED testing report are available (see **ADDRESSES**); a summary of the relevant findings and gear developments follows.

Eleven variations of a top-opening Morrison/Taylor style soft TED were examined during the June TED testing session. This testing confirmed several of the observations about Morrison-style TED designs that NMFS gear experts had made during earlier testing in 1994 and 1996. Generally, the large escape opening in the top of the trawl incorporated in the Morrison TED design is easily negotiated by turtles, whose natural preference is to escape toward the surface. Turtles that avoid entanglement in the TED panel usually escape relatively quickly. Several critical factors in the soft TED design or installation that could produce entanglement were slack webbing, webbing that curved upward instead of lying taut and flat, and pockets of webbing near the attachment of the edges of the excluder panel to the trawl. In mesh sizes of 8 inches (20.3 cm) or even 6 inches (15.2 cm), turtles could become entangled if they encountered webbing in the parts of the trawl with any of those design or installation flaws.

The Parker TED, which was the last Morrison-style TED tested during the June session, incorporates design features that overcome the design and installation problems previously observed in Morrison-style TEDs. The Parker TED is a single panel design, so it does not use any wing panels which had been shown to be problematic. It uses a triangular section of 8-inch (20.3-cm) mesh polypropylene or polyethylene webbing in the front and center portion of the excluder panel, but is surrounded on the sides and rear portion of the excluder panel by strips of 4-inch (10.2-cm) mesh webbing. The problem areas for installation—slack areas and pockets near the edges—are, therefore, separated from the large-mesh center of the panel by the 4-inch (10.2-cm) mesh webbing. Even the small turtles used in the June testing session experienced no threat of becoming entangled in the 4-inch (10.2-cm) mesh webbing. Additionally, the 4-inch (10.2-cm) mesh webbing strips create a greater amount of water resistance and drag than the larger mesh center. The increased drag on the sides and rear of the panel worked to pull the entire panel very tight and flat. The Parker TED excluded 25 out of 25 test turtles introduced into the net, compared to 24 releases out of 25 trials scored by the control TED, a top-opening, curved-bar, hard TED. The Parker soft TED was tested in a 43-foot (13.1-m) headrope length Mongoose-style trawl during the June test session.

Following the June 1997 TED testing session, NMFS, in consultation with the shrimp fishing industry, decided to pursue additional testing of the Parker TED to ensure that it would function properly in other trawl styles and sizes than the 43-foot (13.1-m) Mongoose trawl in which it was tested. Commercial fishermen, primarily in the Atlantic Area, participated in an extensive testing program to evaluate the Parker TED in various gear configurations under commercial fishing conditions. One hundred and ninety seven shrimpers (100 in the Gulf of Mexico, 97 in the Atlantic) received authorizations to conduct fishing efficiency testing with experimental versions of the Parker TED. The permits require fishermen to submit reports on their catch upon completion of the permitted testing period. One hundred of the permits issued for Parker TED testing have expired, and reports have been submitted by 42 shrimpers from the Atlantic. Twenty-three of the reports submitted were from fishermen that did not use the Parker TED. Eighteen shrimpers that used the Parker TED reported good bycatch reduction and shrimp retention. Additionally, they reported at least 17 turtle takes (one fishermen reported ''numerous turtle captures''). All reported captures were in try nets, except for one turtle that was exiting the Parker TED as the net was retrieved. All captured turtles were reportedly released alive and in good condition.

These anecdotal reports are similar to reports from observers on commercial shrimp vessels testing the effectiveness of Parker TEDs as bycatch reduction devices in the Atlantic during the fall and winter of 1997. Fifty-four tows of Parker TEDs were observed during 19 sea days off Georgia. Three sea turtle takes were observed during these trials; a ridley and a loggerhead were observed in nets with grid TEDs installed that were blocked by crab traps, and a Kemp's ridley reportedly had not yet reached the Parker TED and slid through the trawl and out of the TED while the net was being retrieved. During similar trials off South Carolina, no sea turtle takes were observed during 30 tows in trawls with Parker TEDs installed.

NMFS conducted a second series of small turtle TED testing from September 15 through 28, 1997. This testing focused on evaluating the Parker TED in various styles of trawls and fishing configurations and on testing alternative designs of Andrews-style TEDs. The Parker TED was examined in eight different style trawls, using a range of center-bridle adjustments on tongue and bib trawls and with two different styles of escape opening.

The Parker TED proved to be compatible with most net types and gear configurations tested. Gear experts evaluated the trawling configuration of the various installations underwater and tested the different style nets with a sub-sample of up to 10 turtles to confirm the divers' evaluation of the effectiveness of the various installations. A total of 107 turtles were introduced into the various trawl/Parker TED combinations, and all were released effectively. The Parker TED assumed a proper configuration and excluded all of the turtles introduced into the net in a 2-seam balloon trawl, a 4-seam semi-balloon trawl, a 4-seam semi-balloon trawl with a bib attached, a straight-wing flat net,

a 4 bars to 1 point (4b1p) taper Mongoose net, and a 3b1p taper Mongoose net. (For a discussion of net tapers, see the section ''Restriction of Soft TED Use to Specified Net Sizes, and Styles'' following.)

In the Mongoose-style trawls and trawls with bibs, the soft TED's configuration was evaluated at a range of center bridle adjustments. TED testing conducted in November 1994 had indicated that the tension on the towing bridle attached to the tongue could influence the shape of the excluder panel on the Morrison TED. In all of these net styles tested with the Parker TED, the excluder panel maintained a good shape over the range of center bridle adjustments. Some installations showed an upward curl at the edge of the panel in the 4-inch (10.2-cm) mesh section, but the 8-inch (20.3-cm) mesh webbing remained flat. On the Mongoose-style trawls and trawls with bibs, a sub-sample of 10 turtles was run with the center bridle at an extremely short setting to test the TED's performance under the most adverse configuration. All of the turtles passed easily through the TED.

The Parker TED was also tested with a leatherback turtle-sized escape opening. An extra large opening covered with a chain-weighted flap was an approved modification for the Morrison TED. The leatherback escape opening modification of the Parker TED excluded all four of the turtles exposed to it. The chain-weighted webbing flap was not a barrier to turtle escape because it did not tightly seal the escape opening.

Two net styles that were evaluated by divers revealed potential incompatibility with the Parker TED: a 2-seam balloon net with a bib attached and an 86-foot (26.2-m) headrope length strongly tapered (6b1p) Mongoose net. In both nets, the excluder panel rolled strongly upward at the edges, pulling up the 8-inch (20.3-cm) mesh as well, creating the possibility for turtle entanglement in the distorted portion of the panel. Diver evaluations indicated that Parker TEDs would not always be effective in these net types.

The Environmental Assessment (EA) prepared for the interim final rule contains a complete discussion of all of the soft TED evaluations conducted during 1997 and of the factors that led NMFS to select this interim final rule as the preferred course of action. Complete copies of the EA for this rule are available (see **ADDRESSES**). In summary, NMFS is allowing the use of the Parker TED in most trawl styles because it passed the certification trials for numerous trawl styles and sizes and because gear specialists were confident that the TED can be replicated by net manufacturers in a manner that precludes stretching and bagging problems that lead to turtle captures in other styles of soft TEDs. Additionally, NMFS considered the favorable shrimp retention characteristics of the Parker TED. The South Carolina Department of Natural Resources (SCDNR) compared shrimp and finfish catches between nets equipped with the Parker soft TED and a top-opening, curved-bar hard TED aboard a commercial shrimp trawler. In 30 comparison tows during September through December 1997, the Parker TED-equipped net caught 9.1 percent less shrimp than the hard TED-equipped net. No sea turtle takes were observed during these 30 tows.

Individual fishermen in the Atlantic Area who received authorizations to conduct commercial efficiency testing (50 CFR 227.72; Office of Management and Budget collection control number 0648–0309, expiration date April 30, 1999) with the Parker TED have confirmed the SCDNR results with qualitative observations. Industry members of the soft TED advisory panel believed that the observed shrimp loss would be acceptable to shrimpers who prefer soft TEDs because of the TED's handling and possible bycatch reduction characteristics.

Although there is no expressed requirement for consideration of shrimp retention capabilities when certifying TEDs, NMFS believes that certification of TEDs that result in low shrimp landings is inappropriate and may be misleading to shrimpers. In the interest of authorizing TEDs that will be effective for shrimpers, amendments to the TED regulations in 1992 (57 FR 57357, December 4, 1992) gave the AA authority to issue permits for experimentation to improve shrimp retention efficiency of existing TEDs, as well as for developing additional TEDs. NMFS believes that soft TEDs with excessive shrimp loss will, at best, not be used. At worst, excessive shrimp loss may lead fishermen to disable or modify the TED after purchasing it. NMFS continues to believe that it is important to quantify the shrimp loss and finfish reduction characteristics of new soft TED designs to better assess their acceptance and effectiveness during commercial use. Although no precise level of shrimp loss acceptable to the industry has been identified at this time, 9 percent appears to be well within the reported tolerance limits. NMFS will continue to work with the industry to assess the shrimp retention rates for new soft TEDs that appear to be effective at excluding sea turtles, and to determine more precisely the level of shrimp loss that would be unacceptable to the shrimp industry and likely to prevent the use or correct installation of TEDs. NMFS also expects to conduct an additional session of TED testing for turtle release, including other variations on the Andrews TED and possibly the Parker TED, in May or June 1998.

In the preamble to the December 19, 1996, final rule, NMFS noted that, while existing soft TEDs were ineffective and the problems inherent in using soft webbing material as a turtle excluder were serious and widespread, there were still positive attributes of soft TEDs and a strong desire, expressed by shrimp fishermen and the Congress, to continue using soft TEDs. NMFS, therefore, stated its intention to undertake intensive efforts to identify technical solutions or modifications for soft TEDs that would effectively exclude sea turtles. The final rule stated that NMFS would work with a panel of stakeholders and gear experts to propose solutions for soft TEDs. The preamble to the final rule stated, ''This process should produce multiple initiatives for further evaluation, possibly including entirely new soft TED designs. If any of these initiatives produce a soft TED that is demonstrated to effectively exclude turtles, it will be approved for use without delay * * *. NMFS intends that successful improvements and modifications to existing soft TEDs that result in such TEDs effectively excluding sea turtles will be incorporated in the TED regulations through rulemaking.'' For this reason, the Parker TED is being certified through an interim final rule. The interim final rule is effective for 18 months in order to minimize possible adverse impacts on turtles. The 18-month period will allow NMFS to evaluate new information regarding the performance of the Parker TED under field conditions (see the section ''Justification for Period of Effectiveness'').

Approval of the Parker TED

Through this interim final rule, NMFS is approving the use of a new soft TED design known as the Parker TED, effective April 13, 1998, through October 13, 1999. The approval of the Parker TED restricts its use to specified trawls, based on the demonstrated effectiveness of the Parker TED in those trawls. The Parker TED is approved for use in all sizes and styles of trawls, except two-seam trawls with bibs or tongues attached, triple-wing trawls, and trawls in which the body taper is greater than 4b1p. Use of the Parker TED will be monitored through at-sea

observers on vessels to further assess shrimp catch and finfish bycatch reduction rates and to ensure that turtle release rates are applicable in commercial fishing activities.

Restriction of Soft TED Use to Specified Net Sizes and Styles

The December 19, 1996, final rule that removed the approval of four types of soft TEDs identified difficulty of installation and incompatibility with certain net types among the key problems with the existing soft TEDs. The results of the two TED testing sessions in 1997 underlined the importance of matching the candidate soft TEDs closely with specific installation and net requirements. This interim final rule provides detailed specifications for construction and installation of the Parker TED. The specificity of these requirements ensures that Parker TEDs constructed and installed according to the requirements will be effective TEDs and controls the problems with previous soft TED designs of incompatibility with various net types and improper installation. To ensure the proper installation of the Parker TED, NMFS intends to conduct special TED training sessions for soft TED makers. The TED manufacturers' training program will include certificates of training to the manufacturers and the development and distribution to fishermen of a list of manufacturers who have been trained in the new soft TED installation.

Because of the specificity of the Parker TED's requirements, enforcement officers will be better able to inspect the Parker TED and determine whether it is installed in a manner that will allow it to function effectively. Given the problems with previous versions of soft TEDs, NMFS has developed a 1998 soft TED enforcement plan to help ensure that the reintroduction of soft TEDs into the fishery will be successful. Among the elements of that plan, enforcement officers and gear experts will closely monitor the commercial implementation of the Parker TED at net shops and dockside trawlers, with the goal of finding and correcting any misapplication of the Parker TED's regulatory requirements. In addition to these education and monitoring initiatives, the 1998 enforcement plan includes enhanced resources dedicated toward TED at-sea enforcement and compliance. In previous years, most at-sea law enforcement has been conducted by the U.S. Coast Guard and by some state law enforcement agencies. In 1998, NMFS will be fielding enforcement officers for at-sea boardings to augment existing enforcement activities. These enforcement officers will be available to detect and deter TED violations in areas and times with historically high sea turtle strandings.

The specifications for the new soft TED design necessarily incorporate more terminology specific to net-making than the regulations for the previously approved soft TEDs, and, therefore, new definitions for trawl styles and webbing characteristics are added to the regulations. Definitions for three classes of trawls are added: Two-seam trawls; four-seam, straight-wing trawls; and four-seam, tapered-wing trawls. These classes encompass the three main types of net-body geometry in use in the commercial fishery. The two-seam trawls have a very simple design with top and bottom body panels of webbing that are directly attached to each other down the sides of the trawl (producing two sewing seams). The two-seam trawl is commonly known as a balloon trawl in the commercial shrimping industry. The four-seam trawls, on the other hand, incorporate two additional webbing panels between the top and bottom body panels down the sides; these side panels are called ''wings.'' Four-seam, straight-wing trawls, as the name implies, use wings whose upper and lower edges are parallel over its entire length. Western jib trawls and straight-wing flat nets are the primary styles of nets of this class in commercial use. In four-seam, tapered-wing trawls, the wing panels are triangular or trapezoidal in shape so that the top and bottom edges of the wings converge toward the rear of the trawl. Examples of four-seam, tapered-wing trawls in commercial shrimping use are the four-seam, semi-balloon trawls and tapered-wing flat nets. The Parker TED was evaluated in trawls of all three classes and is being approved for use through this interim final rule in all three classes of trawl. The installation requirements for the Parker TED vary, however, depending on the class of trawl used. In a four-seam, tapered-wing trawl and a two-seam trawl, the leading edge of the Parker TED excluder panel runs the width of the bottom body panel of the trawl. That is, the leading edge runs from ''seam-to-seam.'' In a four-seam, straight wing trawl, the leading edge of the excluder panel must be installed to run the width of the bottom body panel of the trawl and up half the height of each wing on either side.

Another major design element in shrimp trawl design is the inclusion of tongues or bibs. Tongues and bibs are additional pieces of webbing that extend the top, center portion of the leading edge of the trawl and include an eye for attachment of a towing bridle. This third bridle, in addition to the primary towing bridles that lead to the trawl doors or dummy-doors, allows the towing tension to be distributed away from the sides and toward the center of the trawl. The length of the third bridle is adjustable by the fisherman to vary the net's horizontal and vertical spreads. Tongues and bibs perform the same function in the trawl; tongues are usually formed into the top body panel and lie behind the headrope while bibs are usually added-on panels that are attached forward of the headrope. For the purposes of this interim final rule, however, tongues and bibs will be considered the same and only a regulatory definition of ''tongue'' is being added. Mongoose trawls are perhaps the best-known style of tongue trawls in commercial use. Mongoose trawls incorporate a four-seam, tapered-wing design in the body of the net, although bibs or tongues are combined with other classes of trawls as well. The Parker TED was evaluated in a variety of trawls with tongues. The Parker TED's configuration was distorted in a two-seam trawl with a tongue, but it retained a good configuration in four-seam trawls with tongues even at extreme ranges of center bridle tension and headrope flotation. The Parker TED is, therefore, being approved for use in four-seam trawls (both straight- and tapered-wing) with tongues, but not in two-seam trawls with tongues. A somewhat rare use of tongues is seen in the so-called ''triple-wing trawls,'' which incorporate a tongue in the center of the footrope in addition to a tongue in the headrope and are thus pulled with four towing bridles. The Parker TED was not evaluated in a triple-wing trawl and, consequently, is not approved for use in a triple-wing trawl.

Another element in shrimp trawl design is trawl taper. The fore-and-aft length of a trawl, relative to its headrope length, is largely determined by the rate of taper of the edges of the top and bottom body panels of the trawl. Taper is usually expressed as the ratio between the cuts in the components of the mesh that reduce the width of the panel of webbing and the cuts straight aft that extend the length of the panel of webbing. An understanding of net-making terminology is necessary to comprehend the conventions used in describing net taper. An individual mesh is composed of four equal lengths of twine, joined by four knots, and the webbing is usually hung in the body of a trawl so that all the meshes form diamond shapes, with the long axis of the diamonds oriented fore-and-aft. The two lengths of twine and the intervening

knot on the left and right sides of the mesh are known as ''points,'' and the individual lengths of twine are known as ''bars.'' Since a single bar is half the width of an entire mesh cutting, a bar on the outside edge of a panel of webbing reduces the width of that row of meshes by one half mesh. Continuing cutting in the direction through the bars on the opposite sides of each mesh and leaving an uncut edge of bars all lying in the same line produce an ''all-bar'' taper. An all-bar taper reduces the width of a panel of webbing by one mesh for every two rows of twine cut. The all-bar taper is the steepest angle of taper that is used in any portion of the soft TED design in this interim final rule. Lesser degrees of taper can be produced by interspersing bar cuts with point cuts—cuts straight aft through both lengths of twine in a point. A point cut extends the length of a webbing panel by one mesh without reducing the width. For example, ''2 bars, 1 point'' (2b1p) indicates a taper in which the net maker would cut a sequence of two bars (inward) followed by one point (aft). This 2b1p taper would reduce the width of a webbing panel by one mesh for every four rows of twine cut. Other bar-point combinations are possible, such as 4b1p, 6b1p, and 8b1p, which would correspond to increasingly steeper tapers approaching the angle of an all-bar taper. A ''straight'' or ''all-point'' cut indicates a cut that leaves all points along the cut edge and that does not reduce the width of the webbing panel. Figure 1 illustrates the components of trawl webbing and offers examples of different tapers:

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Webbing Taper Examples

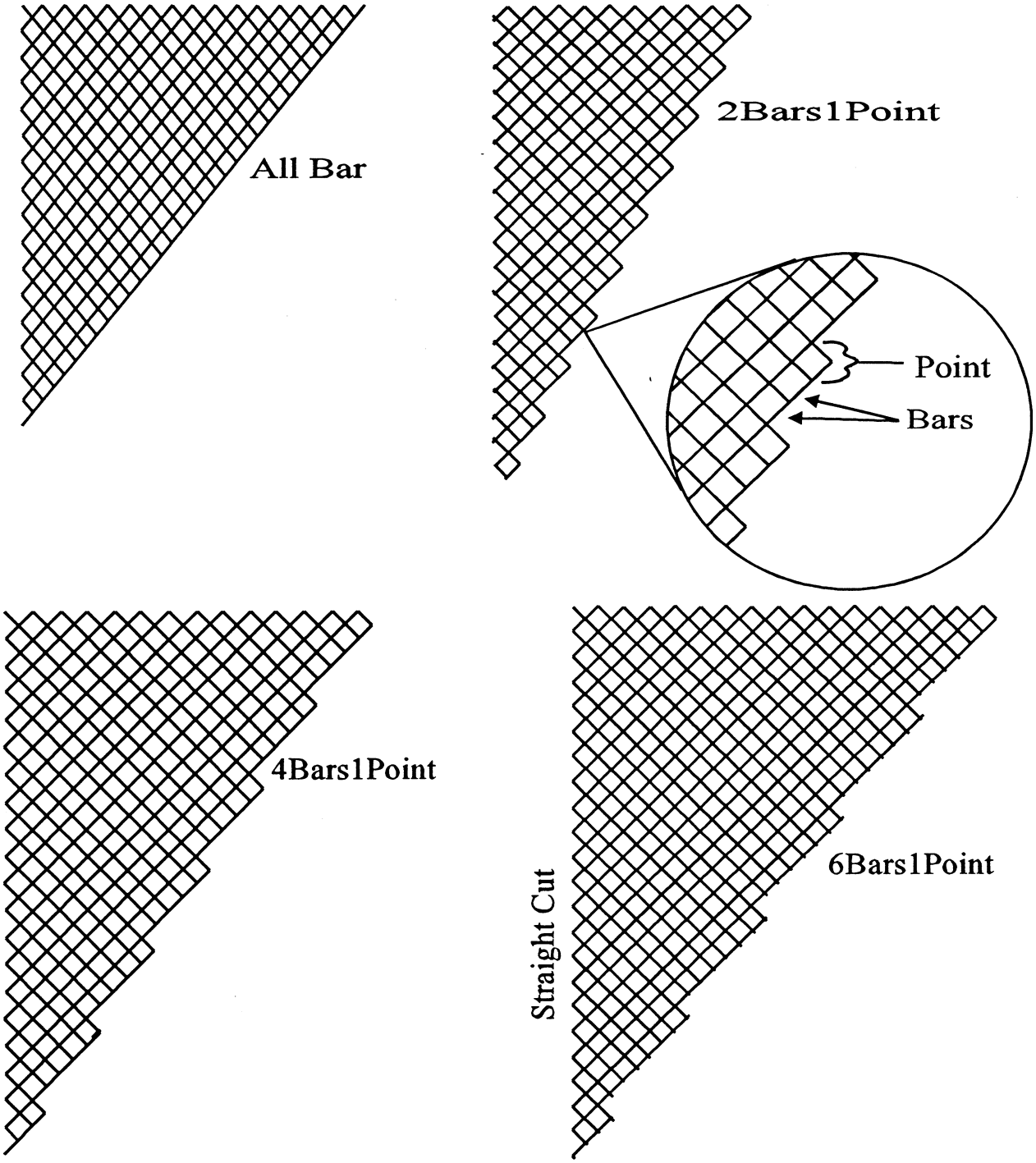

Figure 1. Illustration for Soft TED Designs of the Components of Trawl Webbing and Examples of Tapers.

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The concept of tapers is important to this interim final rule's construction requirements for both the Parker TED design and for the limitations on the styles of nets in which the Parker TED may be installed. This interim final rule allows the Parker TED to be installed and used in a range of trawl sizes. The installation points of the Parker TED may be moved forward or aft within the body of the trawl to the location where the panel fits properly as an excluder panel. During the 1997 TED testing sessions, the Parker TED was shown to be effective and to assume a proper configuration in a variety of trawls with tapers on the edges of the body panels of 4b1p or more gradual. In large trawls that use a strong body taper (6b1p was tested), the geometry of the trawl body appeared incompatible with the Parker TED. Therefore, this interim final rule allows installation of the Parker TED only in trawls with tapers on the edges of the body panels of 4b1p or less.

Justification for Period of Effectiveness

This interim final rule is effective from April 13, 1998 through October 13, 1999. This period of effectiveness is necessary to allow for the further testing of the soft TED designs and for the publishing of final protocols. The time period will also allow for the evaluation of the implementation of the commercial, training, and enforcement programs of the Parker TED. A minimum of 12 months is necessary to observe these new designs under all seasonal commercial fishing conditions. A rulemaking window of 6 months after 1 year of field testing will provide NMFS with ample time to review, analyze, and present the data and will give the public an opportunity for comment prior to publication of the final rule. Additionally, shrimpers will have time to make modifications to TEDs that may be required as a result of observations during the next year prior to the subsequent shrimp season in spring of 2000. A period of effectiveness beyond the 18-month period may unnecessarily impact turtles should the data analysis indicate that these soft TED designs are not effective at excluding turtles under normal fishing conditions.

Request for Comments

NMFS will accept written comments (see **ADDRESSES**) on this interim final rule until June 12, 1998. NMFS also intends to conduct an additional TED testing session, including continuing evaluations of soft TED designs, in May or June 1998. NMFS will announce the completion of the testing report from that session through a notice of availability in the **Federal Register**. NMFS may accept additional comments relevant to this action, following release of that TED testing report and prior to promulgation of a final rule replacing this interim final rule.

Classification

This action has been determined to be significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists, under 5 U.S.C. 553(b)(B), to waive prior notice and an opportunity for public comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because the shrimp fishery is currently underway in the offshore and eastern Gulf of Mexico with virtually all of those shrimp trawlers required to use TEDs. The provisions of this rule allow those fishermen the option of using a new design of soft TEDs in order to comply with the TED requirement. Additionally, effort in the nearshore and inshore shrimp fisheries in the Gulf and Atlantic Area will increase around the beginning of May. Fishermen traditionally spend the months of March and April rigging their vessels for the season. Delay in providing these fishermen with an additional option for compliance with the TED requirements would create disruption in the fishery through added gear costs and lost fishing time if fishermen commit to the use of certain gear during their vessel rigging period and subsequently choose to re-rig to use the newly approved soft TED design. Furthermore, the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council have both stressed the economic and environmental importance of reducing the bycatch of finfish in shrimp trawls. The Councils have moved to require bycatch reduction devices be installed in shrimp trawls through Amendment 9 to the Fishery Management Plan for the Gulf of Mexico Shrimp Fishery and through Amendment 2 to the Fishery Management Plan for the South Atlantic Shrimp Fishery. Soft TEDs, generally, are known to have valuable bycatch reduction abilities, and the introduction of this new soft TED design into the fishery will result in finfish bycatch reduction and may eventually provide fishermen with an additional option for complying with the gear requirements of the two fishery management plans' amendments. Because this interim final rule does not create any new regulatory burden but instead relieves regulatory restrictions by providing an additional option for complying with the existing sea turtle conservation requirements, under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required by 5 U.S.C. 553 or by any other law, under 5 U.S.C. 603(b) the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable to this rule. Accordingly, an initial Regulatory Flexibility Analysis was not prepared for this rule.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls. An EA prepared specifically for this action concludes that this interim final rule will have no significant impact on the human environment. A copy of the EA is available (see **ADDRESSES**).

List of Subjects

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine mammals.

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: April 6, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 217 and 227 are amended as follows:

PART 217—GENERAL PROVISIONS

1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 742a *et seq.*, 1361 *et seq.*, and 1531–1544, unless otherwise noted.

2. In § 217.12, definitions for ''Four-seam, straight-wing trawl'', ''Four-seam, tapered-wing trawl'', ''Taper'', ''Tongue'', ''Triple-wing trawl'', and ''Two-seam trawl'' are being added, in alphabetical order, to read as follows:

§ 217.12 Definitions.

* * * * *

Four-seam, straight-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two side panels of webbing. The upper and lower edges of the side panels of webbing are parallel over the entire length.

Four-seam, tapered-wing trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel, a bottom panel, and two

side panels of webbing. The upper and lower edges of the side panels of webbing converge toward the rear of the trawl.

* * * * *

Taper, in reference to the webbing used in trawls, means the angle of a cut used to shape the webbing, expressed as the ratio between the cuts that reduce the width of the webbing by cutting into the panel of webbing through one row of twine (bar cuts) and the cuts that extend the length of the panel of webbing by cutting straight aft through two adjoining rows of twine (point cuts). For example, sequentially cutting through the lengths of twine on opposite sides of a mesh, leaving an uncut edge of twines all lying in the same line, produces a relatively strong taper called ''all-bars''; making a sequence of 4-bar cuts followed by 1-point cut produces a more gradual taper called ''4 bars to 1 point'' or ''4b1p''; similarly, making a sequence of 2-bar cuts followed by 1-point cut produces a still more gradual taper called ''2b1p''; and making a sequence of cuts straight aft does not reduce the width of the panel and is called a ''straight'' or ''all-points'' cut.

* * * * *

Tongue means any piece of webbing along the top, center, leading edge of a trawl, whether lying behind or ahead of the headrope, to which a towing bridle can be attached for purposes of pulling the trawl net and/or adjusting the shape of the trawl.

* * * * *

Triple-wing trawl means a trawl with a tongue on the top, center, leading edge of the trawl and an additional tongue along the bottom, center, leading edge of the trawl.

Two-seam trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top panel and a bottom panel of webbing that are directly attached to each other down the sides of the trawl.

* * * * *

PART 227—THREATENED FISH AND WILDLIFE

3. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 227.12 also issued under 16 U.S.C. 1361 *et seq.*

4. In § 227.72, the second sentence of paragraph (e)(2)(iv)(B) is amended by replacing the text ''or paragraph (e)(4)(iii)(E)'' with the text ''or, prior to October 13, 1999, paragraph (e)(4)(iii)(A)(*4*)(*ii*)''; the first sentence of paragraph (e)(4)(iv) is amended by removing the text '', except for the modifications described in paragraph (e)(4)(iii)(E)''; and paragraph (e)(4)(iii) is revised to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(e) * * *

(4) * * *

(iii) *Soft TEDs.* Soft TEDs are TEDs with deflector panels made from polypropylene or polyethylene netting. Prior to October 13, 1999, the following soft TEDs are approved TEDs:

(A) *Parker TED.* The Parker TED is a soft TED, consisting of a single triangular panel, composed of webbing of two different mesh sizes, that forms a complete barrier inside a trawl and that angles toward an escape opening in the top of the trawl.

(*1*) *Excluder Panel.* (Figure 5) The excluder panel of the Parker TED must be constructed of a single triangular piece of 8-inch (20.3 cm) stretched mesh webbing and two trapezoidal pieces of 4-inch (10.2-cm) stretched mesh webbing. The webbing must consist of number 48 (3-mm thick) or larger polypropylene or polyethylene webbing that is heat-set knotted or braided. The leading edge of the 8-inch (20.3-cm) mesh panel must be 36 meshes wide. The 8-inch (20.3-cm) mesh panel must be tapered on each side with all-bar cuts to converge on an apex, such that the length of each side is 36 bars. The leading edges of the 4-inch (10.2-cm) mesh panels must be 8 meshes wide. The edges of the 4-inch (10.2-cm) mesh panels must be cut with all-bar cuts running parallel to each other, such that the length of the inner edge is 72 bars and the length of the outer edge is 89 bars and the resulting fore-and-aft edge is 8 meshes deep. The two 4-inch (10.2-cm) mesh panels must be sewn to the 8-inch (20.3-cm) mesh panel to create a single triangular excluder panel. The 72-bar edge of each 4-inch (10.2-cm) mesh panel must be securely joined with twine to one of the 36-bar edges of the 8-inch (20.3-cm) mesh panel, tied with knots at each knot of the 4-inch (10.2-cm) webbing and at least two wraps of twine around each bar of 4-inch (10.2-cm) mesh and the adjoining bar of the 8-inch (20.3-cm) mesh. The adjoining fore-and-aft edges of the two 4-inch (10.2-cm) mesh panels must be sewn together evenly.

(2) Limitations on which trawls may have a Parker TED installed. The Parker TED must not be installed or used in a two-seam trawl with a tongue, nor in a triple-wing trawl (a trawl with a tongue along the headrope and a second tongue along the footrope). The Parker TED may be installed and used in any other trawl if the taper of the body panels of the trawl does not exceed 4b1p and if it can be properly installed in compliance with paragraph (c)(1)(iii) of this section.

(3) Panel installation—(i) Leading edge attachment. The leading edge of the excluder panel must be attached to the inside of the bottom of the trawl across a straight row of meshes. For a two-seam trawl or a four-seam, tapered-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel, from seam to seam. For a four-seam, straight-wing trawl, the row of meshes for attachment to the trawl must run the entire width of the bottom body panel and half the height of each wing panel of the trawl. Every mesh of the leading edge of the excluder panel must be evenly sewn to this row of meshes; meshes may not be laced to the trawl. The row of meshes for attachment to the trawl must contain the following number of meshes, depending on the stretched mesh size used in the trawl: for a mesh size of 2¼ inches (5.7 cm), 152–168 meshes; for a mesh size of 2⅛ inches (5.4 cm), 161–178 meshes; for a mesh size of 2 inches (5.1 cm), 171–189 meshes; for a mesh size of 1⅞ inches (4.8 cm), 182–202 meshes; for a mesh size of 1¾ inches (4.4 cm), 196–216 meshes; for a mesh size of 1⅝ inches (4.1 cm), 211–233 meshes; for a mesh size of 1½ inches (3.8 cm), 228–252 meshes; for a mesh size of 1⅜ inches (3.5 cm), 249–275 meshes; and for a mesh size of 1¼ inches (3.2 cm), 274–302 meshes.

(ii) Apex attachment. The apex of the triangular excluder panel must be attached to the inside of the top body panel of the trawl at the centerline of the trawl. The distance, measured aft along the centerline of the top body panel from the same row of meshes for attachment of the excluder panel to the bottom body panel of the trawl, to the apex attachment point must contain the following number of meshes, depending on the stretched mesh size used in the trawl: for a mesh size of 2¼ inches (5.7 cm), 78–83 meshes; for a mesh size of 2⅛ inches (5.4 cm), 83–88 meshes; for a mesh size of 2 inches (5.1 cm), 87–93 meshes; for a mesh size of 1⅞ inches (4.8 cm) , 93–99 meshes; for a mesh size of 1¾ inches (4.4 cm) , 100–106 meshes; for a mesh size of 1⅝ inches (4.1 cm), 107–114 meshes; for a mesh size of 1½ inches (3.8 cm), 114–124 meshes; for a mesh size of 1⅜ inches (3.5 cm), 127–135 meshes; and for a mesh size of 1¼ inches (3.2 cm), 137–146 meshes.

(iii) Side attachment. The sides of the excluder panel must be attached evenly to the inside of the trawl from the outside attachment points of the

excluder panel's leading edge to the apex of the excluder panel. Each side must be sewn with the same sewing sequence, and, if the sides of the excluder panel cross rows of bars in the trawl, then the crossings must be distributed evenly over the length of the side attachment.

(4) Escape opening. The escape opening for the Parker soft TED must match one of the following specifications:

(i) Longitudinal cut. A slit at least 56 inches (1.4 m) in taut length must be cut along the centerline of the top body panel of the trawl net immediately forward of the apex of the panel webbing. The slit must not be covered or closed in any manner. The edges and end points of the slit must not be reinforced in any way; for example, by attaching additional rope or webbing or by changing the orientation of the webbing.

(ii) Leatherback escape opening. A horizontal cut extending from the attachment of one side of the deflector panel to the trawl to the attachment of the other side of the deflector panel to the trawl must be made in a single row of meshes across the top of the trawl and measure at least 96 inches (244 cm) in taut width. All trawl webbing above the deflector panel between the 96-inch (244-cm) cut and edges of the deflector panel must be removed. A rectangular flap of nylon webbing not larger than 2-inch (5.1-cm) stretched mesh may be sewn to the forward edge of the escape opening. The width of the flap must not be larger than the width of the forward edge of the escape opening. The flap must not extend more than 12 inches (30.4 cm) beyond the rear point of the escape opening. The sides of the flap may be attached to the top of the trawl but must not be attached farther aft than the row of meshes through the rear point of the escape opening. One row of steel chain not larger than 3/16 inch (4.76 mm) may be sewn evenly to the back edge of the flap. The stretched length of the chain must not exceed 96 inches (244 cm). A Parker TED using the escape opening described in this paragraph meets the requirements of paragraph (e)(2)(iv)(B) of this section.

(B) [Reserved]

* * * * *

5. Figures 6, 7, 8a and 8b, and 9a and 9b to part 227 are removed and reserved, and Figure 5 is revised to read as follows: Figure 5 to Part 227—Net Diagram for the Excluder Panel of the Parker Soft TED.

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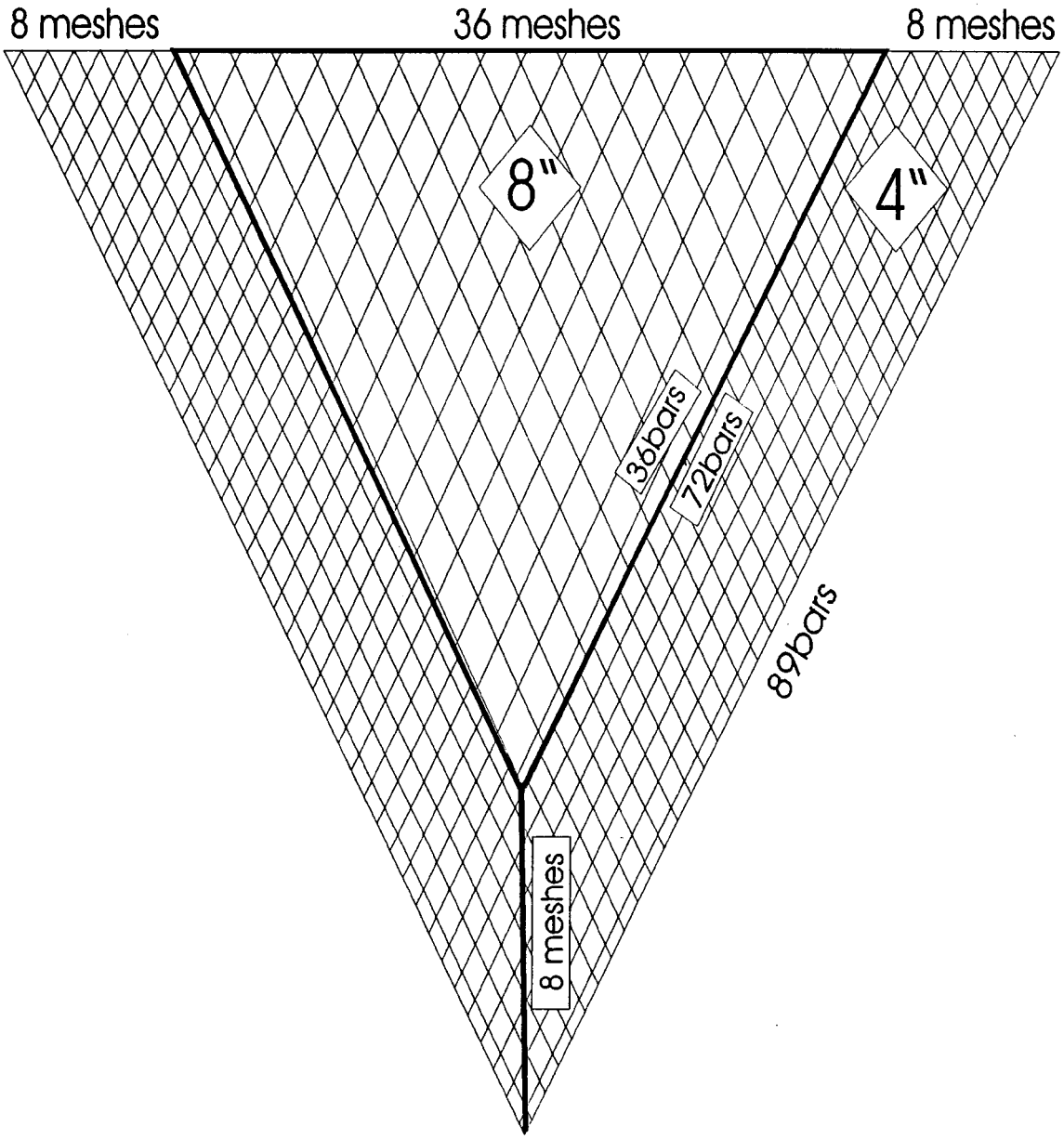
Parker Soft TED



The side panels are composed from 4-inch stretched mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).

The main panel is composed of 8-inch stretced mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).

[FR Doc. 98–9565 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 63, No. 70
Monday, April 13, 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

Food Safety and Inspection Service

9 CFR Parts 301, 318, and 320

[Docket No. 96–027P]

Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery and recovery systems comes within the definition of meat when these recovery systems are operated to ensure that the characteristics and composition of the resulting product are consistent with those of meat. The Agency is proposing to clarify the regulations and to supplement the rules for assuring compliance. In future rulemakings, the Agency expects to apply the process control-performance standards approach of this proposal to other types of operations for manufacturing meat and poultry trimmings.

DATES: Comments must be received June 12, 1998.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, Docket No. 96–027P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patricia F. Stolfa, Assistant Deputy Administrator, Regulations and Inspection Methods, Food Safety and Inspection Service, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION: The Food Safety and Inspection Service (FSIS) administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) to protect the health and welfare of consumers by preventing the distribution of meat and meat food products that are unwholesome, adulterated, or misbranded. FSIS's regulations (9 CFR chapter III) distinguish meat (essentially muscle that is skeletal or found in the tongue, diaphragm, heart, or esophagus) from other products of livestock carcasses (§ 301.2). In 1994, FSIS amended its regulations to recognize that product resulting from advanced meat/bone separation machinery and recovery systems comes within the definition of meat when these systems are operated to ensure that the characteristics and composition of the resulting product are consistent with those of meat (59 FR 62551, December 6, 1994).

A livestock (cattle, sheep, swine, goat, horse, mule, or other equine) product is misbranded under any of a number of circumstances, including if its labeling is false or misleading in any particular; if it is offered for sale under the name of another food; if it is an imitation of another food, unless its label bears (in type of uniform size and prominence) the word ''imitation'' and, immediately thereafter, the name of the food imitated; or if it purports to be or is represented as a food for which a definition and standard of identity or composition is prescribed by regulations, unless it conforms to the regulations and its label bears the name of the food specified in the definition and standard (21 U.S.C. 601(n)(1), (n)(2), (n)(3), and (n)(7)). A livestock product is adulterated if any valuable constituent has been in whole or in part omitted or abstracted therefrom; if any substance has been substituted wholly or in part therefor; if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is (economic adulteration) (21 U.S.C. 601(m)(8)). A product that does not come within the definition of meat in § 301.2(rr) may not be marketed as meat, and its use contrary to regulations such as the definition and standard in § 319.15(a) would result in misbranding and economic adulteration.

The FMIA prohibits the preparation of meat or meat food products for commerce except in compliance with the FMIA requirements and the selling, transporting, offering for sale or transportation, or receiving for transportation, in commerce, of meat or meat food products that are capable of use as human food and are adulterated or misbranded (21 U.S.C. 610(a) and (c)). Intrastate operations and transactions are effectively subject to the same prohibitions under State meat inspection programs, which must enforce requirements at least equal to those imposed under the FMIA, or designation for Federal inspection, whereby both intrastate and interstate operations in the State are federally inspected (21 U.S.C. 661(c)(1)).

FSIS now believes that the provisions adopted in 1994 are confusing and need revision to prevent misbranding and economic adulteration. Therefore, the Agency is proposing to clarify the scope of ''bone'' as used in the definition of meat and other aspects of the regulations and to reorganize and supplement the rules for assuring compliance with the regulations, taking into account information and developments since the 1994 rulemaking.

Previous Agency Action

The basis for the 1994 rulemaking was advances in recovery machinery: The development of meat/bone separators that emulated the physical action of hand-held high-speed knives for the removal of skeletal muscle tissue from bone had led to recovery systems that separated meat from bone by shaving, pressing, or scraping the muscle tissue from the bone surface, with the bones emerging essentially intact and in natural physical conformation, resulting in product that is comparable to meat derived by hand deboning (59 FR 62552–53). As FSIS stated in its final rule:

> * * * The machines do not grind, crush, or pulverize bones to separate muscle tissue, and the bones and the interconnecting soft tissues that link bones emerge from the process in a manner consistent with hand-deboning operations that use knives.
>
> * * * The advanced recovery systems produce distinct whole pieces of skeletal muscle tissue with a well-defined particulate size similar in consistency to (species)

trimmings derived by hand-deboning and used to formulate processed meat products. The color * * * is similar to that of (species) trimmings. * * * [T]he meat derived * * * has the functional and chemical characteristics of meat; there are no powdered bone or constituents of bone, *e.g.*, bone marrow, that are not in conformance with the definition and expectation of meat or that would render the product adulterated or misbranded * * * [59 FR 62553–54.]

After monitoring advances in meat/bone separation machinery for a decade, FSIS concluded it should amend its regulations so that they explicitly provided that when skeletal muscle is separated from livestock bones using advanced recovery systems under appropriate controls, the resulting product is treated as meat rather than as mechanically separated livestock product.

Mechanically separated livestock product, unlike meat, is made by mechanically separating and removing most of the bone from attached skeletal muscle of carcasses and parts of carcasses, using machinery that operates on the differing resistance of hard bone and soft tissue to passage through small openings. For 20 years the Department's position has been that although mechanically separated livestock product has many of the characteristics of meat and, as regulated, may be used as a meat ingredient in the formulation of quality meat food products, it is not meat (as defined in § 301.2(rr)). In particular, the consistency of mechanically separated livestock product and its content of bone and certain minerals, as well as muscle tissue, are materially different from those of meat, and these differences have potential consequences for finished product quality and for health and safety (see, *e.g.*, 47 FR 28214, 28223, June 29, 1982). Also, to the extent that it is made from materials which contain spinal cord and bone marrow in addition to muscle and fatty tissue, the cholesterol content of mechanically separated livestock product appears to be greater than the cholesterol content of meat (47 FR 28238).

Part 319 of the regulations specifies ''Mechanically Separated (Species)'' (MS(S)) as the name of mechanically separated livestock product that meets various regulatory requirements and limits the level at which, and products in which, MS(S) may be used (§§ 319.5 and 319.6). The Department has prohibited the use of MS(S) in certain meat food products, based on determinations about the basic characteristics expected in those products, and in baby, junior, and toddler foods, based on a determination that available information was insufficient to conclude that other regulatory restrictions are adequate to prevent the mottling of infants' teeth as a result of increased fluoride intakes (§ 319.6(d); see, *e.g.*, 47 FR 28240–41).

The MS(S) definition and standard does not specify the type of equipment used to separate and remove bone because, as intended by the Department, it covers product manufactured by any machinery that operates on the differing resistance of hard bone and soft tissue to passage through small openings, whether the machinery employs sieves, screens, or other devices and whether or not bones are prebroken before being fed into the equipment. However, the MS(S) definition and standard was not intended to apply to whole pieces of muscle removed from livestock bones by mechanical or other means. (47 FR 28223.)

In 1994, FSIS determined that there were meat/bone separators and recovery systems that were fundamentally different than the machines used to manufacture MS(S). The Agency's final rule specifically contrasted skeletal muscle separated from livestock bones using advanced recovery systems with the characteristics and composition of MS(S). FSIS concluded that, unlike with MS(S), ''consumer expectations of 'meat' are met with regard to the product obtained from the advances in meat/bone separation machinery and recovery systems, because the product's characteristics, in terms of appearance and texture, and its composition are similar to those of 'meat,' as currently defined'' (59 FR 62554).

The amendments adopted in 1994 did *not* change the applicability or requirements of the MS(S) regulations. Instead, they recognized FSIS's conclusion that product resulting from advanced meat/bone separation machinery and recovery systems comes within the definition of meat when the systems are operated to ensure that product characteristics and composition are consistent with those of meat.

In response to compliance concerns raised after the amendments took effect (on January 5, 1995), FSIS surveyed federally inspected establishments known to be using advanced meat/bone separation machinery and a variety of starting materials (in the fall of 1995), met with industry members, and issued a directive to inspection program personnel to increase consistency in the application of regulatory requirements (FSIS Directive 7160.1, September 13, 1996). FSIS then published a notice that summarized the survey results, discussed various issues, and solicited additional data and information from the public (1996 notice) (61 FR 57791, November 8, 1996). The Agency received 34 comments (from regulated industry members, various trade associations, equipment manufacturers, consumer organizations, consultants, academics, an FSIS inspector, and a U.S. Senator),[1] but no new data. The Agency subsequently took steps to assure that, as intended, product which contained spinal cord was not treated as meat (see, *e.g.*, FSIS Directive 7160.2, April 14, 1997).

After considering information obtained since 1994 on production practices and product characteristics, including a 1996 survey of establishments mechanically separating muscle from beef neck bones and additional data subsequently submitted to the Agency,[2] along with the views expressed in the comments submitted in response to the 1996 notice, FSIS came to believe that it is necessary to amend the regulations regarding products resulting from advanced meat/bone separation machinery. FSIS also initiated a review of available information on poultry product processing operations that may present similar issues under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*).[3] However, in view of the concerns about possible incorporation of spinal cord and bone marrow in products resulting from advanced meat/bone separation machinery, the Agency has determined that it should not delay action on this matter. FSIS will consider the poultry product issues during its reevaluation of how FSIS regulates operations for manufacturing meat and poultry trimmings (including grinding, low temperature rendering and other preparation and processing of whole muscle and other starting materials into comminuted livestock and poultry products). The Agency plans to obtain additional information on current industry practices and, in future rulemakings, to apply a consistent

[1] Comments submitted in response to the 1996 notice are available for public inspection in the FSIS Docket Clerk's office.

[2] The ''Advanced Meat Recovery System Survey Project Final Report'' (final report) (prepared February 21, 1997, by Dr. Robert J. Hasiak and Harry Marks), data submitted since the 1994 rulemaking, and an evaluation of information used in developing two of the proposed noncomplying product criteria (''Establishment of calcium and excess iron limits,'' Dr. Daniel L. Engeljohn, FSIS) are available from the FSIS Docket Clerk.

[3] See FSIS's September 20, 1996, letter responding to the National Turkey Federation's request to postpone the effective date of the Mechanically Separated (Kind of Poultry) final rule and adopt a regulation to treat product derived using advanced recovery systems as ''turkey''.

process control-performance standards approach to those operations as well.

Proposed Rule

The Agency's objective for this rulemaking is to assure that the regulations provide clear standards under which industry members assume their responsibility to avoid misbranding and economic adulteration in compliance with enforceable regulatory requirements that include adequate markers for bone-related components at greater than unavoidable defect levels (levels consistent with defects anticipated when meat is separated from bone by hand). In 1994, the Agency expected that the exclusion of meat/bone separation machinery and recovery systems which ''crush, grind, or pulverize bones'' meant that the calcium content limit and the requirement that ''the bones emerge comparable to those resulting from hand-deboning (*i.e.*, essentially intact and in natural physical conformation such that they are recognizable * * *,'' as specified in § 301.2(rr), would be sufficient to ensure that the production process is in control and the characteristics and composition of the resulting product are consistent with those of meat. As discussed below and evidenced by data on product composition that FSIS has evaluated since issuance of the 1994 final rule, FSIS's expectations have not been borne out. FSIS believes that this rulemaking is necessary to accomplish the intended purpose of the amendments adopted in 1994: ensuring control of the production process to prevent the recovery of soft as well as hard bone tissues and providing adequate bases for verifying the exclusion of bone-related components and, thus, the production of meat.

Moreover, the Agency now believes that it is inappropriate to focus on the physical condition of bones, particularly at an intermediate processing step, rather than on the food product being recovered by the machinery. In addition, experience evidences that deciding whether ''* * * bones emerge . . . essentially intact and in natural physical conformation * * *'' calls for such individualized judgments that continuing controversy is inevitable. Application of the emerging bones criterion has involved the Agency and its personnel in questions about bones compressed or compacted during mechanical meat/bone separation into bone ''cakes'' or ''plugs''. Efforts by FSIS personnel to determine by visual examination whether bones—as they emerge or after disassembly—are essentially intact and in the same natural physical conformation as when they entered the system such that they are recognizable as neck bones, rib bones, *etc.* (Paragraphs I.D., E., and F. of FSIS Directive 7160.1) have not resulted in consistent judgments, either during in-plant verifications or in the laboratory.[4]

Nor does the Agency have confidence that these judgments are correlated with the regulatory objective: the operation of recovery systems to prepare products that come within the definition of meat. In FSIS's view, manufacturers should control the advanced recovery production process to prevent the incorporation of soft bone-related components as well as hard bone (bone solids), and the Agency should focus on product composition in verifying whether manufacturers are fulfilling this responsibility.

As is clear from provisions of the proposed rule, however, FSIS views replacement of the essentially intact-natural physical conformation criterion as a question of regulatory focus, not as an abandonment of visual observations. Thus, for example, comparing bones entering and exiting a recovery system may well be appropriate, or even sufficient, when deciding whether spinal cord, a bone-related component, is being incorporated into a product.

During this rulemaking, inspection program personnel will continue to observe conditions that are relevant in determining whether ''recovery systems * * * crush, grind, or pulverize bones'' and, hence, are excluded by § 301.2(rr). However, the Agency intends to withdraw its instruction to inspection program personnel to disassemble bones that emerge in a compacted mass (FSIS Directive 7160.2, Paragraph I.D.2.). Especially when performed before another processing step,[5] this procedure does not appear to be a reliable predictor of whether a system is recovering bone-related components other than calcified tissue as well as skeletal muscle tissue.

Finally, the Agency believes that the structure of the 1994 amendments has contributed to the problem. FSIS's purpose in adding language to the definition of meat in § 301.2(rr) was to clarify—not to expand—the scope of the definition by providing the conditions under which advanced meat/bone separation machinery and recovery systems must operate to yield meat. The Agency now recognizes that addressing these conditions in the definition has resulted in confusion. For example, comments received by the Agency indicate that some members of the public have misconstrued the calcium content criterion as defining a characteristic of meat, rather than as setting a regulatory limit. FSIS is *not* defining meat in terms of calcium content. Instead, the Agency is using calcium content as a measure for determining that a product has more hard bone (calcified tissue) than is unavoidable as a defect, consistent with current good manufacturing practices.

In the proposed rule, the definition of meat reflects, with certain clarifications, the definition of meat before the 1994 rulemaking, which the 1994 amendments designated as subparagraph (1) of § 301.2(rr). The regulatory requirements for deriving meat by mechanically separating skeletal muscle tissue from the bones of livestock using advances in mechanical meat/bone separation machinery and recovery systems are in revised § 318.24, instead of subparagraph (2) of the definition of meat. As amended by the proposed rule, the definition of meat would specify that ''the portions of bone * * * that normally accompany the muscle tissue * * *'' are the bones found in bone-in products (*e.g.*, T-bone and porterhouse steaks) and that bone includes bone-related components such as bone marrow and spinal cord, as well as hard bone. The statement on the scope of bone (proposed to be designated as subparagraph (2)) would appear after the statement, in the current definition of meat, that meat does not include muscle found in lips, snouts, and ears (the second sentence of the definition, proposed to be redesignated as subparagraph (1)).

The proposed revision of § 318.24 sets out the regulatory requirements that would apply whenever an establishment operator uses advances in mechanical meat/bone separation machinery to recover meat. As amended, paragraph (a) of § 318.24 would provide that:

Meat, as defined in § 301.2 of this chapter, may be derived by mechanically separating

[4] These efforts have included an attempt by pathologists at FSIS's Eastern Laboratory to ''score'' beef neck bone samples collected in the 1996 survey (before bones entered and after they exited meat/bone separation machinery) using criteria that divided bones into three categories (basically (1) recognizable and essentially intact, (2) recognizable with occasional fracturing and/or abrasion/laceration or surface polishing, but no evidence of crushing and minimal bone dust on external surfaces, and (3) not intact with routine fracturing, loss of joint integrity, cartilage, and marrow color, and evidence of crushing and bone dust accumulation external surfaces). (See Attachment 2 to the final report for the criteria.)

[5] A number of establishments utilize a process that includes a final desinewing procedure to remove sinew, tendons, cartilage, and/or incidental bone chips.

skeletal muscle tissue from the bones of livestock using advances in mechanical meat/bone separation machinery and systems that, in accordance with this section, recover meat without crushing, grinding, pulverizing, or otherwise incorporating hard bone or bone-related components.

Adoption of this provision will clarify the regulation by shifting the focus from whether recovery systems ''crush, grind, or pulverize bones'' to the reason why FSIS has disqualified such systems: they incorporate hard bone and related components into the resulting product. This clarification will help prevent debates over how machinery operates (*e.g.*, whether an establishment's use of a particular equipment model crushes bones) and will establish a standard that is not dependent on how machinery operates. For example, if a system were to utilize centrifugal force or suction to recover meat, the bones might not be crushed, ground, or pulverized and the resulting product might have a very low calcium content, even though the action that separates muscle tissue from bones recovers bone-related components other than calcified tissue, thus, resulting in product that is not meat.

FSIS is proposing to revise paragraph (b) of § 318.24 because the Agency no longer can say with confidence that under the compliance requirements adopted in 1994, product derived using advances in meat/bone separation machinery and recovery systems—unlike MS(S)—does not contain powdered bone or constituents of bone such as bone marrow that are not in conformance with the definition and expectation of meat or would render the product adulterated or misbranded (59 FR 62554). After considering additional information on evolving manufacturing practices and product composition, the Agency has tentatively concluded that demonstrating compliance with a limit on calcium content does not suffice to ensure that the resulting product is comparable to meat derived by hand deboning (59 FR 62553).[6]

Paragraph (b) of § 318.4 of the FMIA regulations has long provided that in order for an establishment operator to carry out effectively the responsibility to comply with the FMIA and the regulations thereunder, the operator must institute appropriate measures to assure (among other things) the preparation and labeling of products strictly in accordance with the requirements of those regulations. In the case of advanced meat/bone separation machinery and recovery systems, the Agency now believes that a process control approach is necessary to achieve compliance. Therefore, FSIS is proposing to revise paragraph (b) of § 318.24 by replacing the compliance program parameters prescribed in 1994 (calcium content verification based on lot-by-lot sample analyses) with a requirement that, as a prerequisite to labeling or using product derived by mechanically separating skeletal muscle tissue from livestock bones as meat, an establishment operator must implement and document procedures that ensure that the establishment's production process is in control (proposed introductory text of paragraph (b)).[7]

Proposed paragraph (b)(1) of § 318.24 provides that if any of the noncomplying product provisions of paragraph (c)(1) applies to the resulting product, the production process is not in control. FSIS is not proposing to prescribe how establishment operators maintain control of the production process. The proposed rule would leave each operator free to determine what mix of procedures is best for the particular establishment and to change procedures over time. FSIS is proposing, however, to require that the documentation of an establishment's procedures include, in addition to a description of the procedures themselves, information that substantiates their effectiveness in preventing the incorporation of hard bone and bone-related components, including bone marrow and spinal cord (proposed paragraph (b)(2)). To illustrate the types of documentation that FSIS expects establishments would maintain to comply with this requirement, proposed paragraph (b)(2) includes two examples: information on the characteristics of the product that results when equipment is operated pursuant to manufacturer specifications and records of establishment monitoring and verification activities.

Establishment procedures and substantiating information, along with any other data generated using the process control procedures, would be required to be made available to inspection program personnel (proposed paragraph (b)(3)). FSIS is proposing to amend § 320.1(b)(10) to reflect the fact that, if amended as proposed, § 318.24 would require records that document control of the production process when advanced meat/bone separation machinery and recovery systems are used to produce meat. (See also the record maintenance, retention, and access rules in §§ 320.2, 320.3, and 320.4.)

The purpose of proposed paragraph (c)(1) of § 318.24 is to identify circumstances that would preclude treating product resulting from advanced meat/bone separation machinery and recovery systems as meat. These provisions do not (individually or collectively, or directly or by implication) describe expected or accepted characteristics of meat. Instead, under any of these circumstances, product recovered using mechanical meat/bone separation machinery is not meat.

The proposed rule subdivides paragraph (c)(1) into clauses that identify the three bone-related components addressed therein: (i) bone solids, (ii) bone marrow, and (iii) spinal cord. The Agency is using this format to emphasize that the objective is to make determinations about bone-related components and not, for example, to control the amounts of the essential nutrients calcium and iron, which are used as markers for hard bone and bone marrow, respectively. The inclusion of other markers for bone-related components, such as an alternative method for finding that bone marrow is present in a measurably lower amount or a bone marrow indicator that, unlike proposed clause (ii)(B), does not measure excess iron content, might be appropriate. However, FSIS's tentative judgment is that the criteria in proposed paragraph (c)(1) would provide adequate bases for noncomplying product determinations.

FSIS is proposing, in § 318.24(c)(1)(i), to change the criterion for bone solids from a calcium content limit of no more than 0.15 percent or 150 mg per 100 grams of product, within a tolerance of 0.03 percent or 30 mg per 100 grams of product (*i.e.*, if any analytical result is more than 0.18 percent or 180 mg per 100 grams of product), to a proscription of more than 130.0 mg of calcium per 100 grams. This aspect of the proposal reflects the Agency's tentative judgment that the existing calcium content limit should be reduced because it is higher than the level that is unavoidable under current good manufacturing practices. The Agency also believes that the calcium content limit should be stated as an absolute maximum (*i.e.*, with no tolerance) because accounting for analytical (and any other) variability is a production process control question for industry to address.

[6] For example, based on the levels of iron in beef neck bone products sampled in FSIS's 1996 survey and in both beef and pork products prepared at a number of other official establishments (*i.e.*, levels that are beyond the range of values reported for muscle tissues), bone marrow may be present in products that comply with the calcium content limit. (See, *e.g.*, pages 6, 8, and 9 and Figure 2 (page 23) of the final report on the 1996 survey.)

[7] To avoid possible confusion, FSIS notes that adoption of this proposed requirement would have no effect on the procedures or other labeling rules in part 317 of the regulations.

In developing the proposed calcium cut-off, FSIS evaluated data obtained in the 1996 survey of product recovered from beef neck bones and reviewed other information that has become available since 1994.[8] The Agency found it particularly noteworthy that despite the abrasion of bones and the increase in exposed surfaces that results when neck bones are split prior to meat/bone separation, 90 percent of the samples analyzed in the 1996 survey would have been in compliance under this limit. Nevertheless, FSIS is very interested in receiving additional information on the composition of products recovered from materials other than neck bones before it finally determines whether, and if so, by how much, to reduce the existing calcium content limit. The Agency is especially interested in receiving information on production practices for mechanically separating pork meat from pork bones and, in particular, whether available data support establishing a different, species-specific limit for the calcium content of the resulting product.

FSIS is proposing, in § 318.24(c)(1)(ii) and (c)(1)(iii), to replace the emerging bones criterion (''the bones emerge comparable to those resulting from hand-deboning (*i.e.*, essentially intact and in natural physical conformation such that they are recognizable * * *)'') with noncompliance criteria for bone marrow and spinal cord. Under proposed clause (ii), either of two conditions would constitute failure to comply: the presence of bone marrow in bones entering the recovery system and its absence or presence in a measurably lower amount in bones exiting the recovery system, or an excess iron content in the resulting product, as determined by a specified formula (proposed clauses (ii)(A) and (ii)(B), respectively).

Assessing products for bone marrow content has been controversial, in large part because the composition of marrow and muscle tissues overlap (*i.e.*, they both contain such substances as fat, protein, and cholesterol). This has engendered debates about whether a ''unique'' constituent of marrow can be identified and and its presence reliably measured. What is not in dispute is the Agency's longstanding position that marrow is part of bone, not muscle, and that bone marrow is a feature of MS(S), not meat. This proposal makes that position clearer (proposed subparagraph (2) of the § 301.2(rr) definition of meat). It also shifts the regulatory focus from precisely characterizing a product or product component to determining product noncompliance (proposed § 318.24(c)(1)).

Under a noncompliance approach, the issue becomes the identification of a criterion that can be associated with the presence of bone marrow above an unavoidable defect level. Excess iron is such a criterion,[9] and the Agency has developed a formula for determining excess iron content. Using data collected in FSIS's 1996 survey and other data (from both the literature and industry members) on the relative amounts of iron and protein in muscle trimmed by hand and in product resulting from the use of advanced mechanical meat/bone separation machinery to recover meat from beef neck bones, as sampled in the 1996 survey, the Agency derived general values to represent the ratio of iron content to protein content in beef and in pork. The beef value, 0.067, is based on samples collected in the 1996 survey. The pork value, 0.034, is based on USDA Handbook 8 and other reported data indicating that the ratio of iron content to protein content in pork is half that of the ratio in beef. FSIS then used these values to calculate a figure that represents excess iron: more than 1.80 mg of iron per 100 grams of product.

Under proposed clause (ii)(B), unless an establishment's operator has verified and documented an alternative value for the ratio of iron content to protein content (as explained below), a difference of more than 1.80 between a product's iron content and its protein content multiplied by 0.067 or 0.034 constitutes noncompliance. (In other words, when [iron content—(protein content x 0.067)] > 1.80 mg per 100 grams of beef product or when [iron content—(protein content x 0.034)] > 1.80 mg per 100 grams of pork product, there is noncompliance.) Almost 40 percent of the samples in the 1996 survey of product recovered from beef neck bones would not have been in compliance under the standard proposed for beef products. Given the significant amounts of marrow in beef neck bones and the exposure of additional surface area when neck bones are split prior to meat/bone separation, this finding indicates that unless operators control the production process, primarily by controlling the pressure applied by advanced recovery systems, they can recover bone marrow. A histological examination of the 1996 survey samples of products that were the result of hand trimming and those that were the result of mechanical separation from neck bones, for hematopoietic cells (blood cell precursors), supports the Agency's tentative conclusion that a large proportion of the latter included bone marrow (see pages 4, 6, and 10 of the final report).[10]

FSIS notes that the iron content of samples collected in the 1996 survey was determined using a hydrochloric acid wet ash method. This method is known to recover less iron than two other reliable methods for determining iron content: the sulfuric acid wet ash method and the dry ash method. The Agency is interested in receiving comments on its tentative conclusion that despite differences in the amounts recovered, clause (ii)(B) of § 318.24 need not address iron methodology.

FSIS recognizes that values based on the specific carcass part used in an advanced recovery system would more accurately represent the iron to protein ratio of meat from that part. Therefore, the proviso in proposed clause (ii)(B) states that when the operator of an establishment has verified and documented the ratio of iron content to protein content in the skeletal muscle tissue attached to bones prior to their entering the recovery system, based on analyses of hand-trimmed samples, that value is to be substituted for the multiplier 0.067 or 0.034 (as applicable) with respect to product that the establishment mechanically separates from those bones (*e.g.*, product derived by mechanically separating skeletal muscle tissue from neck bones). Addressing the use of alternative values clearly sets out when a noncompliance determination is to be based on an establishment's own value. This provision would assure that FSIS acknowledges the product-specific values that an establishment has elected to use in ensuring its production process is in control.

FSIS wishes to emphasize that the proposed rule does not prescribe how

[8] See, for example, the industry data submitted to FSIS by the American Meat Institute (''AMR Research Update,'' July 16, 1997) and the Cargill Animal Nutrition & Meat Sector (''Advanced Meat (Poultry) Recovery System,'' August 25, 1997, cover letter to Daniel L. Engeljohn, FSIS).

[9] Research and other reports supporting the position that product resulting from advanced meat/bone separation machinery has a higher iron content than meat prepared by hand trimming include FSIS's 1996 survey and a special committee report prepared in response to consumer concerns by the American Meat Science Association (''Advanced meat recovery systems: A scientific review of the status, with conclusions,'' AMSA, 444 North Michigan Avenue, Chicago Illinois 60611; May 19, 1997).

[10] FSIS scientists conducted this examination because hematopoietic cells have been identified as an indicator of bone marrow. The results confirm the potential usefulness of hematopoietic cells in identifying the presence of bone marrow, and the Agency is now considering volumetric hematopoietic cellular residue and other possible measures of bone marrow content.

establishment operators ensure that they are achieving process control. If adopted, operators could utilize whatever techniques work best for them. Among other things, they might wish to pursue use of pH (potential of hydrogen, a measure of the acidity or alkalinity of a solution), hematopoietic cell concentration, or other variables that have been investigated as indices of bone marrow.[11]

The provisions of the proposed rule do not address cholesterol content, which is found in widely varying amounts in livestock carcass tissues. However, if manufacturers improve the effectiveness of processing controls in preventing the recovery of bone marrow, along with skeletal muscle tissue, FSIS would expect to see some reduction in the cholesterol content of the resulting product, given the higher cholesterol content of bone marrow as compared with muscle tissues and the evidence in the 1996 survey that bone marrow has been incorporated in product derived by mechanically separating muscle from beef neck bones.

Under proposed clause (iii), either of two conditions would constitute failure to comply: the presence of spinal cord in bones entering the recovery system and its absence or presence at a lower level in bones exiting the recovery system or the identification of central nervous system tissue in the product. Because the Agency does not view any level of spinal cord as consistent with defects anticipated when muscle is trimmed from bones by hand, the criterion in the first portion of this provision is presence at a lower level.

During the 1996 survey, the Agency began adapting existing technology for identifying central nervous system tissue based on histological examination of prepared samples to determine whether characteristic features of central nervous system tissue were present (see pages 4, 6, and 10 of the final report). Work on this methodology, which FSIS has shared with industry members, has proceeded to the point where the Agency is confident that the information that the method yields is useful in evaluating the products of advanced mechanical meat/bone separation machinery, but it has not yet been published in a peer reviewed journal. (FSIS generally uses published methods to determine whether there has been a violation of law.)

[11] See, *e.g.*, K. Pickering, *et al.*, Investigation of Methods to Detect Mechanically Recovered Meat in Meat Products—IV: Immunology, Meat Science, 40:327–36 (1995); R.A. Field and P. Arasu, A simple method for estimating amount of red marrow present in mechanically deboned meat, J. Food Sci., 46:1622 (1981).

Adoption of the proposed rule also would clarify what now appears to be a requirement to market product not in compliance with the calcium content limit as MS(S) (last sentence of current § 318.24(b)(1)). Under proposed paragraph (c)(2) of § 318.24, if product that may not be labeled or used as meat meets the requirements of § 319.5(a) (the MS(S) definition and standard), it may bear the name ''Mechanically Separated (Species)''.

In view of comments received in response to the 1996 notice, the Agency wishes to note two additional points about the role of this rulemaking, as opposed to other FSIS initiatives. First, undertaking this rulemaking is consistent with the philosophy underlying the modernization of FSIS's regulatory system and not, as some have asserted, contrary to the Agency's efforts to focus on food safety concerns. FSIS's decisions about how best to utilize Agency resources in no way abrogate industry members' responsibility to comply with statutory requirements and prohibitions, including those mandated to protect the public against products that are misbranded or economically adulterated. Moreover, the amendments in this proposed rule are designed to further the Agency's objective of shifting from a command-and-control approach that prescribes how industry members conduct their operations to a standard-setting approach under which industry members are responsible for achieving compliance and FSIS focuses on verifying the effectiveness of an establishment's processes and process controls.

Second, the amendments that FSIS is proposing to increase the assurance that products marketed as meat do not include spinal cord are not intended as a response to concerns that some have expressed about spongiform encephalopathies. Available data indicate that the United States is bovine spongiform encephalopathy (BSE) free. The Agency will continue its extensive monitoring and participation in USDA and interagency efforts to investigate the public health questions raised by evidence of the transmissibility of BSE. If, as a result, FSIS determines that further regulatory action is needed to protect the public health, it will address the incorporation of central nervous system tissue and other carcass components of potential concern, if any, in the range of animal food products in which they may be found.

Future Agency Action

As noted above, the Agency is reevaluating how it regulates other types of operations that are used to manufacture meat and poultry trimmings from various starting materials and expects that, in future rulemakings, it will apply a process control-performance standards approach to those operations as well. The areas that FSIS expects to address include the development of criteria for the use of meat or poultry ingredients in formulating livestock products and poultry products (as beef, chicken meat, turkey, *etc.*) and criteria for distinguishing between these ingredients and ''byproducts'' (including, *e.g.*, technology dependent requirements and nutrition-related standards).

This effort is part of a comprehensive review of current regulatory requirements and their implementation by FSIS personnel. To achieve the objectives of a modernized regulatory system, FSIS plans to move from a command-and-control approach toward an approach that establishes the standards that industry must meet and provides appropriate flexibility in how they are to be achieved or satisfied.

FSIS also plans to consolidate the FMIA regulations (9 CFR chapter III, subchapter A) and the PPIA regulations (9 CFR chapter III, subchapter C). The Agency believes that this will provide a vehicle for reconsidering the current differences between these sets of regulations. Unless there is a basis, in the statutes or the regulated practices or products, for different requirements, FSIS intends to implement regulatory requirements that do not distinguish between livestock and poultry product establishments or their products.

Executive Order 12866 and Effect on Small Entities

FSIS has determined that this proposed rule is not a significant regulatory action under the criteria set forth in E.O. 12866 because it will not 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; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or other rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. The proposed rule would clarify the regulations and supplement the rules for assuring compliance. Adoption of the

proposed amendments to the definition of meat in § 301.2(rr) would not change the scope of the products that are covered by the definition (in terms of their characteristics or composition). However, FSIS believes that replacing the emerging bones criterion with noncompliance criteria for bone-related components will increase the assurance that, as stated in the 1994 final rule, product marketed as meat ''conforms to the definition of 'meat' because it has the functional and chemical characteristics of meat; there are no powdered bone or constituents of bone, *e.g.*, bone marrow, that are not in conformance with the definition and expectation of meat * * *'' (59 FR 62554).

To prevent noncompliance based on bone marrow content, operations utilizing starting materials that include marrow must control the production process, primarily by controlling the pressure applied by advanced recovery systems. Based on the 1996 survey results, the Agency anticipates that some operations would achieve compliance by reducing current pressure levels, which would result in a small reduction in yield. However, as noted above, the Agency's position that marrow is part of bone and that bone, including bone marrow, is a feature of MS(S), not meat, is a longstanding one.

Controlling the pressure applied also would minimize the effect, if any, of the proposed change in the noncompliance criterion for bone solids. The proposal to reduce the level of calcium (used as a measure of bone solids) reflects the Agency's belief that the existing calcium content limit does not ensure that manufacturers limit bone solids to an unavoidable defect level, as evidenced by the levels currently achieved. If FSIS adopts a rule that lowers the amount of calcium that constitutes noncompliance, its decision will be reflective of information on what operators using good manufacturing practices and controlling their production processes already can and do achieve.

Adoption of a requirement to implement and document procedures that ensure the production process is in control is likely to result in some increase in operators' current expenditures.[12] However, the Agency has long required, in § 318.4(b), that to carry out effectively the responsibility to comply with the FMIA and the regulations thereunder, an establishment's operator must institute appropriate measures to assure the preparation and labeling of products strictly in accordance with regulatory requirements. FSIS now believes that a process control approach is necessary to achieve compliance. Moreover, the proposed rule would replace a prescriptive compliance program for verifying calcium content (including lot-by-lot sample analyses) with a performance standard (preventing the incorporation of hard bone and bone-related components).

In addition to the limited nature of the amendments and the marginal increase in anticipated costs, the Agency expects that it will continue to be large firms that are interested in utilizing advanced meat/bone separation machinery. Therefore, FSIS also certifies that if adopted, this proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), sections 603 and 604 do not apply.

Executive Order 12898

FSIS has considered potential impacts of this proposed rule on environmental and health conditions in minority and low-income communities pursuant to E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations). Adoption of the proposed rule would not require federally inspected establishments to relocate or alter their operations in ways that could adversely affect the public health or environment in these communities. Nor would it exclude any persons or populations from participation in FSIS programs, deny any persons or populations the benefits of FSIS programs, or subject any persons or populations to discrimination because of their race, color, or national origin.

Executive Order 12988

FSIS has reviewed this proposal as provided in E.O. 12988 (Civil Justice Reform). Section 408 of the FMIA (21 U.S.C. 678) preempts various actions by States, territories, and the District of Columbia. They cannot impose requirements with respect to the premises, facilities, or operations of federally inspected establishments that are in addition to or different than those made under the FMIA, except that they may impose recordkeeping and other access and examination requirements if consistent with section 202 of the FMIA (21 U.S.C. 642). They also cannot impose marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under the FMIA with respect to articles prepared at such establishments. They may, however, consistent with the FMIA's requirements, exercise concurrent jurisdiction over articles that the FMIA requires to be inspected, for the purpose of preventing the distribution of adulterated or misbranded food which is outside of federally inspected establishments or, in the case of imported articles, which are not at federally inspected establishments or after their entry into the United States.

The proposal specifies how, if adopted, the amendments would change current regulations. In other respects, regulatory requirements and procedures (including the rules for directing that the use of labeling be withheld under section 7(e) of the FMIA (21 U.S.C. 607(e)) are unchanged. If adopted, the amendments would not apply retroactively.

Paperwork Reduction Act

FSIS has reviewed the collections of information affected by this proposed rule under the Paperwork Reduction Act (44 U.S.C. chapter 35). The proposed revision of paragraph (b) of § 318.24 would replace the calcium content sampling and records requirements, previously approved by the Office of Management and Budget (OMB) under control number 0583–0095, with a requirement to implement and document procedures that ensure the production process is in control. If FSIS adopts this portion of the proposed rule, it will request that OMB replace the 15,600 burden hours for § 318.24(b) calcium content sampling and recordkeeping with 13,815 burden hours for documenting process control.

List of Subjects

9 CFR Part 301

Meat and meat products.

9 CFR Part 318

Meat and meat products, Meat inspection, Records.

9 CFR Part 320

Meat inspection, Records.

For the reasons set forth above, the Food Safety and Inspection Service is proposing to amend 9 CFR chapter III as follows:

PART 301—TERMINOLOGY

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, and 2.53.

In § 301.2, paragraph (rr) is revised to read as follows:

[12] A copy of the Agency's 1994 economic impact analysis, which assumed the annual cost of calcium content monitoring to be $5,000 per meat/bone separation machine, is available from the FSIS Docket Clerk.

§ 301.2 Definitions.

* * * * *

(rr) *Meat.* The part of the muscle of any cattle, sheep, swine, or goats that is skeletal or that is found in the tongue, diaphragm, heart, or esophagus, with or without the accompanying and overlying fat, and the portions of bone (in bone-in product such as T-bone or porterhouse steak), skin, sinew, nerve, and blood vessels that normally accompany the muscle tissue and that are not separated from it in the process of dressing. As applied to products of equines, this term has a comparable meaning.

(1) Meat does not include the muscle found in the lips, snout, or ears.

(2) Bone includes hard bone and related components such as bone marrow and spinal cord.

* * * * *

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3.–4. The authority citation for part 318 is revised to read as follows:

Authority: 7 U.S.C. 138f, 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, and 2.53.

5. Section 318.24 is revised to read as follows:

§ 318.24 Product prepared using advanced meat/bone separation machinery; process control.

(a) *General.* Meat, as defined in § 301.2 of this chapter, may be derived by mechanically separating skeletal muscle tissue from the bones of livestock using advances in mechanical meat/bone separation machinery and systems that, in accordance with this section, recover meat without crushing, grinding, pulverizing, or otherwise incorporating hard bone or bone-related components.

(b) *Process control.* As a prerequisite to labeling or using product derived by mechanically separating skeletal muscle tissue from livestock bones as meat, the operator of an establishment must implement and document procedures that ensure the establishment's production process is in control.

(1) The production process is not in control if any provision of paragraph (c)(1) of this section applies to the resulting product.

(2) The documentation must include a description of the procedures that the establishment has implemented and information that substantiates the effectiveness of these procedures to prevent the incorporation of hard bone and bone-related components, including bone marrow and spinal cord, into the resulting product (*e.g.*, information on the characteristics of resulting product when equipment is operated pursuant to manufacturer specifications; records of establishment monitoring and verification activities).

(3) The establishment must make available to inspection program personnel the documentation described in paragraph (b)(2) of this section and any other data generated using these procedures.

(c) *Noncomplying product.* (1) Notwithstanding any other provision of this section, product that is recovered using mechanical meat/bone separation machinery is not meat under any one or more of the following circumstances.

(i) *Bone solids.* The product's calcium content is more than 130.0 mg per 100 grams.

(ii) *Bone marrow.* (A) The product includes more than a negligible amount of bone marrow, as determined by the presence of bone marrow in bones entering the recovery system and its absence or presence in a measurably lower amount (*e.g.*, by weight) in bones exiting the recovery system.

(B) The difference between the product's iron content and the product's protein content multiplied by 0.067 for a beef product or by 0.034 for a pork product is more than 1.80 mg per 100 grams (*i.e.*, [iron content—(protein content x 0.067)] >1.80 mg per 100 grams of beef product or [iron content—(protein content x 0.034)] >1.80 mg per 100 grams of pork product) (as a measure of excess iron from bone marrow): *Provided,* That when the operator of an establishment has verified and documented the ratio of iron content to protein content in the skeletal muscle tissue attached to bones prior to their entering the recovery system, based on analyses of hand-trimmed samples, that value is to be substituted for the multiplier 0.067 or 0.034 (as applicable) with respect to product that the establishment mechanically separates from those bones.

(iii) *Spinal cord.* The product includes spinal cord, as determined by the presence of spinal cord in bones entering the recovery system and its absence or presence at a lower level in bones exiting the recovery system or by the identification of central nervous system tissue in the product.

(2) If product that may not be labeled or used as meat in accordance with this section meets the requirements of § 319.5(a) of this chapter, it may bear the name ''Mechanically Separated (Species)''.

PART 320—RECORDS, REGISTRATION, AND REPORTS

6. The authority citation for part 320 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, and 2.53.

§ 320.1 [Amended]

7. Paragraph (b)(10) of § 320.1 is amended by removing ''of calcium content in meat derived from'' and adding, in its place, ''documenting control of the production process using''.

Done at Washington, DC, on April 3, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–9681 Filed 4–10–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 98–35]

RIN 1550–AB16

Transactions with Affiliates; Reverse Repurchase Agreements

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to revise its regulations on transactions with affiliates. Specifically, the OTS proposes to clarify that it will treat reverse repurchase agreements, with one limited exception, as loans or other extensions of credit for the purposes of section 11(a)(1)(A) of the Home Owners' Loan Act (HOLA). Therefore, a savings association generally may not enter into a reverse repurchase agreement with an affiliate that is engaged in non-bank-holding company activities.

DATES: Comments must be received on or before June 12, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 98–35. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755 or 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: Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439; or Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, or Donna Deale, Manager, (202) 906–7488, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Section 11(a)(1) of the Home Owners' Loan Act (HOLA) applies the provisions of sections 23A and 23B of the Federal Reserve Act (FRA) to every savings association to the same extent as if the thrift were a member bank of the Federal Reserve System. Section 11(a)(1) also imposes several additional restrictions on a savings association's transactions with affiliates beyond those found in sections 23A and 23B of the FRA. Specifically, section 11(a)(1)(A) states that ''no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 10(c)(2)(F)(i) of the HOLA.'' As defined by 12 CFR 584.2–2, these activities include activities approved for bank holding companies by regulation, 12 CFR 225.25, or by case-by-case order of the Federal Reserve Board, 12 CFR 225.23. Thus, under section 11(a)(1)(A) a thrift may not make a loan or other extension of credit to an affiliate engaged in non-bank holding company activities (non-banking affiliate).

Congress enacted this prohibition to ''reflect . . . the fact that affiliates of savings associations can engage in a far greater range of activities than affiliates of banks, and can thus expose the savings association to greater risks.'' The OTS believes this statement incorporates three distinct but overlapping policies.

- The purpose of the prohibition in section (a)(1)(A), together with other specific restrictions in section 11(a), is to protect the thrift from all forms of risk, including credit risk, presented by non-banking affiliates. These risks are not fully addressed by sections 23A and 23B of the FRA.
- Because the creditors that are ultimately exposed to the greater risks in these transactions are the depositors and the deposit insurance fund, section 11(a)(1)(A) operates to ensure that thrift deposits do not serve, via an extension of credit, as a source of funds for the activities of a non-banking affiliate.
- As a corollary of the second policy, the deposit insurance fund should not support the risks of default by a non-banking affiliate.

The OTS is aware that there may be situations where savings associations have entered into repurchase and reverse repurchase agreements with their non-banking affiliates. For example, in one instance, a thrift planned to sell United States Treasury securities to its holding company, subject to the thrift's agreement to repurchase the securities after a pre-determined period, several years later. Using reverse repurchase agreements,[1] the savings association would also purchase United States Treasury securities from the holding company, subject to the holding company's agreement to repurchase on an overnight (or next-business-day) basis. The holding company, in effect, would use the overnight purchases to manage its available cash. At all times, the savings association's obligation to repurchase securities under its agreement would exceed the holding company's obligation to repurchase securities under its agreement.

These arrangements raise the question whether a reverse repurchase agreement is a loan or other extension of credit for the purposes of the prohibition in section 11(a)(1)(A) of the HOLA. Section 11(a)(1)(A) does not define ''loan or other extension of credit.'' Thus, the face of the statute does not compel a legal conclusion that reverse repurchase agreements are, or are not, prohibited.[2] Accordingly, the OTS has decided to resolve this issue through today's rulemaking. While the agency does not believe that such agreements are common, it believes that setting clear regulatory standards will help to avoid future uncertainty.

The OTS is proposing to treat most reverse repurchase agreements as loans or other extensions of credit. Section 11(a)(1)(A) of the HOLA provision focuses on prohibiting transactions with non-banking affiliates that would transfer credit and other risks to the thrift. As a general matter, a reverse repurchase agreement with a non-banking affiliate bears many of the economic characteristics of a loan or extension of credit to such an affiliate. The savings association transfers funds to the affiliate, expecting to be repaid when the company repurchases the assets. The purchased assets essentially amount to collateral, since the savings association is required to return the assets at the time of repurchase. The savings association earns a pre-determined rate of interest under the agreement. The principal risk to the savings association, its depositors and the deposit insurance fund is credit risk—the possibility that the affiliate will default on its obligation to make the repurchase.

Of course, in the example cited above, the risk is ameliorated significantly because the thrift is able to dispose of United States Treasury securities, a highly liquid, federally guaranteed form of collateral. The risk is further ameliorated by the offsetting repurchase agreements between the thrift and the holding company under which the thrift is, at all times a net debtor to the holding company. Accordingly, as discussed more fully below, the OTS is proposing to exclude such a connected set of transactions from the regulatory prohibitions.

II. General Description of Proposed Rule

To address this and similar arrangements, the OTS is proposing to revise 12 CFR 563.41(a)(3) to clarify that it will generally treat reverse repurchase agreements as loans or other extensions of credit for the purposes of section 11(a)(1)(A) of the HOLA. Such agreements between a thrift and a non-

[1] A sale of securities subject to an agreement to repurchase is known as a ''reverse repurchase agreement'' when a bank or thrift is the purchaser of the securities. See M. Stigum, The Repo and Reverse Markets 4 (1989).

[2] We recognize that the definition of ''covered transaction'' under section 23A(b)(7) of the FRA lists ''a purchase of assets, including assets subject to an agreement to repurchase'' separately from ''a loan or extension of credit.'' *See* 12 U.S.C. 371c(b)(7)(A), (C). The fact that a reverse repurchase is considered to be an asset purchase, rather than an extension of credit under section 23A of the FRA, however, is not controlling here.

Although section 23A and section 11(a)(1)(A) are both designed to prevent abuses by affiliates, the two statutes pursue this goal differently. Section 23A identifies a class of covered transactions that threaten prudent business relationships and places various restrictions on the transactions. Some restrictions apply to all transactions. Others apply only to certain types of covered transactions. (*E.g.*, loans and extensions of credit are subject to specific collateralization requirements. Purchases, including purchases that are subject to a repurchase agreement, are subject to a prohibition on the purchase of low quality assets.) Thus, to impose the appropriate restrictions, section 23A must distinguish between covered transactions that are reverse repurchase agreements and loans and covered transactions that are other extensions of credit.

Moreover, we note that section 11(a)(1)(A) of the HOLA does not specifically incorporate the definition of covered transaction under section 23A. In light of the numerous other cross-references to section 23A of the FRA that are contained in section 11 of the HOLA, it is reasonable to conclude that if Congress had intended to restrict ''loans or other extensions of credit'' only to those transactions that are loans and extensions of credit for the purposes of section 23A, it would have included a specific cross-reference to that statute.

banking affiliate would, therefore, be prohibited.

The proposed regulation also would outline circumstances in which the OTS would not treat reverse repurchase agreements as loans or other extensions of credit under section 11(a)(1)(A) of the HOLA. These circumstances would be ones in which the agreements are consistent with the policies underlying section 11(a)(1)(A) of HOLA and section 563.41 of the OTS regulations—avoidance of the use of insured deposits as a source of funds for a non-banking affiliate, substantial elimination of credit risk posed by the non-banking affiliate, and protection of the insurance fund. Specifically, the proposed rule would not treat a reverse repurchase agreement as a loan or other extension of credit if the agreement is part of a set of transactions that meet the following requirements:

- In order that the agreements not channel insured deposits to the non-banking affiliate, there must be offsetting repurchase agreements between the thrift and the affiliate under which the thrift sells assets subject to an agreement to repurchase. At all times, when the agreements are netted, the thrift must be a net debtor to the affiliate.
- To make credit risk *de minimis*, and to avoid a risk to the insurance fund, the assets purchased under the agreements must be United States Treasury securities and the remaining term of securities purchased by the savings association must exceed the term of the reverse repurchase agreement. The OTS specifically solicits comment on whether, to reduce interest rate risk further, a cap should be placed on the length of time by which the remaining term of the securities may exceed the term of the reverse repurchase agreement.

There may be other common types of reverse repurchase transactions that avoid the use of insured deposits as a source of funds for an affiliate, substantially eliminate credit risk, and protect the insurance fund from risk of loss. Accordingly, the OTS specifically requests comments on such other agreements. Commenters addressing this issue should describe the nature of the agreements, and should explain how the agreements are consistent with the purposes of section 11(a)(1)(A).

III. Executive Order 12866

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

IV. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule would prohibit all savings associations from entering into reverse repurchase agreements with non-banking affiliates, except under very limited circumstances. Thrifts currently engage in few reverse repurchase agreements with affiliates. The OTS is not aware of any small savings association that is currently engaging in transactions that would be prohibited by this rule. Accordingly, a regulatory flexibility analysis is not required.

V. 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 expenditure 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 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, or 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 in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision proposes to amend Part 563, chapter V, title 12, Code of Federal Regulations as set forth below:

PART 563—OPERATIONS

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

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 3806; 42 U.S.C. 4106.

2. Section 563.41 is amended by revising paragraph (a)(3) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

(a) * * *

(3) A savings association (or its subsidiary) may not make a loan or other extension of credit to an affiliate, unless the affiliate is engaged solely in activities described in 12 U.S.C. 1467a(c)(2)(F)(i), as defined in § 584.2–2 of this chapter. For the purposes of this paragraph (a)(3), a loan or other extension of credit includes a purchase of assets from an affiliate that is subject to the affiliate's agreement to repurchase the assets. Such a purchase of assets, however, will not be considered a loan or other extension of credit if the savings association (or subsidiary) has entered into a transaction or series of transactions that meets all of the following requirements:

(i) The savings association (or its subsidiary) purchases United States Treasury securities from the affiliate, the affiliate agrees to repurchase the securities at the end of a stated term, the remaining term of the securities purchased by the savings association (or its subsidiary) exceeds the term of the affiliate's repurchase agreement, and the savings association (or subsidiary) has ensured its right to dispose of the securities at any time during the term of the agreement and upon default.

(ii) The affiliate purchases United States Treasury securities from the savings association (or its subsidiary) and the savings association (or subsidiary) agrees to repurchase the securities at the end of a stated term.

(iii) The aggregate amount of the affiliate's outstanding obligations to repurchase securities from the savings association (or its subsidiary) under the repurchase obligation described at paragraph (a)(3)(i) of this section, at all times, is less than the aggregate amount of the savings association's (or subsidiary's) outstanding obligations to repurchase securities from the affiliate under paragraph (a)(3)(ii) of this section;

* * * * *

Dated: April 2, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–9616 Filed 4–10–98; 8:45 am]

BILLING CODE 9720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–143–AD]

RIN 2120–AA64

Airworthiness Directives; AERMACCHI, S.p.A. Models F.260, F.260B, F.260C, and F.260D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain AERMACCHI, S.p.A. (AERMACCHI) Models F.260, F.260B, F.260C, and F.260D airplanes. The proposed AD would require marking the airspeed indicator to indicate the correct flap operation range and stall speed of the airplane. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by the proposed AD are intended to prevent the airplane from stalling at an airspeed higher than designed, which could result in loss of control of the airplane.

DATES: Comments must be received on or before May 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–143–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from AERMACCHI, Product Support, Via Indipendenza 2, 21018 Sesto Calende (VA), Italy; telephone: +39–331–929117; facsimile: +39–331–922525. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. David O. Keenan, Project Officer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–143–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–143–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Registro Aeronautico Italiano (R.A.I.), which is the airworthiness authority for Italy, recently notified the FAA that an unsafe condition may exist on certain AERMACCHI Models F.260, F.260B, F.260C, and F.260D airplanes. The R.A.I. reports that a discrepancy was found in the stall speed of one of these airplanes during a manufacturer's flight test. The flight test resulted in the discovery that the airplane stalls at an airspeed 5 knots higher than is indicated on the airspeed indicator. Specifically, the arc that indicates the stall speed and flap operation range is incorrect.

This condition, if not corrected, could result in the airplane stalling at a higher airspeed than designed, which could result in loss of control of the airplane.

Relevant Service Information

AERMACCHI has issued SIAI Marchetti, Sp.A. Service Bulletin No. 260B54, dated May 28, 1993, which specifies procedures for ensuring the correct stall speed and flap operation range by marking the airspeed indicator with a black arc between the numbers 0 and 63.5.

The R.A.I. classified this service bulletin as mandatory and issued Italian AD 93–220, dated July 29, 1993, in order to assure the continued airworthiness of these airplanes in Italy.

The FAA's Determination

This airplane model is manufactured in Italy 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 R.A.I. has kept the FAA informed of the situation described above.

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other AERMACCHI Models F.260, F.260B, F.260C, and F.260D airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require marking the airspeed indicator with a black arc to indicate the correct stall speed and flap operation range of the airplane. Accomplishment of the proposed action would be in accordance with SIAI Marchetti S.p.A. Service Bulletin No. 260B54, dated May 28, 1993.

Cost Impact

The FAA estimates that 60 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Materials for marking the airspeed indicator can be obtained locally. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,600 or $60 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AERMACCHI, S.P.A.: Docket No. 97–CE–143–AD.

Applicability: Models F.260, F.260B, F.260C, and F.260D airplanes, serial numbers 001 through 848, 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 within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent stalling the airplane at an airspeed higher than anticipated, which could result in loss of control of the airplane, accomplish the following:

(a) Mark the airspeed indicator with a black arc between the numbers 0 and 63.5 in accordance with the Instructions section of SIAI Marchetti S.p.A. Service Bulletin No. 260B54, dated May 28, 1993.

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

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

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

(d) Questions or technical information related to SIAI Marchetti Service Bulletin No. 260B54, dated May 28, 1993, should be directed to AERMACCHI, Product Support, Via Indipendenza 2, 21018 Sesto Calende (VA), Italy; telephone: +39–331–929117; facsimile: +39–331–922525. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Italian AD 93–220, dated July 29, 1993.

Issued in Kansas City, Missouri, on April 3, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9585 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–120–AD]

RIN 2120–AA64

Airworthiness Directives; deHavilland Inc. Model Otter DHC–3 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain deHavilland Inc. (deHavilland) Model Otter DHC–3 airplanes modified by supplemental type certificate (STC) No. SA3777NM. The proposed action would require modifying the airplane's electrical system. The actions specified by the proposed AD are intended to prevent electrical system failure, which, if not corrected, could result in the loss of the engine instruments or a possible electrical fire in the airplane's cockpit.

DATES: Comments must be received on or before May 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–120–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from A.M. Luton, 3025 Eldridge Avenue, Bellingham, Washington 98225; telephone: (360) 671–7817, facsimile: (360) 671–7820. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Aerospace Engineer, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue, SW, Renton, Washington 98055–4056; telephone: (425) 227–2594; facsimile: (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 should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–120–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–120–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain deHavilland Model Otter DHC–3 airplanes that are modified by A.M. Luton STC No. SA3777NM. Transport Canada reports that that the modification of the electrical system in accordance with STC No. SA3777NM is in non-compliance with part 23 of the Federal Aviation Regulations (14 CFR part 23), Electrical Systems requirements. The deficiencies that exist with the current installations of this STC are: that the voltage regulator for the starter/generator does not have ''over-voltage'' protection, the ammeter does not indicate the actual electrical system loads after the new engine installation, and the electrical distribution bus for the new engine instrumentation and operational loads are improperly protected. These conditions, if not corrected, could result in the loss of the engine instruments or a possible electrical fire in the airplane's cockpit.

Relevant Service Information

A.M. Luton has issued Service Information Letter SA–SIL–98–11–03, ''Electrical Systems'', Revision I/R, undated, which references the A.M. Luton Electrical System Schematic Drawing 20075, Rev. F and D, Sheets 1, 2, and 3, dated August 15, 1997. This drawing includes procedures for replacing the voltage regulator and voltage-ammeter gauge, and modifying the auxiliary bus systems.

The FAA's Determination

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.

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other deHavilland Model Otter DHC–3 airplanes of the same type design registered in the United States that are modified by STC No. SA3777NM, the proposed AD would require modifying the airplane's electrical system. Accomplishment of the proposed installation would be in accordance with A.M. Luton Service Information Letter SA–SIL–98–11–03, ''Electrical Systems'', Revision I/R, undated, which references the A.M. Luton Electrical System Schematic Drawing 20075, Rev. D and F, Sheets 1, 2, and 3, dated August 15, 1997.

Cost Impact

The FAA estimates that 17 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 20 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $2,000 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $54,400 or $3,200 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dehavilland, Inc.: Docket No. 97–CE–120–AD.

Applicability: Model Otter DHC–3 airplanes (all serial numbers), certificated in any category, that are modified by A.M. Luton Supplemental Type Certificate (STC) No. SA3777NM.

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 within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent electrical system failure, which, if not corrected, could result in the loss of the engine instruments or a possible electrical fire in the airplane's cockpit, accomplish the following:

(a) Replace the voltage regulator and the voltage-ammeter gauge, and modify the auxiliary bus systems in accordance with A.M. Luton Service Information Letter No. SA–SIL–98–11–03, ''Electrical Systems'', Revision I/R, undated, which specifies following the procedures found in A.M. Luton Electrical System Schematic, Drawing

20075, Rev. D and F, Sheets 1, 2, and 3, dated August 15, 1997.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue, SW, Renton, Washington 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

(d) Questions or technical information related to A.M. Luton Service Information Letter SA–SIL–98–11–03, Electrical Systems, Revision I/R, undated, and A.M. Luton Electrical System Schematic, Drawing 20075, Rev. D and F, Sheets 1, 2, and 3, dated August 15, 1997, should be directed to A.M. Luton, 3025 Eldridge Ave., Bellingham, WA 98226; telephone: (360) 671–7817, facsimile: (360) 671–7820. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 3, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9583 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–01–AD]

Airworthiness Directives; Rolls-Royce, plc Viper Models Mk.521, and Mk.522 Turbojet Engines

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 Rolls-Royce, plc (R–R) Viper Models Mk.521, and Mk.522 series turbojet engines. This proposal would require replacement of certain high pressure (HP) fuel pumps with an improved design which is more tolerant of water contaminated, low lubricity fuels. This proposal is prompted by reports of HP fuel pump drive shaft failures resulting in inflight engine shutdowns and at least two reported near dual engine events. These failures have been attributed to the low lubricity properties of water contaminated fuel. The actions specified by the proposed AD are intended to prevent HP fuel pump failures, which can result in inflight engine shutdowns and the possibility of dual engine events.

DATES: Comments must be received by June 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: ''9-ad-engineprop@faa.dot.gov''.

Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Rolls-Royce, plc, Technical Publications Department CLS–4, P.O. Box 3, Filton, Bristol, BS34 7QE England; telephone 117–979–1234, fax 117–979–7575. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report 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–ANE–01–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce, plc (R–R) Viper Models Mk.521, and Mk.522 series turbojet engines. The CAA advises that they have received reports of 12 incidents of high pressure (HP) fuel pump failures, including two near dual engine events, due to fuel pump drive shaft failure. Failures were attributed to the low lubricity properties of water contaminated fuel. This condition, if not corrected, could result in HP fuel pump failures, which can result in inflight engine shutdowns and the possibility of dual engine events.

Rolls-Royce, plc has issued Service Bulletins (SBs) No. 73–A115 and 73–A118, both Revision 1, dated February 1996, that specify replacing affected HP fuel pumps with improved pumps. The CAA classified these SBs mandatory and issued ADs 003–02–96 and 004–02–96 in order to assure the airworthiness of these engines in the UK.

This engine model is manufactured in the UK and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and

determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, the proposed AD would require replacement of certain HP fuel pumps with improved pumps at the earliest of the following: 160 hours time in service (TIS) after the effective date of this AD, the next shop visit after the effective date of this AD, or the next HP fuel pump removal after the effective date of this AD. Compliance times were determined in accordance with CAA recommendations and R–R risk analysis. The actions would be required to be accomplished in accordance with the SBs described previously.

There are approximately 280 engines of the affected design in the worldwide fleet. The FAA estimates that 104 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $18,000 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,896,960.

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:

Rolls-Royce plc: Docket No. 98–ANE–01–AD.

Applicability: Rolls-Royce, plc (R–R) Viper Models Mk.521, and Mk.522 turbojet engines, with high pressure (HP) fuel pumps, part numbers (P/Ns) MGBB.167, MGBB.137, or MGBB.168, installed. These engines are installed on but not limited to Raytheon (formerly British Aerospace, Hawker Siddeley) Model DH.125 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 HP fuel pump failures, which can result in inflight engine shutdowns and the possibility of dual engine events, accomplish the following:

(a) Remove from service affected HP fuel pumps, and replace with serviceable, improved HP fuel pumps, at the earliest of the following: 160 hours time in service (TIS) after the effective date of this AD, the next shop visit after the effective date of this AD, or the next HP fuel pump removal after the effective date of this AD, as follows:

(1) For HP fuel pumps installed on R–R Viper Mk.521 engines, replace HP fuel pumps, P/N MGBB.167, with improved, serviceable fuel pumps, P/N MGBB.182, in accordance with R–R SB No. 73–A118, Revision 1, dated February 1996.

(2) For HP fuel pumps installed on R–R Viper Mk.522 engines, replace HP fuel pumps, P/Ns MGBB.137 or MGBB.168, with improved, serviceable fuel pumps, P/N MGBB.183, in accordance with R–R SB No. 73–A115, Revision 1, dated February 1996.

(b) For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for any reason.

(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, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on April 2, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–9581 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115795–97]

RIN 1545–AV39

General Rules for Making and Maintaining Qualified Electing Fund Elections; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that provide guidance to a passive foreign investment company (PFIC) shareholder that makes the election under section 1295 to treat the PFIC as a qualified electing fund (QEF).

DATES: The public hearing originally scheduled for April 16, 1998, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Evangelista C. Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed

amendments to the Income Tax Regulations under sections 1291, 1293, 1295 and 1297 of the Internal Revenue Code. A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing appearing in the **Federal Register** on Friday, anuary 2, 1998, (63 FR 39), announced that a public hearing would be held on Thursday, April 16, 1998, beginning at 10 a.m., in room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

The public hearing scheduled for Thursday, April 16, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–9569 Filed 4–10–98; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 98–36; FCC 98–40]

Assessment and Collection of Regulatory Fees For Fiscal Year 1998

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; correction.

SUMMARY: This document corrects the numbering of numerous footnotes in a proposed rule published in the **Federal Register** of April 2, 1998, regarding assessment and collection of regulatory fees for fiscal year 1998.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Office of Managing Director at (202) 418–0445.

Correction

In FR Doc. 98–8459, 63 FR 16188, April 2, 1998, beginning on page 16198 renumber footnotes 51A through 122 to read 52 through 134.

Dated: April 7, 1998.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9579 Filed 4–10–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–98–3381, Notice 1]

RIN 2127–AG53

Consumer Information Regulations; Utility Vehicle Label

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the existing warning label required in multipurpose passenger vehicles (other than those which are passenger car derivatives) with a wheelbase of 110 inches or less advising drivers that the handling and maneuvering characteristics of these vehicles require special driving practices. The proposed replacement label uses bright colors, graphics, and short bulleted text messages, rather than the current text-only format. NHTSA believes these amendments make the information more understandable to consumers and increase the chance that the labels can affect driver behavior to reduce rollovers. The notice also requests comment on changes to the location requirements for the label and the corresponding owner's manual requirement.

DATES: *Comment Date:* Comments must be received by June 12, 1998.

Proposed Effective Date: If adopted, the proposed amendments would become effective 180 days following publication of the final rule.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 10 a.m.–5 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For labeling issues: Mary Versailles, Office of Planning and Consumer Programs, NPS–31, telephone (202) 366–2057, facsimile (202) 366–4329.

For general rollover issues: Gayle Dalrymple, Office of Crash Avoidance Standards, NPS–20, telephone (202) 366–5559, facsimile (202) 366–4329.

For legal issues: Steve Wood, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. The Rollover Crash Problem [1]

Rollover crashes are a serious motor vehicle safety problem, accounting for 29 percent of all light duty vehicle fatalities.[2] From 1991 through 1994, an average of 8,857 occupants of light duty vehicles died in rollover crashes annually.[3] These fatal rollover crashes occurred with all types of vehicles; the greatest number occurred in small passenger cars, followed by small pickup trucks.

The focus of public attention, however, has been on sport utility vehicles because this type of vehicle is involved in rollover-related occupant deaths more often (on a per-vehicle basis) than other vehicle types. Sport utility vehicles experience 98 rollover fatalities for every million vehicles registered,[4] more than twice the rate of all vehicle types combined—47 deaths per million registered vehicles (although small pickup trucks have a similar fatal rollover rate—93 deaths per million registered vehicles).

This does not mean, however, that sport utility vehicles are unsafe. The overall fatality rate (considering front, rear, side and rollover crashes) for sport utility vehicles is 163 fatalities per million registered vehicles, compared to 169 for all light duty vehicles combined. Small pickup trucks have the highest overall fatality rate, at 217 fatalities per million registered vehicles, followed by small cars, at 200.

II. Existing Utility Vehicle Rollover Warning Label

NHTSA currently requires multipurpose passenger vehicles (MPVs) (other than those which are passenger car derivatives) with a wheelbase of 110 inches or less (utility vehicles) to have a label advising drivers that the handling and maneuvering characteristics of these vehicles require special driving practices (49 CFR 575.105). The label must be permanently affixed in a location in the vehicle which is ''prominent and visible

[1] A complete summary of the statistics used in this section can be found in the document titled ''Status Report for Rollover Prevention and Injury Mitigation, May 1996,'' in Docket 91–68–N05.

[2] Light duty vehicles are passenger cars, pickup trucks, vans, and sport utility vehicles with a gross vehicle weight rating of 10,000 pounds or less. Vans and sport utility vehicles are both considered multipurpose passenger vehicles for purposes of NHTSA regulations.

[3] 1991–1994 average from Fatality Analysis Reporting System (FARS).

[4] Fatality rates given are averages of 1991–1994 rates, using fatality data from FARS and vehicle registration data from R.L. Polk and Company, which was limited to the 14 most recent model years at the time of the Status Report.

to the driver.'' A common location used by manufacturers is the sun visor. No minimum size requirements are specified. The label must be ''printed in a typeface and color which are clear and conspicuous.'' The label must include the following or similar language:

This is a multipurpose passenger vehicle which will handle and maneuver differently from an ordinary passenger car, in driving conditions which may occur on streets and highways and off road. As with other vehicles of this type, if you make sharp turns or abrupt maneuvers, the vehicle may roll over or may go out of control and crash. You should read driving guidelines and instructions in the Owner's Manual, and WEAR YOUR SEAT BELTS AT ALL TIMES.

Utility vehicles are also required to have information in the owner's manual accompanying the vehicle.

III. Related Rulemakings/Actions

A. Proposed Rollover Comparative Information Label

On June 28, 1994, NHTSA published a notice of proposed rulemaking (NPRM) to require vehicle manufacturers to provide consumers with information on the vehicle's resistance to rollover, in the form of a label that would be affixed to new vehicles and information in the owner's manual (59 FR 33254). The label would be required on all passenger cars, trucks and MPVs with a gross vehicle weight rating of 10,000 pounds or less. The comment period closed August 29, 1994.

The NPRM noted that the agency was considering two vehicle measurements; tilt table angle and critical sliding velocity. Tilt table angle is the angle at which the last uphill tire of the vehicle lifts off a platform as the platform is increasingly tilted. Critical sliding velocity is a measure of the minimum lateral (sideways) vehicle velocity required to initiate rollover when the vehicle is tripped by something in the roadway environment, e.g., a curb. The NPRM stated that the agency might select one of the two measurements to appear on the label, or might require the label to contain a nonquantitative statement concerning the vehicle's resistance to rollover based on one or both of the measurements. An example of the later proposal would be the star rating system used in NHTSA's New Car Assessment Program.

During the comment period, Congress enacted the Department of Transportation and Related Agencies Appropriations Act, 1995 (Pub. L. 103–331; September 30, 1994). In that Act, Congress gave NHTSA funds ''for a study to be conducted by the National Academy of Sciences (NAS) of motor vehicle safety consumer information needs and the most cost effective methods of communicating this information.'' The Act directed NAS to complete its study by March 31, 1996. The Act also included the following language: ''In order to ensure that the results of the study are considered in the rulemaking process, the conferees agree that NHTSA shall not issue a final regulation concerning motor vehicle safety labeling requirements until after the NAS study is completed.'' As a result of this language, NHTSA deferred action on the proposed expanded vehicle rollover stability labeling until the NAS study was done. The NAS Study was completed and released to the public on March 26, 1996. It is titled Shopping for Safety—Providing Consumer Automotive Safety Information, TRB Special Report 248. (This report is discussed further in section III–C below.)

On June 5, 1996, NHTSA reopened the comment period on the 1994 NPRM to allow interested parties to comment on the NAS study and how that study should be reflected in NHTSA's decisions on the rollover comparative information proposal. (61 FR 28560). The agency also asked for comments on the possibility of a new rulemaking action to improve the existing utility vehicle rollover warning label.

Few comments to the June 5, 1996 notice reopening the comment period on the 1994 NPRM directly address the issue of upgrading the current utility vehicle rollover warning label.

One manufacturer, Volkswagen (VW) stated that extending the requirement to other vehicles was not justified. The National Automobile Dealers Association (NADA) stated that appropriate revisions to the utility vehicle label may be justified, but extension to other vehicles was not. The Center for Auto Safety, an organization that believes only a minimum performance standard could address the rollover problem, does not believe that improving the existing label would help reduce rollover fatalities and injuries.

NHTSA wishes to note that this proposal to improve the existing utility vehicle rollover warning label is an additional activity and does not affect the status of either the 1994 proposal for a comparative information label or an August, 1996 petition for rulemaking from the Consumers Union to establish a standard to reduce the risk of steering-induced or maneuver-induced rollovers.

B. Air Bag Labels

On November 27, 1996, NHTSA published a final rule amending the requirements for air bag warning labels in vehicles and on child seats (61 FR 60206).[5] As part of the process leading to this amendment, the agency conducted focus groups to test public reaction to possible changes to the labels. NHTSA believes that the use of focus groups in this rulemaking helped to ensure that the information on the labels was understandable to consumers and increased the chance that the labels would affect consumer behavior. Based on its experience in upgrading the air bag warning labels, the agency decided to explore the possibility of upgrading the utility vehicle label using focus groups also.

C. Shopping for Safety

On May 20, 1997, NHTSA published a request for comments on its response to the National Academy of Sciences' study Shopping for Safety (62 FR 27648). The notice also requests comments on programs NHTSA has begun or is considering to address the recommendations of the study. The NAS study focused primarily on providing comparative information regarding vehicles, and makes only small reference to warning labels. However, the NAS study does generally address the issue of rollover and the need to improve existing consumer information. The comment closing date for the NAS notice was August 18, 1997. To the extent that proposals in this notice respond to recommendations of the NAS study, it will be noted.

D. Suzuki Petition

On May 15, 1997, American Suzuki Motor Corporation (Suzuki) petitioned NHTSA to modify the existing utility vehicle label to include the following language:

If, for any reason, your vehicle slides sideways or spins out of control at highway speeds, the risk of rollover is greatly increased. This condition can be created when two or more wheels drop off onto the shoulder and the driver steers sharply in an attempt to reenter the roadway. To reduce the risk of rollover in these circumstances, if conditions permit, hold the steering wheel firmly and slow down before pulling back into the travel lanes with controlled steering movements.

Suzuki also asked the agency to amend the requirement to require the label in all light trucks, not just utility vehicles. NHTSA considers the Suzuki petition moot, as the requested actions are already under consideration by NHTSA in several open rulemakings, including this rulemaking, regarding consumer information on rollover

[5] Corrected December 4, 1996 (61 FR 64297), December 11, 1996 (61 FR 65187), and January 2, 1997 (62 FR 31).

prevention, and in other agency consumer information activities. The Suzuki petition was placed in Docket 91–68 Notice 6, and its requests pertinent to this rulemaking action will be addressed in this notice.

IV. Focus Groups

In June 1996, NHTSA conducted a series of six focus groups to examine ways of improving the utility vehicle label. The Final Report, dated August 1996, has been placed in the docket for this rulemaking. Two focus groups were conducted in the Washington, DC area; two in Amarillo, Texas; and two in Denver, Colorado. Three focus groups were composed of persons 17 to 25 years old (two all male and one all female), and three were a mix of ages and gender. Three of the groups were composed of persons who owned, or drove at least once a week, a utility vehicle or pickup truck. One group was composed of persons interested in purchasing or leasing a utility vehicle. Two groups were composed of a mixture of persons who owned a utility vehicle or a pickup truck and persons who were interested in purchasing or leasing such vehicles.

The two groups in the DC area were shown Labels 1 through 4 in the Focus Group Report. Based on comments and suggestions from those groups, the Amarillo and Denver groups were also shown Labels 5 through 7 in the Focus Group Report. Conclusions were:

- Generally, graphics and bright colors were preferred over text. Any text should be short and to the point.
- Placement of the label would depend on whether the label was temporary or permanent. Bright colors were less preferred for permanent labels. Some said a temporary label would be removed immediately.
- A number of additional ways of disseminating information were recommended.

With regard to the actual content of the label, virtually all participants felt it must be attention getting. The following recommendations were made:

- Use two visuals rather than three
  - use (1) seat belt and (2) vehicle rolling over with arrow
  - make vehicle look more like a truck or SUV
  - no consensus on including a person
- Use minimal wording
  - ''Danger'' instead of ''Warning''
  - ''Higher risk''
  - ''Always wear your seat belt''
- Use bright, eye-catching colors
  - yellow letters on black background
  - white ''Danger'' on red background

Based on these recommendations, the contractor developed three recommended labels, Labels 8 through 10 in the Focus Group Report.

V. Proposed Utility Vehicle Label

Based on its experience in the rulemaking to improve the air bag warning labels and the results of the focus groups, NHTSA is proposing changes to the existing utility vehicle label. Proposed Labels 1 through 3 in this document were developed by NHTSA using the three labels recommended in the Focus Group Report. As explained below, NHTSA modified those labels to replace the word ''danger'' with the word ''warning'' on all proposed labels, to change the color of proposed Label 1 to reflect an ANSI standard, and to change the color of proposed Label 2 to reflect the colors used for the new air bag warning labels. The colors used in proposed Label 3 reflect the colors used in all of the recommended labels in the Focus Group Report. Color copies of the three proposed labels can be obtained by contacting Ms. Versailles as indicated in the section titled **FOR FURTHER INFORMATION CONTACT**.

Except for the signal word as discussed below, the new label may be based on an adaptation of the three proposed labels in this notice. NHTSA asks for comments on preferences in graphics and wording shown on these labels. NHTSA may choose to combine elements of these labels in a new label, rather than choosing one as currently illustrated. All of the recommendations in the focus group report are being considered.

The results of the rollover focus groups and other focus groups the agency has conducted consistently have found that labels like the existing utility vehicle label and the label suggested by Suzuki (long text, no graphics) are less likely to be read than labels with minimal wording and graphics. Accordingly, the three labels proposed for consideration in this notice all have graphics and short text.

NHTSA notes that the signal word and colors used for the recommended labels in the Focus Group Report are based on the reactions and comments of the focus group participants to the sample labels they were shown. Neither the signal word ''danger'' nor the colors harmonize with the ANSI standard for product safety signs and labels (ANSI Z535.4).

The ANSI standard specifies the use of different signal words, i.e., ''danger,'' ''warning,'' and ''caution,'' to communicate information about different levels of hazard. ''Danger'' is for the highest level of hazard; ''caution'' for the lowest level of hazard. The word ''danger'' is used to indicate an imminently hazardous situation which will result in death or serious injury if not avoided. The word ''warning'' is used to indicate a potentially hazardous situation which could result in death or serious injury. The word ''caution'' is used to indicate a potentially hazardous situation which could result in minor or moderate injury. Given that the air bag warning label uses the word ''warning,'' the agency would prefer to use that word for this label also, despite the focus group preference. For this reason, the sample labels have been changed to use the word ''warning.''

The ANSI standard also color codes messages for the different levels of hazard. For the header, it specifies a red background with white text for ''danger,'' an orange background with black text for ''warning,'' and a yellow background with black text for ''caution.'' Pictograms should be black on white, with occasional uses of color for emphasis. Message text should be black on white. If the agency were to follow the ANSI standard, it would propose the color appropriate for ''a potentially hazardous situation which could result in death or serious injury.'' In other words, it would propose the color orange instead of the color yellow for the header.

The discrepancy between the preferences of the focus groups regarding utility vehicle labeling and the ANSI standard raises the more general issue of the circumstances in which it is appropriate in its rulemaking not to follow standards established by voluntary consensus standards organizations. Under the National Technology Transfer and Advancement Act of 1995 (NTTAA), Federal agencies must consider and adopt the use of ''voluntary consensus standards'' to implement their ''policy objectives or activities,'' unless doing so would be ''inconsistent with applicable law or otherwise impractical.'' A ''voluntary consensus standard'' is defined as a technical standard developed or adopted by a legitimate standards-developing organization (''voluntary consensus standards body''). According to NTTAA's legislative history, a ''technical standard'' pertains to ''products and processes, such as the size, strength, or technical performance of a product, process or material''. Further, a voluntary consensus standards organization under the NTTAA is one that produces standards by consensus and observes the principles of due process, openness, and balance of interests.

Consistent with the NTTAA, NHTSA requests comments on the extent that any final choice regarding colors and signal words should be guided by the focus group preferences rather than the ANSI standard. NHTSA requests comments also on the broader issue of the circumstances in which it would be appropriate for agency rulemaking decisions to be guided by focus group results or other information when such information is contrary to a voluntary consensus standard such as the ANSI standard. NHTSA notes that, for the air bag warning labels, NHTSA followed the ANSI standard, except with respect to the use of the color orange for the background of the heading when the word ''warning'' was used. This was because of an overwhelming focus group preference for the color yellow as opposed to the color orange. The choice by that focus group was not an isolated event. In a number of recent rulemakings, participants in focus groups have chosen a word or color based on how eye-catching it is without regard to the degree of danger or risk being addressed.

To assist the reader in commenting on the use of color, two of the labels recommended in the focus group report have been modified; the first to use the colors specified by the ANSI standard for ''warning,'' and the second to use the colors used by the agency for air bag warning labels. The third label illustrates the color combination used in all the focus group labels.

NHTSA has received a petition for reconsideration of the final rule requiring new air bag warning labels from the American Automobile Manufacturer's Association (AAMA). The petition asks the agency to allow both the air bag warning label and the utility vehicle label to be on the front of the driver's sun visor. The petition argues that the existing utility vehicle label does not include requirements for color and graphics, and therefore, is unlikely to attract attention from the air bag warning label. If this proposal to upgrade the utility vehicle label is adopted, this will no longer be the case. NHTSA is requesting comment on possible changes to the location of either the air bag label or the utility vehicle label. In particular, NHTSA requests comment on whether placement of the labels on the same side of the visor would enhance or diminish the impact of either message.

Currently, NHTSA specifies that the utility vehicle label be ''permanently affixed to the instrument panel, windshield frame, driver's side sun visor, or in some other location in each vehicle prominent and visible to the driver.'' (49 CFR 575.105(c)(1)) One option NHTSA is considering is retaining this requirement, with the existing prohibition against the utility vehicle label and the air bag warning label being on the same side of the sun visor. If a manufacturer chose to continue placing the utility vehicle label on the sun visor, the manufacturer would have to place the air bag warning label on the back of the sun visor, and place the air bag alert label on the front of the sun visor with the utility vehicle label. Another option would be to keep the existing utility vehicle location requirements, and to remove the prohibition against placing the utility vehicle label on the same side of the sun visor as the air bag warning label.

The final option NHTSA is considering is amending the utility vehicle location requirement to prohibit the utility vehicle label from being on the sun visor. In its petition regarding the air bag warning label, AAMA said that other locations on the interior of the vehicle did not have sufficient space for the utility vehicle label. NHTSA asks for comments on whether locations would be available if NHTSA amends the current location requirement only to prohibit the label from being affixed to a sun visor. NHTSA also asks for comments on whether the utility vehicle label would attract attention from the air bag warning label at any location in the vehicle interior, including a location on the same side of the sun visor as the air bag warning label. If a commenter believes that any location currently specified would be distracting, NHTSA asks for comments on other locations which would be easily seen by the driver. One location raised by comments on the air bag label rulemaking and being considered by NHTSA is the lower, rear corner of the driver's side door window, legible from the vehicle exterior. This location would be unobtrusive once the driver was in the vehicle, but would be easily and regularly seen when entering the vehicle.

NHTSA also asks for comments on whether a size should be specified for the label. In its petition on the air bag warning label final rule, AAMA stated that utility vehicle labels are 117 x 50 mm. Since the regulation does not specify a size for the label, NHTSA assumes that this is typical of the size label used by AAMA's member companies. NHTSA asks for comment on whether this size is typical of the industry as a whole.

Next, NHTSA asks for comments on possible changes to the owner's manual information requirement. The current requirement specifies the following or similar language:

> Utility vehicles have higher ground clearance and a narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2-wheel drive vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turns or abrupt maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or vehicle rollover.

Shopping for Safety recommends that communication of vehicle safety measures be accomplished through a hierarchically organized approach. Using the NAS recommended crashworthiness rating as an example, this would involve a vehicle label with highly summarized information, an accompanying brochure with more detailed explanation of the summary measure and how it was arrived at, and a handbook with complete comparisons. This recommendation is based on the fact that consumers differ in the amount of information they want and can manage. Based on this recommendation, NHTSA believes consideration should be given to including additional information in the owner's manual on rollover to supplement the label.

Such information could include: statistical information comparing the rollover risk of utility vehicles with other light passenger vehicles, statistical information demonstrating the lower risk of fatality or injury if seat belts are worn, information on the types of situations that can result in a rollover, and information on how to properly recover from a driving scenario that could result in rollover.

Alternatively, NHTSA believes that manufacturers may voluntarily want to supplement the strong language on the proposed labels with explanatory material in the owner's manual. Given that, NHTSA is concerned that any requirement specifying the information that must be included, including the current requirement, may be unnecessarily restrictive. In part, this is because NHTSA is concerned that vehicle differences may make some advice inappropriate for all vehicles.

NHTSA requests comments on three possible approaches to an owner's manual information requirement: (1) Retain the current owner's manual information requirement, (2) specify that information on design features

which may make a vehicle more likely to rollover (e.g., higher center of gravity) and driving practices which can reduce the risk that a rollover will occur (e.g., avoiding sharp turns) or which can reduce the likelihood of death or serious injury if a rollover occurs (e.g., wearing seat belts) be included in the owner's manual without specifying the exact content of such information, or (3) specify the inclusion of information beyond what is now specified. If a commenter believes this requirement should be more specific, NHTSA requests that the comment include a list of the specific information that should be required.

Finally, NHTSA asks for comments on the issue of extending the utility vehicle label requirement to all light trucks (trucks, buses, and MPVs) or to any subset of this category (for example, all utility vehicles). While VW and NADA believe an extension to other vehicles is not justified, Suzuki believes the requirement should be extended to all light trucks. NHTSA recognizes that pickup trucks also have a higher rollover fatality rate than passenger cars, however, vans (classified as either MPVs or buses under NHTSA regulations) have a lower rollover fatality rate than small passenger cars. In addition, given that there is an outstanding rulemaking on a comparative information label for rollover, should NHTSA consider extending the requirement to other vehicles before that rulemaking is concluded?

NHTSA believes that this proposal would result in minimal cost for manufacturers and consumers. A label and owner's manual information is already required for utility vehicles. Therefore, the cost of printing the label, the owner's manual pages, and installation of the label should be the same, even if the information is changed. The only cost would be a one-time cost to change production to the new label or new owner's manual pages. NHTSA also believes that 180 days leadtime would be sufficient for these changes. NHTSA required a shorter leadtime for the changes to the air bag warning labels and manufacturers were able to install new labels by the deadline.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures. As explained above, NHTSA believes that this proposal would result in minimal cost for manufacturers and consumers. As this is a proposal to change an existing requirement, the only cost would be a one-time cost to change production to the new label or new owner's manual pages.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA believes this proposal would have minimal economic impact.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 2 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 575 be amended as follows:

PART 575—CONSUMER INFORMATION REGULATIONS

1. The authority citation for part 575 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, and 30123; delegation of authority at 49 CFR 1.50.

§ 575.105 [Amended]

2. Section 575.105 would be revised to read as follows:

§ 575.105 Vehicle rollover.

(a) *Purpose and scope.* This section requires manufacturers of utility vehicles to alert drivers that such vehicles have a higher possibility of rollover than other vehicle types and that driving practices can be used to reduce the possibility of rollover and/or to reduce the likelihood of injury in a rollover.

(b) *Application.* This section applies to multipurpose passenger vehicles (other than those which are passenger car derivatives) which have a wheelbase of 110 inches or less and special features for occasional off-road operation (''utility vehicles'').

(c) *Required Information.* (1) *Vehicle Label.* Each manufacturer shall permanently affix a vehicle label in a location specified in paragraph (c)(1)(i) or (ii) of this section. The label shall conform in size, content, color, and format to the label shown in Figure 1.

[For the convenience of the reader, this notice includes Figures 1–3, which duplicate Figures 8–10 from the focus group report except as noted in the preamble. If this proposal is adopted, the final rule will contain a single Figure 1. In addition, as discussed in the preamble, the agency's preference for a signal word is ''warning,'' rather than ''danger'' as illustrated.]

(i) The instrument panel, windshield frame, driver's side sun visor, or in some other location in each vehicle prominent and visible to the driver; or,

(ii) The lower rear corner of the forwardmost window on the driver side of the vehicle, legible from the vehicle exterior.

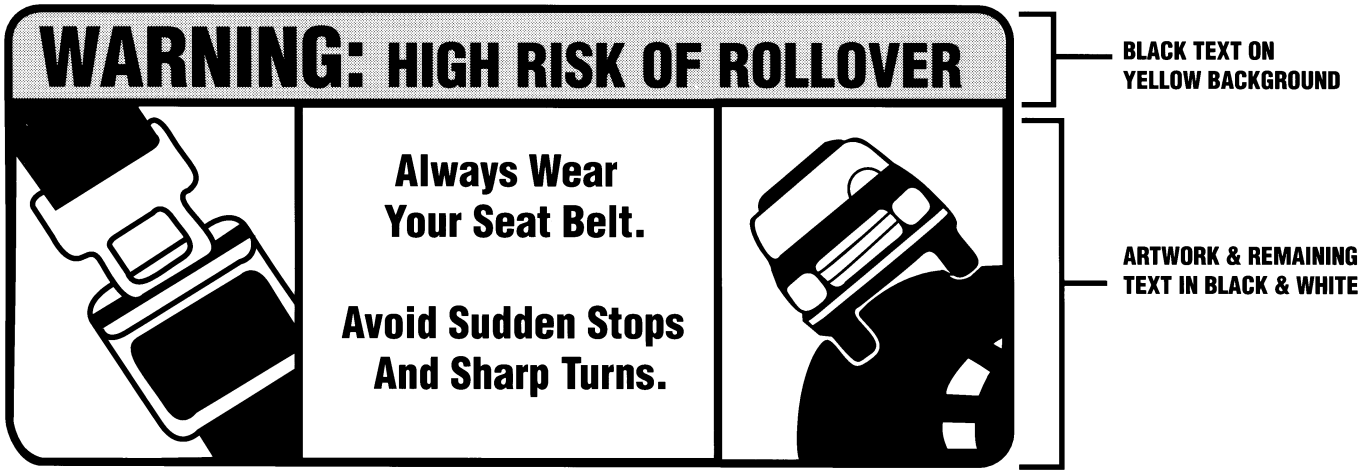
(2) *Owner's Manual.* The vehicle owner's manual shall include:

(i) Information identifying those design features which may cause utility vehicles to roll over or go out of control in certain driving conditions and explaining why those features may have that effect; and,

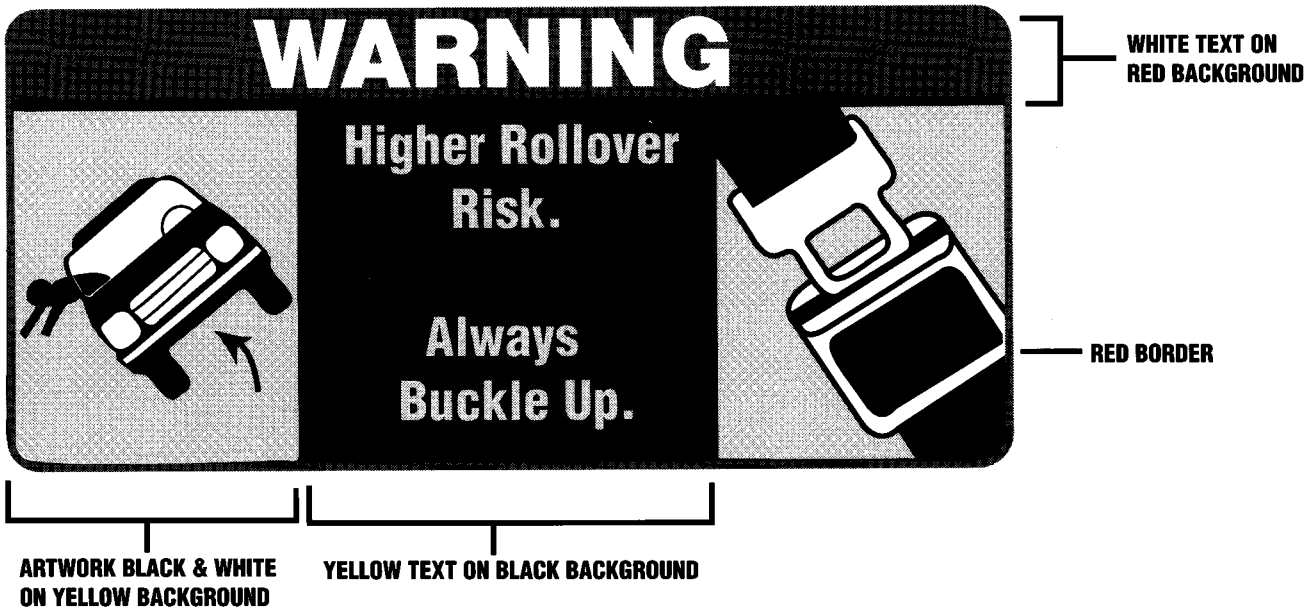
(ii) Driving guidelines which can help prevent vehicle roll over or loss of control and which can help reduce the likelihood of death or serious injury if the vehicle rolls over or goes out of control.

BILLING CODE 4910–59–P

LABEL 1



LABEL 2



LABEL 3

Issued on April 7, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–9574 Filed 4–9–98; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE40

Endangered and Threatened Wildlife and Plants, Notice of Reopening of Comment Period on Proposed Endangered Status for the Riparian Brush Rabbit and Riparian Woodrat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period for the proposed endangered status for the riparian brush rabbit (*Sylvilagus bachmani riparius*) and the riparian woodrat (*Neotoma fuscipes*). The comment period has been reopened to acquire additional information on the biology, distribution, and status of the riparian brush rabbit and riparian woodrat in the northern San Joaquin Valley, California.

DATES: Comments received by May 28, 1998, will be considered by the Service.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Diane Windham, at the address listed above (telephone 916/979–2725, facsimile 916/979–2723.

SUPPLEMENTARY INFORMATION:

Background

The riparian brush rabbit and the riparian woodrat are both distinct subspecies that inhabit riparian communities along the lower portions of the San Joaquin and Stanislaus Rivers in the northern San Joaquin Valley, California. Only a single remaining population of each subspecies has been confirmed, at Caswell Memorial State Park. Potential threats to these subspecies include flooding, wildfire, predation, and other random factors. On November 21, 1997 (62 FR 62276), the Service published a proposed rule proposing endangered status for the riparian brush rabbit and the riparian woodrat. The original comment period closed January 21, 1998.

Today, riparian forests of the lower San Joaquin River and its tributaries outside of Caswell Memorial State Park have nearly been eliminated. The remaining habitat is small, narrow forest patches confined within the levees. These areas flood completely during major storm events. Due to the fact that these remaining areas of habitat are small, isolated, and subject to periodic prolonged flooding, their ability to support viable populations of these subspecies over the long-term is of concern.

Since the close of the comment period, additional surveys for these species have been conducted within their only known location at Caswell Memorial State Park. The Service believes that, given the flood events of 1997 and 1998, consideration of this and any other new information is significant to make the final status determination for the riparian brush rabbit and the riparian woodrat. For this reason, the Service particularly seeks information concerning:

(1) The size, number, or distribution of populations of these subspecies; and

(2) Other biological, commercial, or other relevant data on any threat (or lack thereof) to these subspecies.

Written comments may be submitted until May 28, 1998, to the Service office in the **ADDRESSES** section.

The primary author of this notice is Diane Windham (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 2, 1998.

Thomas J. Dwyer,

Regional Director, Region 1.

[FR Doc. 98–9620 Filed 4–10–98; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register
Vol. 63, No. 70
Monday, April 13, 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.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 971]

Grant of Authority for Subzone Status; Henkel Corporation; Natural Vitamin E; Kankakee, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Illinois International Port District, grantee of FTZ 22, for authority to establish special-purpose subzone status at the natural vitamin E production facility of Henkel Corporation, in Kankakee, Illinois, was filed by the Board on June 4, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 46–97, 62 FR 32581, 6/16/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the natural vitamin E production facility of Henkel Corporation, located in Kankakee, Illinois (Subzone 22K), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 1st day of April 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9693 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 970]

Designation of New Grantee for Foreign-Trade Zone 151, Findlay, OH; Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (Docket 85–97) from the Findlay-Hancock County Community Development Foundation, grantee of Foreign-Trade Zone 151, Findlay, Ohio, for reissuance of the grant of authority for said zone to the Findlay/Hancock County Chamber of Commerce (the Chamber), an Ohio non-profit corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of Foreign-Trade Zones Act and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Chamber as the new grantee of Foreign-Trade Zone 151.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 1st day of April 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9692 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–98]

Foreign-Trade Zone 7—Mayaguez, Puerto Rico Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Puerto Rico Industrial Development Company (PRIDCO), a governmental instrumentality of the Commonwealth of Puerto Rico and grantee of Foreign-Trade Zone 7, requesting authority to expand FTZ 7 to include additional areas of the PRIDCO Industrial Park System, located adjacent to Puerto Rico Customs ports of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 2, 1998.

FTZ 7 was approved on June 27, 1960 (Board Order 50, 25 FR 6311, 7/2/60) and expanded on June 28, 1968 (Board Order 76, 33 FR 10029, 7/12/68) and November 16, 1972 (Board Order 91, 37 FR 24853, 11/22/72). The general-purpose zone currently consists of an industrial park site (44 acres) located in Mayaguez and owned by PRIDCO (part of the PRIDCO Industrial Park System).

The applicant, in a major revision to its zone plan, now requests authority to expand the general-purpose zone to include a major portion (4,500 acres; 18 mil. sq. ft.) of the PRIDCO Industrial Park System, which is owned by the Commonwealth through PRIDCO and operated and managed by PRIDCO as a key element of the government of Puerto Rico's economic development efforts. The applicant seeks FTZ status for all five of the industrial park system's sectors, which are located throughout

Puerto Rico. Each of the sites consists of a number of parcels covering PRIDCO's available industrial park facilities (as described in Application Supplement A). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 12, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 29, 1998).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Department of Commerce, Export Assistance Center, Plaza Torre, 525 F.D. Roosevelt Avenue, Suite 905, San Juan, PR 00918.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: April 3, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9691 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 17–98]

Foreign-Trade Zone 39—Dallas/Fort Worth, TX; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, requesting authority to expand its zone in Dallas/Fort Worth, Texas, within the Dallas/Fort Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 2, 1998.

FTZ 39 was approved on August 17, 1978 (Board Order 133, 43 FR 37478, 8/23/78) and expanded on December 11, 1992 (Board Order 613, 57 FR 61046, 12/23/92) and December 27, 1994 (Board Order 724, 60 FR 2376, 1/9/95). The zone project currently consists of the following sites: *Site 1* (2,400 acres)—within the 18,000-acre Dallas/Fort Worth International Airport complex; *Site 2* (754 acres)—Southport Centre Industrial Park, South Dallas; and, *Site 3* (552 acres)—within the 1,100-acre Grayson County Airport complex, Grayson County.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site: *Proposed Site 4* (644 acres, 3 parcels)—Railhead Fort Worth site, intersection of Loop 820 (the Jim Wright Freeway) and Blue Mound Road (FM 156), Fort Worth. The site consists primarily of a rail-served, master-planned facility with space available for warehousing, distribution or manufacturing activity. The site includes a rail transloading station and is owned by Meacham Rail 191 Limited Partnership, E-Systems and Burlington Northern Santa Fe Railroad. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 12, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 29, 1998).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Department of Commerce, Export Assistance Center, 2050 N. Stemmons Freeway, Suite 170, Dallas, TX 75207.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW, Washington, DC 20230.

Dated: April 3, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9690 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

American Management and Business Internship Training (AMBIT) Program: Applications

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 the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 12, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th Street & Constitution Avenue, NW, Washington, DC 20230. Phone number (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to: Tracy M. Rollins, SABIT, Room 3319, Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; phone (202) 482–0073, fax (202) 482–2443.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Department of Commerce's International Trade Administration, in collaboration with the International Fund for Ireland (IFI), has established the American Management & Business Internship Training (AMBIT) program. AMBIT-participating U.S. firms provide one- to six-month training programs for managers and technical experts from Northern Ireland and the border counties of Ireland, thereby improving their skills while enhancing U.S. commercial opportunities in the region. AMBIT is one of several U.S. Government economic initiatives announced by President Clinton to demonstrate America's interest in supporting the economic development of Northern Ireland and the six border counties of Ireland.

The U.S. Department of Commerce works in partnership with the IFI, an organization established in 1986 by the British and Irish Governments, to promote economic/social progress and to encourage contact, dialog, and reconciliation in the region. The United

States, the European Union, Canada, and New Zealand contribute to the IFI budget.

II. Method of Collection

The applications are sent to U.S. companies and intern candidates via facsimile or mail upon request. Feedback surveys are given to participating companies and interns at the completion of the programs.

III. Data

OMB Number: 0625–0224.

Form Number: N/A.

Type of Review: Regular submission.

Affected Public: Business or other non-profit, individuals (non-U.S. citizens).

Estimated Number of Respondents: 450.

Estimated Time per Response: 2.3 hours.

Estimated Total Annual Burden Hours: 1,050.

Estimated Total Annual Cost: $63,000.

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: April 7, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9632 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

International Trade Administration

The Special American Business Internship Training (SABIT) Program Applications and Questionnaires

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 the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 12, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th Street & Constitution Avenue, NW, Washington, DC 20230. Phone number (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to: Tracy M. Rollins, SABIT, Room 3319, Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; phone (202) 482–0073, fax (202) 482–2443.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Special American Business Internship Training (SABIT) programs of the Department of Commerce's International Trade Administration (ITA), is a key element in the U.S. Government's efforts to support the economic transition of the Newly Independent States (NIS) of the former Soviet Union. SABIT places business executives and scientists from the Independent States in U.S. firms for one-to-six month internships to gain firsthand experiences working in a market economy. This unique private sector-U.S. Government partnership was created in order to tap the U.S. private sector's expertise in assisting the NIS's transition to a market economy while boosting U.S.-NIS long-term trade.

Under the ''regular'' (grants) SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. The information collected by the Application is needed by the SABIT staff to recruit and screen respondents and provide U.S. firms with a pool of eligible candidates from which to select interns. Intern applications are required to determine the suitability of candidates for SABIT internships. Feedback surveys and end-of-internship reports are needed to enable SABIT to track the success of the program as regards trade between the U.S. and NIS, as well as to improve the content and administration of the programs.

The closing date for applications and supplemental materials is approximately 120 days after date of publication in the **Federal Register**. Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the ''Act'') funding for the program will be provided by the Agency for International Development (A.I.D.).

II. Method of Collection

The applications are sent to U.S. companies and intern candidates via facsimile or mail upon request. Feedback surveys are given to participating U.S. companies and interns at the completion of the programs.

III. Data

OMB Number: 0625–0225.

Form Number: N/A.

Type of Review: Regular submission.

Affected Public: Business or other non-profit, individuals (non-U.S. citizens).

Estimated Number of Respondents: 1,600.

Estimated Time per Response: 1.8 hours.

Estimated Total Annual Burden Hours: 2,875.

Estimated Total Annual Cost: $89,000.00.

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: April 7, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9633 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of April 1998, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period
Antidumping Duty Proceedings	
Canada: Sugar and Syrups A–122–085	4/1/97–3/31/98
France: Sorbitol A–427–001	4/1/97–3/31/98
Greece: Electrolytic Manganese Dioxide A–484–801	4/1/97–3/31/98
Japan:	
Calcium Hypochlorite A–588–401	4/1/97–3/31/98
Electrolytic Manganese Dioxide A–588–806	4/1/97–3/31/98
3.5″ Microdisks and Media Thereof A–588–802	4/1/97–3/31/98
Roller Chain, Other Than Bicycle A–588–028	4/1/97–3/31/98
Kazakhstan: Ferrosilicon A–823–804	4/1/97–3/31/98
Kenya: Standard Carnations A–779–602	4/1/97–3/31/98
Mexico: Fresh Cut Flowers A–201–601	4/1/97–3/31/98
Norway: Fresh and Chilled Atlantic Salmon A–403–801	4/1/97–3/31/98
Republic of Korea: Color Television Receivers A–580–008	4/1/97–3/31/98
Taiwan: Color Television Receivers A–583–009	4/1/97–3/31/98
The People's Republic of China: Brake Rotors A–570–846	10/10/96–3/31/98
Turkey: Certain Steel Concrete Reinforcing Bars A–489–807	10/10/96–3/31/98
The Ukraine: Ferrosilicon A–823–804	4/1/97–3/31/98
Countervailing Duty Proceedings	
Argentina: Wool C–357–002	1/1/97–12/31/97
Brazil: Pig Iron C–351–062	1/1/97–12/31/97
Norway: Fresh and Chilled Atlantic Salmon C–403–802	1/1/97–12/31/97
Peru: Pompon Chrysanthemums C–333–601	1/1/97–12/31/97

Suspension Agreements

None

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In recent revisions to its regulations, the Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of April 1998. If the Department does not receive, by the last day of April 1998, a request for review of entries covered by an order, finding,

or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 1, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, Group II Import Administration.

[FR Doc. 98–9686 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–811]

Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order

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

ACTION: Notice of final results of antidumping duty administrative review and revocation in part of antidumping duty order.

SUMMARY: On December 5, 1997, the Department of Commerce (the Department) published the preliminary results of its 1996–97 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part (62 FR 64354) (Preliminary Results). The review covers 15 manufacturers/exporters for the period March 1, 1996, through February 28, 1997 (the POR). We have analyzed the comments received on our preliminary results and no changes in the calculated margin are required. However, we have changed the adverse facts available rate. The final weighted-average dumping margins for each of the reviewed firms are listed in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: April 13, 1998.

FOR FURTHER INFORMATION CONTACT: John Brinkmann at (202) 482–5288 or James Kemp at (202) 482–0116; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The 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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 353 (1997).

Background

On December 5, 1997, the Department published in the **Federal Register** the preliminary results of its 1996–97 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part. We gave interested parties an opportunity to comment on our preliminary results. A case brief was filed by the petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee); rebuttal briefs were filed by four respondents-Chung-Woo Rope Co., Ltd. (Chung Woo), Kumho Wire Rope Manufacturing Co., Ltd (Kumho), Ssang Yong Cable Manufacturing Co., Ltd. (Ssang Yong), and Sung Jin Company (Sung Jin). There was no request for a hearing.

We have conducted this administrative review in accordance with section 751 of the Act.

Revocation In Part

Chung Woo, Ssang Yong and Sung Jin have sold the subject merchandise at not less than normal value (NV) for four consecutive review periods,[1] including this review.[2] They have also submitted certifications that they will not sell at less than NV in the future, along with an agreement for immediate reinstatement of the order if such sales occur. Further, on the basis of no sales at less than NV for these periods and the lack of any indication that such sales are likely in the future, we have determined that Chung Woo, Ssang Yong and Sung Jin are not likely to sell the merchandise at less than NV in the future. Accordingly, we are revoking the order for Chung Woo, Ssang Yong and Sung Jin. Also, see our discussion in response to Comment 1.

Scope of Review

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, i.e., ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this review is dispositive.

Use of Facts Otherwise Available

In the preliminary results of this review, we determined, in accordance with section 776(a) of the Act, that the use of adverse facts available is appropriate for Boo Kook Corporation, Dong-Il Steel Manufacturing Co., Ltd., Jinyang Wire Rope Inc., and Yeon Sin Metal because they did not respond to our antidumping questionnaire. None of these parties commented on this preliminary determination, nor have any arguments been presented which would cause us to reconsider the appropriateness of assigning margins based on adverse facts available in the final results.

In the April 9, 1997, final results of the last review (See Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 62 FR 17171, 1997) and in the preliminary results of the review, we stated our intent to reconsider the appropriateness of the facts available rate (1.51 percent) used in prior reviews.

Over the course of this proceeding, the Department has faced a pattern of continuous noncompliance on the part of a number of uncooperative respondents[3] that received facts available. Therefore, we have concluded that the magnitude of the rate in place for the three prior reviews does not offer the adequate sanction to induce the respondents to cooperate in the

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[1] Section 353.25(a)(2) of the Department's regulations provides that a respondent may be eligible for revocation after a period of three years with no sales at less than fair value. However, Chung Woo, Ssang Yong and Sung Jin did not request revocation until the fourth review.

[2] Kumho also requested revocation, but later withdrew the request.

[3] We have applied facts available to seven companies in the first review, five companies in the second review, three companies in the third review and four companies in the instant review.

proceeding. Moreover, if and when an interested party requests a review of Korean steel wire rope companies not previously reviewed, the Department needs to have in place a potential facts available rate that is sufficiently adverse to induce the cooperation of these companies.

The Statement of Administrative Action (SAA) recognizes the importance of facts available as an investigative tool in antidumping duty proceedings. The Department's potential use of facts available provides the only incentive to foreign exporters and producers to respond to the Department's questionnaires. See SAA at 868. Section 776(b) of the Act states that the Department may draw an adverse inference where the party has not acted to the best of its ability to comply with the requests for necessary information. The Department applies adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. One factor the Department considers in applying facts available is the extent to which a party may benefit from its own lack of participation. See SAA at 870.

We invited interested parties to supply specific data that the Department could consider in the event that we chose to establish a facts available rate that would be more appropriate to this segment of the proceeding. In response to this request for information, the Committee, in its case brief, requested that we use the simple average of the dumping margins from the petition (136.72) as adverse facts available. The respondents did not comment on this issue.

In order to consider fully this issue, we placed a copy of the petition on the record of this administrative review. In our analysis of the petition, we re-examined the bases for the initial dumping allegation. Based on this re-examination, we determined that the price-to-price sales used in the petition calculation are, with one adjustment, appropriate for use as adverse facts available in this review. The information we obtained during the current review indicates that Korean producers manufacture steel wire rope known as ''commercial grade cable'' or ''aircraft grade cable,'' which differs from steel wire rope built to more demanding Military Specification (Mil Spec). Additionally, company officials interviewed during verification stated that they were not aware of any Korean steel wire rope manufacturers that have been certified to sell Mil Spec. steel wire rope in the United States. See Memo to the File, April 2, 1998. Information in the petition, however, indicates that some of the price-to-price comparisons, involved Mil Spec sales. Accordingly, we adjusted the petition margin by excluding those sales, and calculated a simple average margin equal to 13.79 percent.

Section 776(c) of the Act provides that the Department shall in using facts otherwise available, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The SAA provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. See H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, where corroboration is not practicable, the Department may use uncorroborated information. See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From The People's Republic of China, 62 FR 31972 (1997).

To corroborate the export prices in the petition, we compared them to U.S. Customs (Customs) import statistics from 1991 for the HTS subheadings 7312.10.9030, 7312.10.9060, and 7312.10.9090. However, we concluded that the Customs data was not comparable to the prices in the petition, because the Customs data encompasses a wide range of steel wire rope products, while the sales in the petition consist of a small number of specific product types. See Memo to the File, April 6, 1998. With regard to the normal values used in the petition's margin calculation, we were provided with no useful information by interested parties, and are aware of no other independent sources of information, which would assist us in this aspect of the corroboration process.

Notwithstanding the difficulties encountered in our attempts to corroborate the information from the petition, the Department has no evidence that suggests the petition does not have probative value. Accordingly, we determine that the information from the petition is the most appropriate basis for facts available. We note that the SAA specifically states that ''the fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference under subsection (b).'' See SAA at 870. Moreover, the SAA emphasizes that the Department need not prove that the facts available are the best alternative information. SAA at 869.

Fair Value Comparisons

To determine whether sales of steel wire rope to the United States were made at less than fair value for Chung Woo, Kumho, Ssang Yong and Sung Jin, we compared the export price to the normal value, as described in the preliminary results of this review.

Analysis of Comments Received

Comment 1: The Committee contends that Chung Woo, Ssang Yong and Sung Jin failed to establish the second of three requisite regulatory criteria for revocation of an antidumping duty order. Specifically, the Committee argues that the burden is on the respondent requesting revocation to demonstrate, by placing substantial evidence on the record, that there is no likelihood of a resumption of sales at less than fair value and that Chung Woo, Ssang Yong and Sung Jin failed to demonstrate this. Additionally, the Committee argues, citing *Tatung Co.* v. *United States,* 18 CIT 1137, 1144 (1994) (*Tatung Company*), that the fact that respondents have not sold subject merchandise at less than normal value in past administrative reviews does not establish that there is no likelihood these companies will begin dumping subject merchandise in the future.

Furthermore, the Committee contends that the Department cannot not revoke the order with respect to Chung Woo, Ssang Yong and Sung Jin based on the results of the last three reviews because of the instability caused by the recent economic crisis in Korea. According to the Committee, the economic crisis has created an environment that makes it impossible for the Department to determine that these three companies will not begin dumping subject merchandise in the U.S. market.

The depreciation of the won, according to the Committee, will facilitate the respondents' task of remaining price competitive and retaining market share in the short-term. However, the Committee contends the Korean economy will reverse course as the economic assistance package provided by the IMF begins to take effect. Furthermore, the Committee argues that an economic turnaround in Korea accompanied by appreciation of the won will create downward pressure on the price of steel wire rope as the Korean producers attempt to maintain the same price levels to satisfy their U.S. customers and retain market share in the face of competition from companies in other Asian nations. The Committee claims that the market forces created by

such a turnaround in the Korean economy will force Chung Woo, Ssang Yong and Sung Jin to dump merchandise in the U.S. market.

Chung Woo, Ssang Yong and Sung Jin respond that they have satisfied all three requisite criteria for revocation at 19 CFR 353.25(a)(2). They claim that the Department has granted revocation in virtually every case where a respondent has established three consecutive years of no dumping and furnished the required certifications. They argue that this is in accordance with the long standing policy that antidumping duty orders ''shall remain in force only as long and to the extent necessary to counteract dumping which is causing injury.'' Color Television Receiver Except for Video Monitors, from Taiwan; Final Results, 55 FR 47093, 47097 (1990); Uruguay Round Agreement on Implementation of Article VI of General Agreement on Tariffs and Trade 1994, Article 11 Antidumping Agreement.

Respondents cite *Tatung Company*, where the court found that past behavior constitutes substantial evidence of expected future behavior and a *de minimis* margin for three consecutive years serves as a reliable predictor for future pricing behavior. Based on this ruling, according to respondents, Chung Woo, Ssang Yong and Sung Jin should not be expected to sell steel wire rope at less than normal value in the future because they have received a zero or *de minimis* margin in all four review periods.

Respondents also state that the Committee acknowledges that Chung Woo, Ssang Yong and Sung Jin have satisfied the first and third criteria of the Department's regulatory requirements. Respondents contend that the Committee's sole argument against revocation is the possibility that the subject companies will dump steel wire rope in the United States at a future date, and this view is based on the rapid depreciation of the won due to the economic situation in Korea. Citing Brass Sheet and Strip, 61 FR 49,727, 49,731 (1996) and Tapered Roller Bearing and Parts Thereof from Japan, 61 FR 57,629, 57,651 (1996), respondents claim that dumping is most likely when a foreign currency appreciates against the dollar because the value of the subject merchandise in the home market appreciates, relative to the value of the same merchandise in the U.S. market. Respondents continue that even though the won was appreciating during the first three review periods and Chung Woo, Ssang Yong and Sung Jin sold increasing quantities of subject merchandise in the United States, no dumping was found. This, according to the respondents, makes revocation at this time particularly appropriate. They cite Color Television Receivers, Except for Video Monitors, From Taiwan, 55 FR 47093, 47097 (1990), and compare Chung Woo, Ssang Yong and Sung Jin to a respondent in that case which received revocation after selling at or above fair value for three administrative reviews while the Taiwanese currency appreciated 37 percent. Respondents continue, citing Fresh Cut Flowers from Mexico, 61 FR 63822, 63825 (1996) (Fresh Cut Flowers), that since Chung Woo, Ssang Yong and Sung Jin did not sell merchandise at less than fair value while the won was appreciating, now that it is depreciating, they are even less likely to do so.

In response to the Committee's contention that a reversal in the economic crisis now engulfing Korea could cause a sudden appreciation of the won and, therefore, create pressure to dump subject merchandise in the United States, respondents claim that such an argument is the equivalent of saying that future dumping is likely in all cases because currency fluctuations are inevitable and unavoidable. Respondents cite Frozen Concentrated Orange Juice from Brazil, 56 FR 52510, 52511, (1991) as a case in which the Department dismissed such arguments.

Finally, respondents contend that the Committee presented similar arguments in the 1995–1996 administrative review in opposition to the request for revocation submitted by Manho and Chun Kee, which was ultimately granted by the Department. Respondents argue that the circumstances under which the Department granted revocation to Manho and Chun Kee in the previous review are similar to those which exist in this review and, therefore, the Department is further justified in revoking the order on steel wire rope with respect to Chung Woo, Ssang Yong and Sung Jin.

Department's Position: We disagree with the Committee and are revoking the antidumping duty order with respect to Chung Woo, Ssang Yong and Sung Jin. Section 751(d)(1) of the Act provides that the Department ''may revoke'' an antidumping order, in whole or in part, after conducting an appropriate review. 19 U.S.C. 1675(1) (1995). The Department's regulations elaborate upon this standard. Section 353.25(a)(2) provides that the Department may revoke an order, in part, if the Secretary concludes: (1) ''One or more producers or resellers covered by the order have sold the merchandise at not less than foreign market value for a period of at least three consecutive years;'' (2) ''it is not likely that those persons will in the future sell the merchandise at less than foreign market value;'' and (3) ''the producers or resellers agree in writing to their immediate reinstatement in the order as long as any producer or reseller is subject to the order, if the Secretary concludes under section 353.22(f) that the producer or reseller, subsequent to the revocation, sold the merchandise at less than foreign market value.''

We agree with respondents that in evaluating the ''not likely'' issue in numerous cases, the Department has considered three years of no dumping margins, plus a respondent's certification that it will not dump in the future, plus its agreeing to the immediate reinstatement in the order all to be indicative of expected future behavior. In such instances, this was the only information contained in the record regarding the likelihood issue.

In other cases, when additional evidence is on the record concerning the likelihood of future dumping, the Department is, of course, obligated to consider the evidence. Specifically, where appropriate, we consider such ''factors as conditions and trends in the domestic and home market industries, currency movements, and the ability of the foreign entity to compete in the U.S. marketplace without [sales at less than normal value].'' Brass Sheet and Strip, 61 FR 49727, 49730 (September 23, 1996). This is consistent with the Department's established practice and Article 11 of the Antidumping Agreement which establishes that revocation is appropriate only if the authorities determine that the order ''is no longer warranted.''

Based on the evidence on the record of this review, we have concluded that it is not likely that in the future these respondents will sell the subject merchandise at less than fair value. In the previous three reviews and for the final results of this review, Chung Woo, Ssang Yong and Sung Jin have had zero or *de minimis* weighted-average margins. As the petitioners note in their case brief, the Court of International Trade in *Tatung Company* acknowledged that past behavior constitutes substantial evidence of expected future behavior. Moreover, the Court also noted that ''[p]redicting future behavior is not an easy task,'' and that the Department's consideration of whether dumped sales are likely in the future ''necessarily involves an exercise of discretion and judgment.'' Petitioner's Case Brief at 21 citing *Tatung Company*, 18 CIT at 1144.

Regarding the arguments concerning the recent devaluation of the Korean won and the possible effect on the likelihood of future dumping, we agree, in part, with both the Committee and respondents that there are short term and long-term economic effects from the devaluation of the respondents' home market currency. Respondents emphasize the short-term effects, alleging that home market prices will fall, relative to the dollar, eliminating the likelihood of future dumping. The Committee focuses on the possible long-term appreciation of the Korean won which could raise home market prices, and the competitive pressures from other Asian suppliers which may force Korean suppliers to reduce U.S. prices.

In Brass Sheet and Strip we acknowledged that the continued strengthening of the home market currency may provide an impetus to resume sales at less than normal value in the absence of an antidumping duty order. Brass Sheet and Strip, 61 FR at 49731. We have also noted that during a period of a depreciating currency, as has recently occurred with the won, there is even less pressure to engage in less-than-normal-value pricing. Fresh Cut Flowers, 61 FR at 63825. However, exchange rate relationships and other macroeconomic factors may not be the overriding factors in every case; rather, they must be considered in conjunction with the remaining record evidence and in light of the Department's experience in administering the revocation provisions. See Brass Sheet and Strip, 61 FR at 49731.

In this proceeding, other than the Committee's statement regarding the possible long-term appreciation of the won, there is no evidence on the record indicating the likelihood of a resumption of dumping. For example, there is no evidence of falling Korean prices in the United States. In fact, based on Customs data,[4] we have found that prices have remained stable. Although we agree that over time home market inflation may offset the effect of a depreciating currency in dollar terms, this by itself does not indicate a likelihood of sales at less than fair value.

Market trends and other factors that are specific to steel wire rope lead us to distinguish this case from two recent proceedings in which we determined not to partially revoke, Brass Sheet and Strip and DRAMs from Korea. Unlike the respondent in Brass Sheet and Strip, Chung Woo, Ssang Yong and Sung Jin have never been found to have sold merchandise at less than fair value since the order was issued. Further, unlike the respondent in Brass Sheet and Strip, which made a single sales transaction in the period of review, these respondents have made sales in substantial quantities in the United States. Likewise, when compared to the market for DRAMS as reviewed in the revocation proceeding, the market for steel wire rope is significantly more stable. See DRAMs from Korea: Notice of Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order In Part, 62 FR 39809, 39817 (July 24, 1997). Based on our review of Customs data, we have concluded that the price of Korean steel wire rope exported to the United States has remained stable, with slight fluctuations, from 1992 through 1997, while, during the same period, the market for DRAMS experienced broad price swings.

[4] The above-referenced public information is based on HTS subheadings 7312.10.9030, 7312.10.9060, and 7312.10.9090. Although these subheadings encompass a wide range of steel wire rope products, we concluded that they are representative of the price trends for the subject merchandise.

Based on the evidence on the record for the instant review and conclusions drawn from our experience with the subject respondents in prior reviews, it is our judgment that Chung Woo, Ssang Yong or Sung Jin have met the requirement established by our regulations of *de minimis* margins for the requisite consecutive number of years. In addition, each has certified that they will not dump in the future and agreed to immediate reinstatement in the order if we conclude that, subsequent to the partial revocation of the order, the particular respondent sells subject merchandise at less than normal value. We conclude that it is not likely that in the future these respondents will sell subject merchandise at less than normal value. Therefore, we are revoking the order with respect to Chung Woo, Ssang Yong or Sung Jin.

Comment 2: The Committee argues that the Department's use of a 1.51 percent dumping margin as adverse facts available for Boo Kook, Dong-Il, Jinyang and Yeon Sin undercuts the cooperation-inducing purpose of the facts available provision of the statute. According to the Committee, the rate received in the first three reviews and the preliminary results of the instant review has remained low enough to encourage persistent noncompliance.

The Committee contends that, instead of using the highest rate available from any prior segment of the proceeding as facts available, the Department should apply a simple average of the adjusted margins [5] calculated in the petition of the original investigation.

The respondents did not comment on this issue.

Department's Position: We agree with the Committee in part and are raising the facts available rate to 13.79 percent (See the Facts Otherwise Available section of this notice).

Final Results of Review

We determine the following percentage weighted-average margins exist for the period March 1, 1996, through February 28, 1997:

[5] In the April 23, 1992, letter to the Department from the petitioner, the Committee adjusted the rate calculated in the original petition to 136.72 percent.

Manufacturer/exporter	Margin (percent)
Boo Kook Corporation	*13.79
Chung Woo Rope Co., Ltd	0.00
Dong-Il Steel Manufacturing Co., Ltd	*13.79
Hanboo Wire Rope, Inc	1.51
Jinyang Wire Rope, Inc	*13.79
Kumho Wire Rope Mfg. Co., Ltd	0.04
Myung Jin Co	[1] 1.51
Seo Jin Rope	1.51
Ssang Yong Cable Manufacturing Co., Ltd	0.02
Sung Jin Company	0.00
Sungsan Special Steel Processing	1.51
TSK Korea Co., Ltd	([2])
Yeon Sin Metal	*13.79

*Adverse Facts Available Rate.
[1] No shipments subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.
[2] No shipments subject to this review. The firm has no individual rate from any segment of this proceeding.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to Customs.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(1) of the Act. (1) For Chung Woo, Ssang Yong and Sung Jin, the revocation of the antidumping duty order applies to all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 1, 1996. The Department will order the suspension of liquidation ended for all such entries and will instruct Customs to release any cash deposits or bonds. The Department will further instruct Customs to refund with interest any cash deposits on post-March 1, 1996 entries. (2) The cash deposit rates for the other reviewed companies will be those rates established above (except that, if the rate for a firm is *de minimis*, i.e., less than 0.5 percent, a cash deposit of zero will be required for that firm). (3) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period. (4) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise. (5) If neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 1.51 percent, the ''All Others'' rate established in the LTFV Final Determination (58 FR 11029).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 6, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–9688 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–806]

Cut-to-Length Carbon Steel From Belgium; Extension of Time Limit for Countervailing Duty Administrative Review

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

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the first administrative review of the countervailing duty order on cut-to-length carbon steel plate from Belgium, covering the period January 1, 1996 through December 31, 1996. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: April 13, 1998.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Lorenza Olivas, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

Postponement

Under the Act, the Department of Commerce (the Department) may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. The Department finds that it is not practicable to complete the

calendar year 1996 administrative review cut-to-length carbon steel plate from Belgium within this time limit. (*See* Memorandum from Richard W. Moreland, dated March 26, 1998, to Robert S. LaRussa ''Cut-to-Length Carbon Steel Plate from Belgium: Extension of the Deadline for the Preliminary Results of the 1996 Administrative Review'', which is a public document on file in the Central Records Unit.)

In accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act, the Department will extend the time for completion of the preliminary results of this review from May 3, 1998 to no later than August 31, 1998.

Dated: April 1, 1998.

Maria Tildon,

Acting Deputy Assistant Secretary for AD/CVD Enforcement, Group II.

[FR Doc. 98–9687 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010698C]

International Whaling Commission; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participating on the Committee and a tentative schedule of meetings and other important dates.

DATES: The April 23, 1998, meeting has been rescheduled for May 1, 1998, 2:00 p.m. See **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: The May 1, 1998, meeting will be held in Room 1863, Herbert C. Hoover Building, Department of Commerce, 14th and Constitution, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Catherine Corson, telephone: (301) 713-2322.

SUPPLEMENTARY INFORMATION: The May 1, 1998, Interagency Committee meeting will review recent events relating to the IWC and will review U.S. positions for the 1998 IWC annual meeting.

The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary for Oceans and Atmosphere, who is also the U.S. Commissioner to the IWC. The U.S. Commissioner has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other interested agencies.

Each year, NOAA conducts meetings and other activities to prepare for the annual meeting of the IWC. The major purpose of the preparatory meetings is to provide input in the development of policy by individuals and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in United States whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information and to establish the necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practices.

Tentative Meeting Schedule

The schedule of additional meetings and deadlines, including those of the IWC, during 1998 follows.

May 1, 1998: See **ADDRESSES**. Interagency Committee meeting to review recent events relating to the IWC and to review U.S. positions for the 1998 IWC annual meeting.

April 27 to May 9, 1998 (Oman): IWC Scientific Committee Meeting.

May 11 to 20, 1998 (Oman): IWC 50th Annual Meeting.

Special Accommodations

Department of Commerce meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Catherine Corson at least 5 days prior to the meeting date.

Dated: April 6, 1998.

Patricia Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–9698 Filed 4–8–98; 3:17; pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040698A]

Mid-Atlantic Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee will hold a public meeting.

DATES: The meeting will be held on Thursday, April 30, 1998, from 10:00 a.m. until 6:00 p.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 45 Industrial Highway, Essington, PA; telephone: 610–521–2400.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss the bluefish stock assessment and make recommendations on the status of the bluefish stocks.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see

ADDRESSES) at least 5 days prior to the meeting date.

Dated: April 6, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–9695 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.031098F]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of date change of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) has rescheduled the public meeting of the Whiting Committee (Committee), Whiting Advisory Panel, and Whiting Plan Development Team that was scheduled for Wednesday and Thursday, April 8 and 9, 1998, at 10:00 a.m. The meeting was announced in the **Federal Register** on March 24, 1998. See **SUPPLEMENTARY INFORMATION** for revisions.

ADDRESSES: The meeting will be held at the Radisson Hotel, 35 Governor Winthrop Boulevard, New London, CT; telephone: (860) 443–7000.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION: The initial notice was published on March 24, 1998 (63 FR 14069). The meeting has been rescheduled to meet on Monday, April 27, 1998 at 10:00 a.m. The Whiting Committee will reconvene by itself on April 28 at 9:00 a.m. The April 28 meeting may be cancelled if the Committee feels that the April 27 meeting will be sufficient to develop management measures for public hearings. Recommendation from these groups will be brought to the full Council for formal consideration and action, if appropriate. The agenda will remain the same.

All other information previously published remains unchanged.

Dated: April 7, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–9694 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040398A]

Permits; Foreign Fishing

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

ACTION: Notice of receipt of foreign fishing application.

SUMMARY: NMFS publishes for public review and comment a summary of an application submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone (EEZ) in 1998 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

ADDRESSES: Comments may be submitted to NMFS, Office of Sustainable Fisheries, International Fisheries Division, 1315 East-West Highway, Silver Spring, MD 20910; and/or to the Regional Fishery Management Councils listed here:

Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906, (617) 231–0422;

David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19901–6790, (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713–2337.

SUPPLEMENTARY INFORMATION: In accordance with a Memorandum of Understanding with the Secretary of State, NMFS publishes for public review and comment summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to fish in the U.S. EEZ under provisions of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*).

This notice concerns the receipt of an application from the Government of the Russian Federation requesting authorization to conduct joint venture (JV) operations in 1998 in the Northwest Atlantic Ocean for Atlantic mackerel and Atlantic herring. The large stern trawler/processor ANDREY MARKIN is identified as the vessel that would receive Atlantic mackerel and Atlantic herring from U.S. vessels in JV operations.

Dated: April 6, 1998.

Gary C. Matlock,

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

[FR Doc. 98–9696 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

April 7, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: April 13, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On the request of the Government of Guatemala, the U.S. Government has agreed to increase the current guaranteed access level for Categories 342/642.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also

see 62 FR 67624, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 7, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the periods January 1, 1998 through May 30, 1998 and January 1, 1998 through December 31, 1998.

Effective on April 13, 1998, you are directed to increase the guaranteed access level for Categories 342/642 to 66,096 dozen for the period January 1, 1998 through May 30, 1998.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–9629 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Coverage of Import Limits and Visa and Certification Requirements for Certain Part-Categories Produced or Manufactured in Various Countries

April 7, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage for import limits and visa and certification requirements.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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.

To facilitate implementation of the Uruguay Round Agreement on Textiles and Clothing, and textile agreements and export visa arrangements based upon the Harmonized Tariff Schedule (HTS), certain HTS classification numbers are being changed for products in part-Categories 369–L and 670–L which are entered into the United States for consumption or withdrawn from warehouse for consumption on and after May 11, 1998, regardless of the date of export.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend all import controls and all visa and certification arrangements for countries with part-Categories 369–L and 670–L.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 7, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all monitoring and import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include cotton and man-made fiber textile products in part-Categories 369–L and 670–L, produced or manufactured in various countries and imported into the United States on and after May 11, 1998, regardless of the date of export.

Also, this directive amends, but does not cancel, all directives establishing visa and certification requirements for part-Categories 369–L and 670–L for which visa arrangements are in place with the Government of the United States.

Effective on May 11, 1998, you are directed to make the changes shown below in the aforementioned directives for products entered in the United States for consumption or withdrawn from warehouse for consumption on and after May 11, 1998 for part-Categories 369–L and 670–L, regardless of the date of export:

Category	HTS change
369–L	Replace 4209.92.6090 with 4209.92.6091—definition remains unchanged.
670–L	Replace 4209.92.9025 with 4209.92.9026—definition remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–9631 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States; Changes to the 1998 Correlation

April 7, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Changes to the 1998 Correlation

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Correlation: Textile and Apparel Categories based on the Harmonized Tariff Schedule of the United States (1998) presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the textile program. The Correlation should be amended to include the changes indicated below. These changes were effective on April 1, 1998:

Changes to the 1998 Correlation

These numbers were renumbered due to the creation of the statistical breakouts for cooler bags in chapter 63. The categories and definitions remain the same:

4209.92.6090 (369) becomes 4209.92.6091 (369).

4209.92.9025 (670) becomes 4209.92.9026 (670).

4209.92.9035 (870) becomes 4209.92.9036 (870)

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–9630 Filed 4–10–98; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, April 22, 1998, 10:00 a.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: April 9, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–9841 Filed 4–9–98; 2:45 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, April 23, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Mid-Year Review

The staff will brief the Commission on issues related to fiscal year 1998 mid-year review.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: April 9, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–9842 Filed 4–9–98; 2:45 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Federal Voting Assistance Program, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary of Defense announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 12, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Secretary of Defense, Washington Headquarters Services, Directorate for Federal Voting Assistance Program, Room 1B457, The Pentagon, Washington, DC 20301–1155, ATTN: Ms. Polli K. Brunelli.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Directorate for Federal Voting Assistance Program, at (703) 695–0663.

Title and OMB Number: Survey of Local Registrars and Election Officials (NVRA), Post-Election Survey of Local Election Officials and Post-Election Survey of Overseas Citizens (UOCAVA); OMB Number 0704–0125.

Needs and Uses: The federal responsibilities of the 42 U.S.C. 1973ff, ''The Uniformed and Overseas Citizens Absentee Voting Act of 1986,'' (UOCAVA), 42 U.S.C. 1973gg, ''The National Voter Registration Act of 1993,'' (NVRA), is administered on behalf of the Secretary of Defense by the Federal Voting Assistance Program, UOCAVA requires a report to be submitted to the President and to Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, and recommendations for improvements in federal and state procedures, forms, and other matters affected by the Act.

Affected Public: Individuals or Households; State, Local, or Tribal Government.

Annual Burden Hours: 475.

Number of Respondents: 2,851.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: Biennially.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

UOCAVA requires the states to allow uniformed services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for federal offices. The Act covers members of the Uniformed Services and the Merchant Marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, federal civilian employees overseas, and overseas U.S. citizens not affiliated with the federal government. The post-election survey is conducted on a statistically random basis to determine participation rates which are representative of all citizens covered by the Act, measure state-federal cooperation, and is designed to evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated reports to the President and Congress. The NVRA designates Armed Forces Recruitment Offices as voter registration agencies to assist voters in applying for registration in elections for federal offices. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, determine improvements needed in federal and state procedures, and other effects of the Act. The NVRA survey is necessary to assess the impact of Armed Forces Recruiting Office implementation of voter registration under NVRA and for program evaluation and assessment purposes.

Dated: April 7, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9578 Filed 4–10–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB)

AGENCY: Office of the Surgeon General, DOD.

ACTION: Amended notice of meeting.

SUMMARY: In previous **Federal Register** notice, Vol. 63, No. 47, page 11873, Wednesday, March 11, 1998, the AFEB Infectious Disease Subcommittee (scheduled for Wednesday, April 15, 1998, from 0800 to 1630) was announced as an open meeting pursuant to Pub. L. 92–463. Unfortunately, the meeting will be closed to the public due to the fact that material of a proprietary nature will be discussed.

FOR FURTHER INFORMATION CONTACT: COL Vicky Fogelman, AFEB, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258.

SUPPLEMENTARY INFORMATION: The purpose of the subcommittee meeting is to address several pending subcommittee issues and to provide briefings for subcommittee members on topics related to ongoing and new issues. The meeting location will be at the Naval Environmental Health Center in Norfolk, Virginia.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–9684 Filed 4–10–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Coastal Engineering Research Board (CERB)

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Dates of Meeting: May 13–14, 1998.

Place: Fort Lauderdale Airport Hilton, Dania, Florida.

Time: 8 a.m. to 5 p.m. (May 13, 1998); 9 a.m. to 5 p.m. (May 14, 1998).

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to Colonel Robin R. Cababa, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

SUPPLEMENTARY INFORMATION:

Proposed Agenda

The theme of the meeting is ''Regional Sediment Management.'' The morning session on May 13 will consist of SandyDuck media and El Niño updates, a presentation entitled ''Integration of New Technologies into Corps Operational Practice,'' and a panel discussion pertaining to the theme. Presentations include ''Sediment Management Overview,'' ''Sand Rights,'' and ''Fire Island to Montauk Point (FIMP), NY, Reformulation Study and Results from FIMP.'' Panel presentations continue during the afternoon of May 13 and include ''Ocean City/Assateague, MD, Studies,'' ''Engineering Applications of SHOALS,'' ''Coast of California Study,'' ''Coast of Florida Study,'' ''Current Research and Development (R&D) Related to Sediment Management,'' ''Coastal Inlets Research Program,'' and ''R&D Needs for Regional Sediment Management.''

The presentations on Thursday, May 14, will pertain to Florida beach and inlet management, the Florida Inland Navigation District, a review of long-term shoreline change, litigation issues, and the local perspective. There will also be a presentation entitled ''Florida Keys Carrying Capacity Study'' and a field trip overview.

Tours are scheduled for the afternoon of May 14 to view various projects in the area.

This meeting is open to the public; participation by the public is scheduled for 12:15 p.m. on May 14.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

James R. Houston,

Acting Executive Secretary.

[FR Doc. 98–9685 Filed 4–10–98; 8:45 am]

BILLING CODE 3710–PU–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 9:00 a.m., May 6, 1998.

PLACE: The Defense Nuclear Facilities Safety Board, Public Hearing Room, 625 Indiana Avenue NW., Suite 300, Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED: Status of the Department of Energy's Implementation of Board Recommendation 94–1, Improved Schedule for Remediation in the Defense Nuclear Facility Complex.

CONTACT PERSON FOR MORE INFORMATION: Robert M. Anderson, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Facilities Safety Board has become concerned about the rate of progress on actions responding to Recommendation 94–1, Improved Schedule for Remediation in the Defense Nuclear Facility Complex. Additionally, the Board has noted that while the delays in activities have been communicated in the Department of Energy (DOE) briefings to the Board and its staff, as well as in quarterly 94–1 status reports, formal communication of new proposed dates and a plan of action to meet those dates have not been forthcoming from DOE in a timely manner.

When production of nuclear weapons ceased in the early 1990's large inventories of plutonium, uranium, spent nuclear fuel, and other hazardous materials were stored in temporary arrangements awaiting processing into weapons components or other disposition. The Board became concerned as to continued safety of such materials if they were not placed in a form suitable for interim storage. The Board accordingly issued its Recommendation 94–1 on May 26, 1994, recommending that the

Department initiate or accelerate programs to process and repackage such materials so that they could be safely stored. The Secretary of Energy accepted Recommendation 94–1 in full, and a satisfactory Implementation Plan was issued in February 1995 and accepted by the Board.

This Public Meeting is for the purpose of examining progress on activities to meet the objectives of Recommendation 94–1, and related integration of activities among Department of Energy sites. Department of Energy personnel have been requested to review the status of past due milestones affecting programs to process uranium and plutonium into stable storage forms, package plutonium for interim storage, stabilize spent fuel, and maintain the facilities needed to perform these activities. The major programs under Recommendation 94–1 are at the Savannah River Site, the Hanford Site, the Rocky Flats Environmental Technology Site, and the Los Alamos National Laboratory, although most other defense nuclear sites are affected to some degree.

The Defense Nuclear Facilities Safety Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: April 9, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–9821 Filed 4–9–98; 12:58 pm]

BILLING CODE 3670–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 13, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 7, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Extension.

Title: Technology Innovation Challenge Grant Program: Professional Development.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting Burden and Recordkeeping:

Responses: 350.

Burden Hours: 8,750.

Abstract: The FY 1998 Technology Innovation Challenge Grant competition will focus on professional development by providing support to consortia that are developing, adapting, or expanding applications of technology training for teachers and other educators to improve instruction.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Infants and Toddlers with Disabilities Program (Part C) of the Individuals with Disabilities Education Act (IDEA).

Frequency: Annually.

Affected Public: Federal Government; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 168.

Abstract: States are required to submit an application to receive funds. An approved application remains in effect until modifications are needed resulting from a change in policy, procedures, or assurances. The Secretary may require a change if: amendments to the Act or regulations are made; a new interpretation to the Act is made by Federal Court or the State's highest court; or an official finding of noncompliance with Federal law or regulations is made.

[FR Doc. 98–9598 Filed 4–10–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–175–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1998.

Take notice that on April 2, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to be effective May 1, 1998.

Substitute Original Sheet No. 9A

ANR states that this filing is made to correct an inadvertent error in a tariff sheet previously submitted on March 31, 1998, in Docket No. RP98–175–000.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9605 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–178–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1998.

Take notice that on April 2, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to be effective May 1, 1998.

Substitute First Revised Sheet No. 9A

ANR states that this filing is made to correct an inadvertent error in a tariff sheet previously submitted on March 31, 1998, in Docket No. RP98–178–000.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9606 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–698–000]

Baltimore Gas & Electric Company; Notice of Filing

April 7, 1998.

Take notice that Baltimore Gas & Electric Company tendered for filing on July 14, 1998, its open access transmission tariff in compliance with Order No. 888 in the above-referenced docket.

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 April 17, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9600 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 11591–000, AK]

City of Wrangell, Alaska; Notice of City of Wrangell, Alaska's Request To Use Alternative Procedures in Filing a License Application

April 7, 1998.

The preliminary permit holder, City of Wrangell, Alaska (City), has asked to use an alternative procedure in filing an application for original license for the proposed Sunrise Lake Water and Hydroelectric Project, No. 11591 (Sunrise Lake Project).[1] The City has demonstrated that they have made an effort to contact all resource agencies, Indian tribes, nongovernmental organizations (NGOs), and others affected by their proposal, and that a consensus exists that the use of an alternative procedure is appropriate in this case. The City has also submitted a communication protocol that is supported by most interested entities.

The purpose of this notice is to invite any additional comments on the City's request to use the alternative procedure, as required under the final rule for Regulations for the Licensing of Hydroelectric Projects.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedure being requested here combines the prefiling consultation process with the environmental review process, allowing the applicant to complete and file an Environmental Assessment (EA) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and the Commission staff performs the environmental review after the application is filed by the applicant. The alternative procedure is intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Applicant Prepared EA Process and Sunrise Lake Project Schedule

On January 20, 1998, the City distributed an Initial Consultation Package for the proposed project to state and federal resource agencies, Indian tribes, and NGOs. The City scheduled a consultation meeting for all interested parties on February 17, 1998, to present their proposal for the project and solicit study requests from participants. Notice announcing the meeting was published locally, as required by Commission regulations.

Public scoping meetings are planned for late May 1998. The City is requesting that all parties to the proceeding provide written requests for study by April 18, 1998. Studies would be

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[1] The 2.5-megawatt project would be located on Woronkofski Island, 4 miles southwest of Wrangell, Alaska, within the boundaries of the Tongass National Forest.

[2] 81 FERC ¶61,103 (1997).

conducted during summer 1998, as needed. The application, including the applicant-prepared EA, would be filed with the Commission on or before December 31, 1998.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on the City's proposal to use the alternative procedures to file an application for the Sunrise Lake Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE., Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedure,'' and include the project name and number (Sunrise Lake Water and Hydroelectric Project, No. 11591).

For further information, please contact Nick Jayjack of the Federal Energy Regulatory Commission at (202) 219–2825 or E-mail at Nicholas.Jayjack@FERC.Fed.US.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9603 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–275–013 and TM97–2–59–009]

Northern Natural Gas Company; Notice of Compliance Filing

April 7, 1998.

Take notice that on April 2, 1998, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective December 1, 1997:

Substitute Original Sheet No. 54A

Northern states that it is filing Substitute Original Sheet No. 54A to correct Original Sheet No. 54A filed on March 26, 1998 in the above-referenced dockets addressing Northern's fuel and unaccounted-for Periodic Rate Adjustment (PRA) mechanism.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9604 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–179–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1998.

Take notice that on April 1, 1998, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to be effective May 1, 1998:

First Revised Sheet No. 268

Williams states that this filing is being made to amend Article 14 of the General Terms and Conditions of Williams' FERC Gas Tariff to provide for a brief extension of Williams' pricing differential mechanism (PDM) for one additional month or until November 1, 1998. The Commission has previously permitted Williams to extend the expiration of its PDM from October 1, 1995, to October 1, 1997, in Docket No. RP95–296 (Williams Natural Gas Co., 71 FERC 61,335 (1995) and from October 1, 1997, to October 1, 1998, in Docket No. RP97–306 (Williams Natural Gas Co., 80 FERC 61,086 (1997)).

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9607 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1915–000, et al.]

Nine Energy Services, LLC, et al.; Electric Rate and Corporate Regulation Filings

April 6, 1998.

Take notice that the following filings have been made with the Commission:

1. Nine Energy Services, LLC

[Docket No. ER98–1915–000]

Take notice that on April 1, 1998, Nine Energy Services, LLC (NES), filed a supplement to its application for market-based rates as power marketer. The supplemental information pertains to Nine Energy Services, LLC.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Salem Electric, Inc.

[Docket No. ER98–2175–000]

Take notice that on April 1, 1998, Salem Electric, Inc., tendered for filing an amendment to the petition for acceptance of its initial rate schedule.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER98–2393–000]

Take notice that on April 1, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by PG&E Energy Services Corporation (PG&E). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of PG&E's signature page would permit NEPOOL to expand its membership to include PG&E. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make PG&E a member in NEPOOL. NEPOOL requests an effective date of April 1, 1998, for commencement of participation in NEPOOL by PG&E.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Duquesne Light Company

[Docket No. ER98–2394–000]

Take notice that on April 1, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated March 12, 1998 with Columbia Power Marketing Corp., under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Columbia Power Marketing Corp., as a customer under the Tariff. DLC requests an effective date of March 12, 1998, for the Service Agreement.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Energy, Inc.

[Docket No. ER98–2395–000]

Take notice that on April 1, 1998, Puget Sound Energy, Inc. (PSE), tendered for filing the Agreement Regarding Canadian Entitlement (Priest Rapids Project) between PSE and Public Utility District No. 2 of Grant County (Grant).

A copy of the filing was served upon Grant.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Energy, Inc.

[Docket No. ER98–2396–000]

Take notice that on April 1, 1998, Puget Sound Energy, Inc. (PSE), tendered for filing an unexecuted Agreement Regarding Canadian Entitlement (Wanapum Project) between PSE and Public Utility District No. 2 of Grant County (Grant).

A copy of the filing was served upon Grant.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Energy, Inc.

[Docket No. ER98–2397–000]

Take notice that on April 1, 1998, Puget Sound Energy, Inc. (PSE), tendered for filing the Memorandum of Agreement Regarding Canadian Entitlement (Wells Project) between PSE and Public Utility District No. 1 of Douglas County (Douglas).

A copy of the filing was served upon Douglas.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER98–2398–000]

Take notice that on April 1, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after March 2, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER98–2399–000]

Take notice that on April 1, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Strategic Energy LTD. (Strategic).

Cinergy and Strategic are requesting an effective date of March 15, 1998.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER98–2400–000]

Take notice that on April 1, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Strategic Energy LTD. (Strategic).

Cinergy and Strategic are requesting an effective date of March 15, 1998.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Orange and Rockland Utilities, Inc.

[Docket No. ER98–2402–000]

Take notice that on April 1, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35 a service agreement under which O&R will provide capacity and/or energy to Constellation Power Source, Inc. (Constellation).

O&R requests wavier of the notice requirement so that the service agreement with Constellation becomes effective as of April 1, 1998.

O&R has served copies of the filing on The New York State Public Service Commission and Constellation.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER98–2403–000]

Take notice that on April 1, 1998, Commonwealth Edison Company (ComEd), submitted for filing two Service Agreements establishing Columbia Power Marketing Corp. (CPMC), and DTE Energy Trading, Inc. (DTEET), as customers under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of March 15, 1998, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served on CPMC, DTEET, and the Illinois Commerce Commission.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Kincaid Generation L.L.C.

[Docket No. ER98–2401–000]

Take notice that on April 1, 1998, Kincaid Generation L.L.C. (KGL) tendered for filing a Purchase Power Agreement date as of March 29, 1998, between Commonwealth Edison Company and KGL, for the provision of electric service to Commonwealth Edison Company.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Deseret Generation & Transmission Co-Operative

[Docket No. ER98–2404–000]

Take notice that on April 1, 1998, Deseret Generation & Transmission Co-operative tendered a revision to Supplement No. 2 to Supplement No. 5 to Service Agreement Nos. 1–6. The proposed changes will implement a formula rate by which Deseret's

Members reimbursements for power purchased from Western Area Power Administration (Western) will be calculated. Deseret's current Supplement No. 2 to Supplement No. 5 to Service Agreement Nos. 1–6 does not provide a specific rate for the reimbursement of Members' costs related to additional energy and other services purchases from Western which exceed the Members' Current Allocations. Western has recently restored the Members' Original Allocations and offered additional services to the Members. A copy of this filing has been served upon all of Deseret's Members. Deseret requests that this rate revision become effective on the same day that Western's rate change will go into effect on April 1, 1998.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Idaho Power Company

[Docket No. ER98–2405–000]

Take notice that on April 1, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement for Non-Firm Point to Point Transmission Service between Idaho Power Company and American Electric Power Service Corporation under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER98–2406–000]

Take notice that on April 1, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing, Service Agreements to provide Non-Firm Point-To-Point Transmission Service to the Sonat Power Marketing L.P., under the NU System Companies Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to the Sonat Power Marketing L.P.

NUSCO requests that the Service Agreement become effective March 24, 1998.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. American Electric Power Service Corporation

[Docket No. ER98–2407–000]

Take notice that on April 1, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC respectfully requests waiver of notice requirement to permit the service agreements to be made effective for service billed on and after March 3, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. The Washington Water Power Company

[Docket No. ER98–2408–000]

Take notice that on April 1, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8, with Puget Sound Energy, Inc., and with WWP, which supersede and replace previously filed agreements. WWP requests the Service Agreements be given respective effective dates of March 3, 1998, and March 15, 1998.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. The Montana Power Company

[Docket No. ER98–2409–000]

Take notice that on April 1, 1998, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR § 5.13 Firm Point-To-Point Transmission Service Agreements with Idaho Power Company (Idaho Power) and Western Area Power Administration (Western), under Montana's FERC Electric Tariff, Second Revised Volume No. 5 (Open Access Transmission Tariff). Transmission service was previously provided to Idaho Power under Montana's Rate Schedule FERC No. 221 and to Western under Montana's Rate Schedule FERC No. 227.

A copy of the filing was served upon Idaho Power and Western.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Idaho Power Company

[Docket No. ER98–2411–000]

Take notice that on April 1, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and ENSERCH.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. New Century Services, Inc.

[Docket No. ER98–2413–000]

Take notice that on April 1, 1998, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing an Umbrella Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and The Power Company of America, L.P.

Comment date: April 21, 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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment rate. 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. 98–9657 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–247–000]

Midcoast Interstate Transmission Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Colbert County Loop Project and Request for Comments on Environmental Issues

April 7, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities, about 7.38 miles of 16-inch-diameter pipeline, proposed in the Colbert County Loop Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Midcoast Interstate Transmission, Inc. (Midcoast) wants to expand the capacity of its facilities in Colbert County, Alabama to transport an additional 12,350 dekatherms per day (Dth/d) of natural gas to seven local customers and to provide revised transportation service of 6,156 Dth/d to four existing customers. Midcoast seeks authority to construct and operate 7.38 miles of 16-inch-diameter pipeline and related facilities all in Colbert County, Alabama.

The location of the project facilities is shown in appendix 2. If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

Land Requirements for Construction

Construction of the proposed facilities would require about 50 acres of land, all of which is currently maintained by Midcoast as permanent pipeline rights-of-way. Following construction, no new land would be converted to permanent pipeline rights-of-way. All affected land would be allowed to revert to its previous use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below on this page.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Midcoast. This preliminary list of issues may be changed based on your comments and our analysis.

- Thirty residences would be located within 50 feet of the construction work area, with 6 located within 25 feet of the construction work area.
- The crossing of Little Bear Creek.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2.
- Reference Docket No. CP98–247–000; and
- Mail your comments so that they will be received in Washington, DC on or before May 8, 1998.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in

[1] Midcoast Interstate Transmission Inc.'s application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9602 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11157–001]

Rugraw, Inc.; Notice of Intent To Prepare an Environmental Assessment and Conduct Public Scoping Meetings and a Site Visit

April 7, 1998.

The Federal Energy Regulatory Commission (Commission) is reviewing the hydropower application for a license of the proposed 7-megawatt Lassen Lodge Project, No. 11157–001. The project, proposed by Rugraw, Inc., would be located on the South Fork of Battle Creek, near the town of Mineral, in Tehama County, California.

The Commission staff intends to prepare an Environmental Assessment (EA) for the project in accordance with the National Environmental Policy Act. In the EA, we will consider reasonable alternatives to Rugraw's proposed project, and analyze both site-specific and cumulative environmental impacts of the project, as well as economic and engineering impacts.

A draft EA will be issued and circulated to those on the mailing list for this project. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations presented in the final EA will then be presented to the Commission to assist in making a licensing decision.

Scoping

We are asking agencies, Indian tribes, non-governmental organizations, and individuals to help us identify the scope of environmental issues that should be analyzed in the EA, and to provide us with information that may be useful in preparing the EA.

To help focus comments on the environmental issues, a scoping document outlining subject areas to be addressed in the EA will be mailed to those on the mailing list for the project. Those not on the mailing list may request a copy of the scoping document from the Project Coordinator, whose telephone number is listed below.

Those with comments or information pertaining to this project should file it with the Commission at the following address by June 12, 1998: David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All filings should clearly show the following on the first page: Lassen Lodge Project, FERC No. 11157–001.

Intervenors are reminded of the Commission's Rules of Practice and Procedure which require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

In addition to asking for written comments, we're holding two scoping meetings to solicit any verbal input and comments you may wish to offer on the scope of the EA. An agency scoping meeting will begin at 9:00 AM on May 12, 1998, at the California Department of Fish & Game, 601 Locust Street, Redding, CA 96001. A public scoping meeting will begin at 7:00 PM on May 12, 1998, at California Department of Forestry, 604 Antelope Blvd., Red Bluff, CA 96080. The public and agencies may attend either meeting. There will also be a visit to the project on May 13, 1998, to become more familiar with the proposed project. More information about these meetings and site visit is available in the scoping document.

Any questions regarding this notice may be directed to Mr. Surender Yepuri, Project Coordinator, at (202) 219–2847.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9601 Filed 4–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

April 8, 1998.

The following Notice of Meeting is Published Pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 15, 1998, 10:00 A.M.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, acting secretary, telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

CONSENT AGENDA—HYDRO 696TH MEETING—APRIL 15, 1998, REGULAR MEETING (10:00 A.M.)

CAH–1.
DOCKET# P–2494, 011, PUGET SOUND ENERGY, INC.
CAH–2.
DOCKET# P–2527, 005, CENTRAL MAINE POWER COMPANY
CAH–3.
DOCKET# P–5984, 018, NIAGARA MOHAWK POWER CORPORATION
CAH–4.
OMITTED
CAH–5.
DOCKET# P–2506, 033, UPPER PENINSULA POWER COMPANY

CONSENT AGENDA—ELECTRIC

CAE–1.

DOCKET# ER98–1992, 000, ADVANCED ENERGY SYSTEMS, INC.
CAE–2.
DOCKET# ER98–1932, 000, FIRSTENERGY OPERATING COMPANIES
CAE–3.
DOCKET# ER98–1943, 000, SITHE NEW ENGLAND HOLDINGS LLC
CAE–4.
DOCKET# ER98–1988, 000, NEW ENGLAND POWER COMPANY
OTHER#S ER98–2033, 000, NEW ENGLAND POWER COMPANY
CAE–5.
DOCKET# ER98–2023, 000, NEW ENGLAND POWER COMPANY
CAE–6.
DOCKET# ER97–1793, 000, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTH-WESTERN ELECTRIC POWER CO.
OTHER#S ER98–1980, 000, CENTRAL POWER AND LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE CO. OF OKLAHOMA AND SOUTH-WESTERN ELECTRIC POWER CO.
CAE–7.
DOCKET# ER98–374, 000, FLORIDA POWER CORPORATION
CAE–8.
OMITTED
CAE–9.
DOCKET# TX97–4, 000, NORTHERN STATES POWER COMPANY—MINNESOTA V WESTERN AREA POWER ADMINISTRATION
CAE–10. DOCKET# ER95–1240, 000, PACIFICORP
OTHER#S EL96–10, 001, UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS V PACIFICORP
EL96–11, 001, UTAH MUNICIPAL POWER AGENCY V PACIFICORP
EL96–12, 001, DESERET GENERATION AND TRANSMISSION COOPERATIVE, INC. V. PACIFICORP
EL96–14, 001, SIERRA PACIFIC POWER COMPANY V. PACIFICORP
EL96–23, 000, SIERRA PACIFIC POWER COMPANY V. PACIFICORP
EL96–34, 001, PACIFICORP
ER96–8, 001, PACIFICORP
ER96–71, 000, PACIFICORP
CAE–11.
DOCKET# ER96–1361, 000, ATLANTIC CITY ELECTRIC COMPANY
CAE–12.
DOCKET# OA96–204, 000, CLEVELAND ELECTRIC ILLUMINATING COMPANY
OTHER#S ER97–529, 000, CLEVELAND ELECTRIC ILLUMINATING COMPANY AND TOLEDO EDISON COMPANY
CAE–13.
DOCKET# ER98–1917, 000, SYSTEM ENERGY RESOURCES, INC.
CAE–14.
DOCKET# ER98–1965, 000, WEST TEXAS WIND ENERGY PARTNERS, LLC
CAE–15.
DOCKET# EC96–19, 001, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
OTHER#S EC96–19, 002, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
EC96–19, 003, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
EC96–19, 004, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
EC96–19, 005, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 001, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 002, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 003, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 004, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 005, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER96–1663, 006, PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY
ER97–2355, 000, SOUTHERN CALIFORNIA EDISON COMPANY
CAE–16.
DOCKET# ER97–4478, 001, WESTERN RESOURCES, INC.
CAE–17.
DOCKET# EL96–74, 001, ENRON POWER MARKETING, INC. V. EL PASO ELECTRIC COMPANY
OTHER#S EL97–8, 000, ENRON POWER MARKETING, INC. V. EL PASO ELECTRIC COMPANY
EL97–8, 001, ENRON POWER MARKETING, INC. V. EL PASO ELECTRIC COMPANY
CAE–18.
OMITTED
CAE–19.
DOCKET# ER95–1800, 002, PUBLIC SERVICE COMPANY OF NEW MEXICO
OTHER#S EL95–55, 000, PLAINS ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE, INC. V. PUBLIC SERVICE COMPANY OF NEW MEXICO
EL95–63, 000, INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO V. PUBLIC SERVICE COMPANY OF NEW MEXICO
EL95–75, 000, NAVAJO TRIBAL UTILITY AUTHORITY V. PUBLIC SERVICE COMPANY OF NEW MEXICO
ER95–1800, 000, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–1462, 000, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–1462, 001, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–1462, 002, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–1551, 000, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–1551, 002, PUBLIC SERVICE COMPANY OF NEW MEXICO
ER96–3036, 000, PUBLIC SERVICE COMPANY OF NEW MEXICO
OA96–202, 000, PUBLIC SERVICE COMPANY OF NEW MEXICO
TX96–5, 000, WESTERN AREA POWER ADMINISTRATION AND PUBLIC SERVICE COMPANY OF NEW MEXICO
TX96–11, 000, PLAINS ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE, INC. AND PUBLIC SERVICE COMPANY OF NEW MEXICO
CAE–20.
DOCKET# ER98–11, 001, LONG ISLAND LIGHTING COMPANY
CAE–21.
DOCKET# ER94–1348, 001, SOUTHERN COMPANY SERVICES, INC.
OTHER#S EL94–85, 001, SOUTHERN COMPANY SERVICES, INC.
CAE–22.
DOCKET# ES97–45, 000, FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC.
CAE–23.
OMITTED
CAE–24.
OMITTED
CAE–25.
DOCKET# OA97–408, 003 AMERICAN ELECTRIC POWER SERVICE CORPORATION, APPALACHIAN POWER COMPANY AND COLUMBUS SOUTHERN POWER COMPANY, ET AL.
OTHER#S OA97–117, 003, ALLEGHENY POWER SERVICE CORPORATION, MONONGAHELA POWER COMPANY, THE POTOMAC EDISON COMPANY AND WEST PENN POWER COMPANY
OA97–125, 003, CENTRAL HUDSON GAS & ELECTRIC CORPORATION
OA97–126, 003, ILLINOIS POWER COMPANY
OA97–158, 003, NIAGARA MOHAWK POWER CORPORATION
OA97–216, 003, WISCONSIN ELECTRIC POWER COMPANY
OA97–278, 003, NEW YORK STATE ELECTRIC & GAS CORPORATION
OA97–279, 003, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
OA97–284, 003, NORTHEAST UTILITIES SERVICE COMPANY, CONNECTICUT LIGHT & POWER COMPANY, AND HOLYOKE WATER POWER COMPANY, ET AL.
OA97–313, 003, MIDAMERICAN ENERGY COMPANY
OA97–411, 003, PACIFICORP
OA97–430, 003, EL PASO ELECTRIC COMPANY

OA97–431, 003, BOSTON EDISON COMPANY
OA97–434, 003, CONSUMERS ENERGY COMPANY
OA97–439, 001, VIRGINIA ELECTRIC AND POWER COMPANY
OA97–442, 002, NORTHEAST UTILITIES SERVICE COMPANY, CONNECTICUT LIGHT & POWER COMPANY AND HOLYOKE WATER POWER COMPANY, ET AL.
OA97–445, 003, SOUTHERN CALIFORNIA EDISON COMPANY
OA97–449, 003, PUGET SOUND ENERGY, INC.
OA97–459, 003, COMMONWEALTH EDISON COMPANY AND COMMONWEALTH EDISON COMPANY OF INDIANA, INC.
OA97–630, 002, NORTHEAST UTILITIES SERVICE COMPANY, CONNECTICUT LIGHT & POWER COMPANY AND HOLYOKE WATER POWER COMPANY, ET AL.

CAE–26.
DOCKET# EC98–8, 000, WISCONSIN ENERGY CORPORATION, INC. AND ESELCO, INC.
OTHER#S EC98–9, 000, EDISON SAULT ELECTRIC COMPANY AND ESEG, INC.

CONSENT AGENDA—GAS AND OIL

CAG–1.
DOCKET# PR98–4, 000, AOG GAS TRANSMISSION COMPANY, L.P.
OTHER#S PR98–4, 001, AOG GAS TRANSMISSION COMPANY, L.P.

CAG–2.
DOCKET# RP98–156, 000, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP

CAG–3.
DOCKET# RP98–160, 000, KOCH GATEWAY PIPELINE COMPANY

CAG–4.
DOCKET# PR98–3, 000, SOUTHEASTERN NATURAL GAS COMPANY

CAG–5.
DOCKET# RP95–436, 000, TRANSCONTINENTAL GAS PIPE LINE CORPORATION

CAG–6.
DOCKET# RP93–5, 028, NORTHWEST PIPELINE CORPORATION
OTHER#S RP93–96, 008, NORTHWEST PIPELINE CORPORATION

CAG–7.
DOCKET# RP98–61, 001, KOCH GATEWAY PIPELINE COMPANY

CAG–8.
DOCKET# RP98–106, 000, K N INTERSTATE GAS TRANSMISSION COMPANY

CAG–9.
DOCKET# RP98–121, 001, PANHANDLE EASTERN PIPE LINE COMPANY

CAG–10.
DOCKET# TM98–2–28, 002, PANHANDLE EASTERN PIPE LINE COMPANY

CAG–11.
DOCKET# TM98–2–76, 000, WYOMING INTERSTATE COMPANY, LTD.

CAG–12.
DOCKET# SA86–8, 000, TRANSOK, INC.

CAG–13.
OMITTED

CAG–14.
DOCKET# RP98–105, 005, WILLIAMS GAS PIPELINES CENTRAL, INC.

CAG–15.
DOCKET# RP97–20, 016, EL PASO NATURAL GAS COMPANY
OTHER#S RP97–194, 004, EL PASO NATURAL GAS COMPANY
RP97–397, 003, EL PASO NATURAL GAS COMPANY

CAG–16.
DOCKET# RP98–96, 002, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP

CAG–17.
DOCKET# RP98–84, 002, TENNESSEE GAS PIPELINE COMPANY

CAG–18.
DOCKET# RP96–199, 013, MISSISSIPPI RIVER TRANSMISSION CORPORATION

CAG–19.
DOCKET# RP98–16, 002, TENNESSEE GAS PIPELINE COMPANY

CAG–20.
DOCKET# PR94–3, 002, KANSOK PARTNERSHIP

CAG–21.
OMITTED

CAG–22.
DOCKET# RM96–1, 008, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES

CAG–23.
DOCKET# MG98–5, 000, TEXAS GAS TRANSMISSION CORPORATION

CAG–24.
DOCKET# MG98–6, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA

CAG–25.
DOCKET# CP96–248, 007, PORTLAND NATURAL GAS TRANSMISSION SYSTEM
OTHER#S CP96–249, 007, PORTLAND NATURAL GAS TRANSMISSION SYSTEM
CP97–238, 003, MARITIMES AND NORTHEAST PIPELINE, L.L.C. AND PORTLAND NATURAL GAS TRANSMISSION SYSTEM

CAG–26.
DOCKET# CP97–724, 000, NORAM GAS TRANSMISSION COMPANY

CAG–27.
DOCKET# CP98–132, 000, NORTHERN NATURAL GAS COMPANY

CAG–28.
DOCKET# CP97–526, 000, SOUTHERN NATURAL GAS COMPANY

CAG–29.
DOCKET# CP97–769, 000, COLORADO INTERSTATE GAS COMPANY

CAG–30.
DOCKET# CP87–39, 005, GRANITE STATE GAS TRANSMISSION, INC.

CAG–31.
DOCKET# CP97–774, 000, CNG TRANSMISSION CORPORATION AND TEXAS EASTERN TRANSMISSION CORPORATION

CAG–32.
DOCKET# CP98–107, 000, CONTINENTAL NATURAL GAS, INC.
OTHER#S CP98–109, 000, CONTINENTAL NATURAL GAS, INC.

CAG–33.
DOCKET# CP98–94, 000, NATIONAL FUEL GAS SUPPLY CORPORATION

CAG–34.
DOCKET# RP97–437, 001, WILLIAMS GAS PIPELINES CENTRAL, INC. AND MISSOURI GAS ENERGY, A DIVISION OF SOUTHERN UNION COMPANY
OTHER#S RP95–303, 006, WILLIAMS GAS PIPELINES CENTRAL, INC.
RP97–532, 001, MISSOURI GAS ENERGY, A DIVISION OF SOUTHERN UNION COMPANY V. WILLIAMS GAS PIPELINES CENTRAL, INC.

HYDRO AGENDA

H–1.
DOCKET# P–2534, 005, BANGOR HYDRO-ELECTRIC COMPANY
ORDER ON APPLICATION FOR NEW LICENSE.

H–2.
DOCKET# P–2712, 004, BANGOR HYDRO-ELECTRIC COMPANY
ORDER ON APPLICATION FOR NEW LICENSE.

H–3.
DOCKET# P–10981, 000, BANGOR HYDRO-ELECTRIC COMPANY
OTHER#S DI97–10, 000, BANGOR HYDRO-ELECTRIC COMPANY
P–2403, 006, BANGOR HYDRO-ELECTRIC COMPANY
P–2534, 005, BANGOR HYDRO-ELECTRIC COMPANY
P–2710, 004, BANGOR HYDRO-ELECTRIC COMPANY
P–2712, 004, BANGOR HYDRO-ELECTRIC COMPANY
ORDER ON APPLICATION FOR ORIGINAL LICENSE.

H–4.
OMITTED

H–5.
DOCKET# P–2403, 006, BANGOR HYDRO-ELECTRIC COMPANY
OTHER#S P–10981, 000, BANGOR HYDRO-ELECTRIC COMPANY
ORDER ON APPLICATION FOR NEW LICENSE.

ELECTRIC AGENDA

E–1.
DOCKET# RM98–4, 000, REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS
NOTICE OF PROPOSED RULEMAKING.

OIL AND GAS AGENDA

I.
PIPELINE RATE MATTERS

PR–1.
DOCKET# RM96–1, 007, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES
FINAL RULE.

II.
PIPELINE CERTIFICATE MATTERS

PC–1.
DOCKET# CP96–53, 000, NE HUB PARTNERS, L.P.
OTHER#S CP96–53, 004, NE HUB PARTNERS, L.P.
CP96–53, 005, NE HUB PARTNERS, L.P.

APPLICATION TO CONSTRUCT AND OPERATE FACILITIES TO PROVIDE NATURAL GAS STORAGE SERVICES AT MARKET BASED RATES.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9776 Filed 4–9–98; 10:24 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Collections From Central Valley Project Power Contractors to Carry Out the Restoration, Improvement, and Acquisition of Environmental Habitat Provisions of the Central Valley Project Improvement Act of 1992

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed procedures.

SUMMARY: The Western Area Power Administration (Western) is proposing revised procedures for the assessment and collection of restoration fund payments from the Central Valley Project (CVP) power contractors as required by the CVP Improvement Act of 1992 (Act). Under the existing procedures, which became effective May 9, 1994, Western reviews the existing procedures every 5 years, or if: (1) There is a significant change to, or suspension of, the legislation; (2) a material issue arises; or (3) an apparent inequity in the assessment method is discovered. Western reviewed the existing procedures and found that revised procedures are needed due to an apparent inequity in the existing procedures. The proposed procedures will supersede the existing procedures. This **Federal Register** notice initiates the formal process for the proposed procedures.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end May 13, 1998. A public information forum at which Western will present a detailed explanation of the proposed procedures is scheduled for April 29, 1998, beginning at 10 a.m. PDT, and will be followed by a public comment forum at which Western will accept oral and written comments, beginning at 1 p.m. PDT. The forums will be held at the Sierra Nevada Regional Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA. Western should receive written comments by the end of the consultation and comment period to be assured consideration.

ADDRESSES: Written comments are to be sent to: Mr. Jerry W. Toenyes, Regional Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Dietz, Rates Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA, 95630–4710, (916) 353–4453.

SUPPLEMENTARY INFORMATION: Section 3407 of the Act (Pub. L. 102–575, Stat. 4706, 4726) establishes in the Treasury of the United States the CVP Restoration Fund (Restoration Fund) to carry out the habitat restoration, improvement, and acquisition provisions of the Act. The Act further requires the Secretary of the Interior to assess and collect annual mitigation and restoration payments from CVP water and power contractors (Restoration Payments). The Secretary of the Interior, through the Bureau of Reclamation (Reclamation), is responsible for determining and collecting the CVP water and power contractors' shares of the annual Total Restoration Payment Obligation.

Western is responsible for the marketing and transmission of CVP power. Western has agreed to administer the assessment and collection of the Restoration Payments from CVP power contractors. Western has executed a letter of agreement with Reclamation to establish procedures for depositing the collections from CVP power contractors into the Restoration Fund.

The annual Power Restoration Payment Obligation, determined by Reclamation, will be assessed to CVP power contractors. Every month each CVP power contractor will receive a bill reflecting the amount to be paid into the Restoration Fund. The CVP power contractor will pay that amount to Western, who will transfer all amounts collected from CVP power contractors to Reclamation for deposit into the Restoration Fund.

The Administrator of Western approved the existing procedures for the assessment and collection of the Restoration Payments from CVP power contractors on March 30, 1994. At a minimum, Western reviews the existing procedures every 5 years or if: (1) There is a significant change to, or suspension of, the legislation; (2) a material issue arises; or (3) an apparent inequity in the assessment method is discovered. Western has reviewed the existing procedures and has determined that revised procedures are needed due to an apparent inequity in the existing procedures.

Under the existing procedures, Western may adjust the capacity and energy multipliers that are applied to each CVP power contractor's actual capacity and energy amounts delivered by or scheduled with Western at midyear (on or about April 1) based on Reclamation's midyear adjustment to the annual Power Restoration Payment Obligation. Western applies the adjusted multipliers to each CVP power contractor's capacity and energy purchases for the remaining months of the subject assessment year. The apparent inequity occurs during this midyear adjustment process when the adjusted multipliers are applied to CVP power contractors with higher capacity and energy purchases from Western during the remaining months. This process could adversely impact these CVP power contractors. If the midyear adjustment is distributed over the capacity and energy purchases during the entire assessment year, then this apparent inequity would not occur.

The proposed procedures will incorporate the existing procedures, with the exception of the following:

1. During each assessment year's midyear adjustment period, any adjustments to the capacity and energy multipliers will be based on Western's total capacity and energy sales to all CVP power contractors during the entire assessment year. Under the existing procedures, any adjusted multipliers resulting from the midyear adjustment process are based on Western's total capacity and energy sales from the prior year.

2. An alternative method for assessing the annual Power Restoration Payment Obligation will be offered by Western. If requested by the CVP power contractor, Western will determine the CVP power contractor's equal monthly Restoration Payment amounts for the assessment year. Under the existing procedures, the monthly Restoration Payments are variable amounts depending upon the CVP power contractor's actual monthly capacity and energy purchases from Western.

3. Revised provisions for late payment charges assessed to delinquent Restoration Payments are described in detail in the Proposed Procedures section.

The existing procedures will be superseded by the proposed procedures. The final procedures are to become effective not less than 30 days after publication of notice of final procedures in the **Federal Register**, or August 1, 1998, whichever occurs later.

Acronyms and Definitions

As used herein, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.

Assessment Month: The service month, which is 1 month prior to the Billing Month.

Assessment Year: The period that uses the service months from August 1 through July 31 for which CVP Power Contractors will be billed Restoration Payments.

Billing Month: The month CVP Power Contractors will be billed for the Restoration Payments.

Central Valley Project (CVP): A multipurpose Federal water development project extending from the Cascade Range in northern California to the plains along the Kern River south of the city of Bakersfield.

CVP Improvement Act of 1992 (Act): Title 34 of Public Law 102–575, 106 Stat. 4706 *et seq.* A legislative act, which was enacted on October 30, 1992, and defines provisions for habitat restoration, improvement and acquisition, and other fish and wildlife restoration activities in the CVP area of California.

DOE: United States Department of Energy.

Fiscal Year (FY): The fiscal year, which begins October 1 and ends September 30.

Interior: United States Department of the Interior.

kW: Kilowatt, the electrical unit of capacity that equals 1000 watts.

kWh: Kilowatt-hour, the electrical unit of energy that equals the generation of 1000 watts over 1 hour.

Letter of Agreement: Letter of Agreement No. 93–SAO–10156, a written agreement between Reclamation and Western that established procedures to deposit the Restoration Payments collected from CVP Power Contractors into the Restoration Fund.

Load Adjustment(s): The adjustment(s) to CVP Power Contractors' forecasted monthly capacity and energy purchases from Western as determined by Western based on CVP Power Contractors' actual capacity and energy amounts delivered by or scheduled with Western.

Midyear Adjustment: The adjustment to the annual Power Restoration Payment Obligation determined by Reclamation on or about April 1 of the Assessment Year.

Power: Capacity and energy.

Power Contractor: An entity purchasing firm capacity and/or energy from Western for a period in excess of 1 year.

Power Restoration Payment Obligation: The portion of the Total Restoration Payment Obligation calculated and assigned annually to CVP Power Contractors by Reclamation.

Reclamation: United States Department of Interior, Bureau of Reclamation.

Restoration Fund: The CVP Restoration Fund, established by Section 3407 of the Act, into which revenues provided by the Act are deposited, and from which funds are appropriated by the Secretary to carry out the habitat restoration, improvement and acquisition provisions of the Act.

Restoration Fund Bill(s): The instrument prepared and issued monthly by Western as a mechanism for collecting the Restoration Payments from CVP Power Contractors.

Restoration Payment(s): The amount(s) recorded as payable on CVP Power Contractors' Restoration Fund Bills.

Secretary: Secretary of DOE.

Total Restoration Payment Obligation: The total amount of payments to be collected from the CVP water and power contractors, calculated annually by Reclamation.

Western: United States Department of Energy, Western Area Power Administration.

Proposed Procedures

Determination of the Power Restoration Payment Obligation

Reclamation is responsible for determining the annual Power Restoration Payment Obligation for CVP Power Contractors. Prior to each Assessment Year, on or about July 1, Reclamation will, by letter, provide to Western's Regional Manager of the Sierra Nevada Region the amount determined to be the Power Restoration Payment Obligation and a detailed explanation of the computation of the amount for the upcoming Assessment Year. Upon receiving this letter from Reclamation, Western's Sierra Nevada Region will notify each CVP Power Contractor of the annual Power Restoration Payment Obligation, the capacity and energy multipliers for the Assessment Year, and for CVP Power Contractors choosing the alternative method for assessing the annual Power Restoration Payment Obligation, the resulting monthly Restoration Payment amount. Any adjustments to the annual Power Restoration Payment Obligation will be accomplished through the Midyear Adjustment determined by Reclamation.

Assessing the Power Restoration Payment Obligation

For each Assessment Year, Western will prorate the annual Power Restoration Payment Obligation to actual capacity and energy amounts delivered by or scheduled with Western for each CVP Power Contractor. Western will assess 50 percent of the annual Power Restoration Payment Obligation to capacity and 50 percent to energy. Western will determine a capacity multiplier and an energy multiplier using projected Power sales based on CVP Power Contractors' forecasts and/or prior FY total capacity and energy amounts delivered or scheduled to all CVP Power Contractors. Prior to July 1, when Western receives Reclamation's letter for the annual Power Restoration Payment Obligation, Western will request each CVP Power Contractor to submit to Western its forecasted monthly capacity and energy purchases from Western. The CVP Power Contractor's forecast will be for August 1 through July 31 of the subject Assessment Year. If the CVP Power Contractor does not submit a forecast of monthly capacity and energy purchases, Western will use the CVP Power Contractor's prior year's (August 1 through July 31) actual capacity and energy amounts delivered or scheduled, with adjustments Western may deem appropriate, as the projected Power sales used for the subject Assessment Year.

The annual Power Restoration Payment Obligation for the subject Assessment Year to be prorated to capacity will be divided by Western's projected capacity sales to determine the capacity multiplier. The same process will be repeated using the annual Power Restoration Payment Obligation prorated to energy divided by Western's projected energy sales to determine the energy multiplier. During each Assessment Month of the subject Assessment Year, these capacity and energy multipliers will be applied to each CVP Power Contractor's actual capacity and energy amounts delivered by or scheduled with Western to determine the CVP Power Contractor's Restoration Payment, unless the alternative method for assessing the Power Restoration Payment Obligation is used. For each Billing Month of the subject Assessment Year, each CVP Power Contractor will be billed for its individual monthly Restoration Payment.

Alternative Method for Assessing the Power Restoration Payment Obligation

As an alternative method to the assessment method described above and if requested by the CVP Power Contractor, Western will determine the CVP Power Contractor's monthly Restoration Payments as equal monthly payment amounts, as adjusted, for the subject Assessment Year. The monthly Restoration Payment amounts will be based on the CVP Power Contractor's forecasted or prior year's actual capacity and energy amounts delivered by or scheduled with Western.

Under this alternative method, for each Assessment Year, Western will prorate the annual Power Restoration Payment Obligation based on the CVP Power Contractor's forecasted or prior year's monthly capacity and energy purchases from Western. Western will determine the CVP Power Contractor's monthly Restoration Payment amount by multiplying the CVP Power Contractor's total forecasted or prior year's capacity purchases by the capacity multiplier determined by Western, and repeating the calculation for energy using the energy multiplier. Western will sum the resulting capacity and energy calculations and then divide by 12 to determine the monthly Restoration Payment amount. For each Billing Month of the subject Assessment Year, the CVP Power Contractor will be billed for its individual monthly Restoration Payment.

CVP Power Contractors who prefer this alternative method for assessing the annual Power Restoration Payment Obligation must notify Western in writing prior to August 1, 1998. Once the CVP Power Contractor elects this alternative method, the method will remain in effect unless otherwise mutually agreed by Western and the CVP Power Contractor.

Collection of CVP Power Contractors' Restoration Fund Bills

Each CVP Power Contractor will receive a Restoration Fund Bill on or about the twenty-fifth (25th), but no later than the last day of the month for each month designating the amount payable. The Restoration Fund billing cycle, for each Assessment Year, will begin at least 30 days after August 1, or the date written notification of the annual Power Restoration Payment Obligation is received from Reclamation, whichever occurs later.

If the Restoration Fund billing is suspended for a time, Western's Sierra Nevada Region will notify all CVP Power Contractors as soon as possible. Suspension of billing may occur to avoid overpayment on the annual Power Restoration Payment Obligation.

Payment Due Date

All CVP Power Contractors' Restoration Payments are due and payable by CVP Power Contractors before the close of business on the twentieth (20th) calendar day after the date of the issuance of each Restoration Fund Bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday.

Late Payment Charges Assessed to Delinquent Restoration Payments

Restoration Fund Bills not paid in full by the CVP Power Contractor(s) by the due date as specified above will be assessed a late payment charge of five hundredths percent (0.05%) of the principal amount unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Payments received will be first applied to the charges for the late payment assessed on the principal and then to the payment of the principal.

Deposit of CVP Power Contractors' Restoration Payments Into the Restoration Fund

On or about the twenty-first (21st) calendar day of the month following each Billing Month, Western will transfer all of the Restoration Payments received from CVP Power Contractors, including late payment charges, to Reclamation for deposit into the Restoration Fund.

Adjustment to the Power Restoration Payment Obligation

There are two types of adjustments that can be made relative to each Assessment Year's annual Power Restoration Payment Obligation, a Midyear Adjustment determined by Reclamation and Load Adjustments determined by Western. Reclamation will notify Western, in writing, of the Midyear Adjustment. Upon receiving Reclamation's written notification, Western will notify each CVP Power Contractor of the Midyear Adjustment to the annual Power Restoration Payment Obligation and any adjustments to capacity and energy multipliers for the remaining months of the subject Assessment Year. Any adjustments made will be based on Western's Power sales to all CVP Power Contractors for the entire Assessment Year.

The Midyear Adjustment is determined by Reclamation and occurs on or about April 1, of the subject Assessment Year, following Reclamation's annual determination of available CVP water supply for the year. This adjustment applies to the annual Power Restoration Payment Obligation and is based on hydrological conditions and Reclamation's most recently available forecast of CVP water deliveries to the CVP water contractors applicable to the subject Assessment Year. Upon receiving Reclamation's notification, Western may adjust the capacity and energy multipliers as appropriate to coincide with the adjusted annual Power Restoration Payment Obligation.

During the Midyear Adjustment period, Western will also review the Restoration Payments from the CVP Power Contractors received thus far for the subject Assessment Year. If the actual payment amounts are 25 percent greater or less than projected, Western may adjust the capacity and energy multipliers for the remaining months of the subject Assessment Year. Beginning May 1, and continuing throughout the remaining months of the subject Assessment Year, the adjusted multipliers will be applied to each CVP Power Contractor's actual capacity and energy amounts delivered by or scheduled with Western.

For the alternative method for assessing the Power Restoration Payment Obligation, Load Adjustment(s), determined by Western, will be evaluated quarterly during the subject Assessment Year for each CVP Power Contractor. Western will compare the CVP Power Contractor's forecasted or prior year's capacity and energy amounts to the actual capacity and energy amounts delivered by or scheduled with Western during the subject Assessment Year. If, in Western's judgment, the difference would significantly impact other CVP Power Contractors, Western will adjust the CVP Power Contractor's forecasted or prior year's capacity and energy amounts to align with actual load data. This adjustment will result in a change to the CVP Power Contractor's monthly Restoration Payment amount. Western will notify the CVP Power Contractor(s) of any Load Adjustment(s) and the resulting change(s) to the monthly Restoration Payment amount prior to any adjustments.

To the extent practicable, Western will also make Load Adjustment(s) during the last quarter of the subject Assessment Year to ensure that the CVP Power Contractor's total annual Restoration Payment amount is equal to the amount the CVP Power Contractor would have paid if billing would have been based on actual capacity and energy amounts delivered by or scheduled with Western. Any balances remaining on the CVP Power

Contractor's Restoration Fund Bill(s) must be paid in full by the thirtieth (30th) of September for each Assessment Year.

All other deviations, in the amounts collected or assessed relative to the annual Power Restoration Payment Obligation, will be rolled into the following Assessment Year. The rolled over amount will be added or subtracted from the Power Restoration Payment Obligation amount to be assessed in that year.

Review Process

Western will review the procedures for the assessment and collection of the Restoration Payments from CVP Power Contractors every 5 years, or if one of the following occurs: (1) If there is a significant change to or suspension of the legislation; (2) if a material issue arises; or (3) if an apparent inequity in the procedures is discovered.

Availability of Information

All brochures, studies, comments, letters, memoranda, or other documents made or kept by Western for developing the proposed procedures, are and will be made available for inspection and copying at the Sierra Nevada Regional Office, located at 114 Parkshore Drive, Folsom, California.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a proposed rule is likely to have a significant economic impact on a substantial number of small entities. Western has determined that this action relates to rates or services offered by Western and, therefore, is not a rule within the purview of the Act.

Environmental Compliance

Western will conduct an environmental evaluation and develop the appropriate level of environmental documentation pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500 through 1508); and the DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

Review Under Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), Western has received approval from the Office of Management and Budget for the collection of customer information in this rule, under control number 1910–0100.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by Office of Management and Budget is required.

Dated: April 1, 1998.

Michael S. Hacskaylo,

Acting Administrator.

[FR Doc. 98–9658 Filed 4–10–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5995–3]

RIN 2060–AF04

Health Risks From Low-Level Environmental Exposure to Radionuclides—Federal Guidance Report No.13—Part 1; Interim Version

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the report, Health Risks from Low-Level Environmental Exposure to Radionuclides—Federal Guidance Report No.13—Part 1. This report has been issued in interim form to provide government agencies and other interested parties an opportunity to become familiar with its supporting methodology, and to solicit comments for consideration before publishing the final version. The report is intended to promote consistency in assessments of the risks to health from radiation and to help ensure that such assessments are based on up-to-date scientific information. Interim Federal Guidance Report No.13 was published on January 30, 1998, and is now available for review.

DATES: Written comments in response to this notice must be received on or before June 30, 1998.

ADDRESSES: Written comments must be submitted electronically (comments.fgr13@epa.gov) or in duplicate to: Central Docket Section (6102), Environmental Protection Agency, ATTN: Air Docket No. A–98–11, Washington, D.C. 20460. The docket is available for public inspection between the hours of 8:00 am and 5:30 pm, Monday through Friday, in Room M1500 of Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The FAX number is (202) 260–4400. If copies of docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Copies of Federal Guidance Report No.13 (FGR–13) are available by contacting EPA's National Center for Environmental Publication and Information on 1–800–490–9198 or by visiting their web site (www.epa.gov/ncepihom). For technical information only, contact Mike Boyd on 202–564–9395, or by e-mail at BOYD.MIKE@EPA.GOV.

SUPPLEMENTARY INFORMATION: The information presented in FGR–13 is intended for use in assessing risks from exposure to radionuclides. The report provides, for the first time, comprehensive tabulations of cancer risk coefficients that use state-of-the-art models for estimating cancer risks from external and internal exposure. These coefficients may be used in a variety of applications ranging from environmental impact analyses for specific sites to the general analyses that support rulemaking. FGR–13 provides coefficients for assessing cancer risks from environmental exposure to about 100 radionuclides. Both cancer mortality and incidence risk coefficients are tabulated for inhalation, food and water ingestion, submersion in air and exposure to uniform soil concentrations. The age-averaged coefficients consider age-specific intake rates, dose modeling, and risk modeling.

As part of Reorganization Plan No. 3 of 1970, EPA took over the functions of the Federal Radiation Council (FRC), which was formed through Executive Order 10831 in 1959.

Under this authority it is the responsibility of the Administrator to ''advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States.'' In carrying out this responsibility, EPA strives: (1) To ensure that the regulation of exposure to ionizing radiation is adequately protective, (2) to reflect the best available scientific information; and (3) to ensure that this is done in a consistent manner.

Since the mid-1980's, EPA has issued a series of Federal guidance documents for the purpose of providing Federal agencies technical information to assist in their implementation of radiation protection programs. The first report in this series, Federal Guidance Report No. 10 (1984), presented derived concentrations of radioactivity in air and water corresponding to the limiting

annual doses recommended for workers in 1960. That report was superseded in 1988 by Federal Guidance Report No. 11 (1988), which provides dose coefficients for internal exposure of members of the general public and limiting values of radionuclides intake and air concentrations for workers, based on updated biokinetic and dosimetric models. Federal Guidance Report No. 12 (1993) tabulates dose coefficients for external exposure to radionuclides in air, water, and soil.

EPA currently plans for final publication of FGR13 for the fall of 1998. This interim version provides tabulations of risk estimates, or ''risk coefficients'', for approximately 100 important radionuclides.

The tabulations in the final version will extend the methodology of the interim version to all radionuclides that are included in Federal Guidance Reports No. 11 and No. 12.

Dated: April 6, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–9676 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–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 2:02 p.m. on Tuesday, April 8, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director Joseph H. Neely (Appointive), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency) 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)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 9, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–9775 Filed 4–9–98; 10:25 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 98–N–4]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1998–99 first quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1998–99 first quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before May 28, 1998.

ADDRESSES: FHLBank members selected for the 1998–99 first quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Compliance Assistance Division, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006; or by electronic mail: COMSUP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Compliance Assistance Division, at 202/408–2574; at the following electronic mail address: COMSUP@FHFB.GOV; or at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1).The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board amended its community support requirement regulation effective June 30, 1997. See 62 FR 28983 (May 29, 1997), codified at 12 CFR part 936.

As amended, the community support requirement regulation establishes standards a FHLBank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR 936.3. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the May 28, 1998 deadline prescribed in this notice. *Id.* § 936.2(b)(1)(ii), (c). On or before April 28, 1998, each FHLBank will notify the members in its district that have been selected for the 1998–99 first quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's FHLBank also will

provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1998–99 first quarter community support review cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
Canaan National Bank	Canaan	CT
Advest Bank	Hartford	CT
Litchfield Bancorp	Litchfield	CT
Milford Bank	Milford	CT
New Milford Savings Bank	New Milford	CT
Prime Bank	Orange	CT
National Iron Bank	Salisbury	CT
Stamford Federal Savings Bank	Stamford	CT
First National Bank of Suffield	Suffield	CT
Savings Institute	Willimantic	CT
Adams Co-operative Bank	Adams	MA
Beverly Co-op	Beverly	MA
Atlantic Bank and Trust	Boston	MA
East Boston Savings Bank	Boston	MA
Wainwright Bank and Trust Company	Boston	MA
Braintree Co-operative Bank	Braintree	MA
Brookline Co-operative Bank	Brookline	MA
Chelsea-Provident Co-operative Bank	Chelsea	MA
Massachusetts Co-operative Bank	Dorchester	MA
East Bridgewater Savings Bank	East Bridgewater	MA
Fall River Five Cents Savings Bank	Fall River	MA
Cape Cod Five Cents Savings Bank	Harwich Port	MA
Cape Cod Bank and Trust Company	Hyannis	MA
Charter Bank, a Co-op	Hyannis	MA
First National Bank of Ipswich	Ipswich	MA
Marlborough Co-operative Bank	Marlborough	MA
Century Bank and Trust Company	Medford	MA
Needham Co-operative Bank	Needham	MA
North Adams Hoosac Savings Bank	North Adams	MA
North Brookfield Savings Bank	North Brookfield	MA
Easton Cooperative Bank	North Easton	MA
Rockland Trust Company	Rockland	MA
Park West Bank and Trust Company	West Springfield	MA
UniBank for Savings	Whitinsville	MA
Williamstown Savings Bank	Williamstown	MA
First Masschusetts Bank, N.A	Worcester	MA
Mechanics' Savings Bank	Auburn	ME
Pepperell Trust Company	Biddeford	ME
Siwooganock Guaranty Savings Bank	Lancaster	NH
St. Mary's Bank	Manchester	NH
Community Guaranty Savings Bank	Plymouth	NH
Community Bank and Trust Company	Wolfeboro	NH
Coventry Credit Union	Coventry	RI
Domestic Loan and Investment Bank	Cranston	RI
Bank Rhode Island	East Providence	RI
Home Loan and Investment Bank, FSB	Warwick	RI
Randolph National Bank	Randolph	VT
Citizens Savings Bank and Trust Company	St. Johnsbury	VT
Federal Home Loan Bank of New York—District 2		
United National Bank	Bridgewater	NJ
Chatham Savings, FSB	Chatham	NJ
Dean Witter Trust, FSB	Jersey City	NJ
Provident Savings Bank	Jersey City	NJ
Trenton Savings Bank, FSB	Lawrenceville	NJ
Hudson United Bank	Mahwah	NJ
Yardville National Bank	Mercerville	NJ
Atlantic Stewardship Bank	Midland Park	NJ
Jersey Bank for Savings	Montvale	NJ
First Morris Bank	Morris Township	NJ
Bergen Commercial Bank	Paramus	NJ
Phillipsburg National Bank and Trust Company	Phillipsburg	NJ
Carnegie Bank	Princeton	NJ
Raritan Savings Bank	Raritan	NJ
Tinton Falls State Bank	Tinton Falls	NJ
Mon-Oc Federal Credit Union	Toms River	NJ
First Washington State Bank	Windsor	NJ
Bank of Gloucester County	Woodbury	NJ

Member	City	State
Canandaigua National Bank and Trust Company	Canandaigua	NY
Country Bank	Carmel	NY
Chemung Canal Trust Company	Elmira	NY
National Bank of New York City	Flushing	NY
Queens County Savings Bank	Flushing	NY
MSB Bank	Goshen	NY
Hudson City Savings Institution	Hudson	NY
Long Island Commercial Bank	Islandia	NY
Rondout Savings Bank	Kingston	NY
Lockport Savings Bank	Lockport	NY
Citizens National Bank of Malone	Malone	NY
State Bank of Long Island	New Hyde Park	NY
Eastbank, N.A	New York	NY
Oswego City Savings Bank	Oswego	NY
Pavilion State Bank	Pavilion	NY
Rhinebeck Savings Bank	Rhinebeck	NY
First National Bank of Rochester	Rochester	NY
Tioga State Bank	Spencer	NY
OnBank and Trust Company	Syracuse	NY
Tupper Lake National Bank	Tupper Lake	NY
Warwick Savings Bank	Warwick	NY
Banco Santander Puerto Rico	San Juan	PR
Federal Home Loan Bank of Pittsburgh—District 3		
County Bank	Rehoboth Beach	DE
Kishacoquillas Valley National Bank	Belleville	PA
Summit Bank	Bethlehem	PA
County National Bank	Clearfield	PA
Citizens Trust Company	Coudersport	PA
Downington National Bank	Downington	PA
Farmers National Bank of Emlenton	Emlenton	PA
First American National Bank	Everett	PA
Southwest National Bank of Pennsylvania	Greensburg	PA
First National Bank of Pennsylvania	Greenville	PA
Harleysville Savings Bank	Harleysville	PA
First National Bank of Herminie	Herminie	PA
Hollidaysburg Trust Company	Hollidaysburg	PA
Honesdale National Bank	Honesdale	PA
Wayne Bank	Honesdale	PA
Penn Central National Bank	Huntingdon	PA
Laurel Bank	Johnstown	PA
United States National Bank in Johnstown	Johnstown	PA
Keystone National Bank	Lancaster	PA
Farmers Trust Bank	Lebanon	PA
Luzerne National Bank	Luzerne	PA
Marion Center National Bank	Marion Center	PA
Second National Bank of Masontown	Masontown	PA
Old Forge Bank	Old Forge	PA
Chelten Hills Savings Association	Philadelphia	PA
Chestnut Street Building and Loan Association	Philadelphia	PA
Corestates Bank	Philadelphia	PA
Gorgas Savings Association	Philadelphia	PA
Northwood Savings Association	Philadelphia	PA
Rossini Savings Association	Philadelphia	PA
Cammar Building and Loan Association	Pittsburgh	PA
First National Bank of Port Allegany	Port Allegany	PA
Great Valley Savings Bank	Reading	PA
Community First Bank, N.A	Reynoldsville	PA
Farmers Building and Loan Association	Rochester	PA
Hamlin Bank and Trust Company	Smethport	PA
First National Bank of Spangler	Spangler	PA
Eagle National Bank	Upper Darby	PA
Bruceton Bank	Bruceton Mills	WV
Mountain Valley Bank, N.A	Elkins	WV
Calhoun County Bank, Inc	Grantsville	WV
One Valley Bank of Huntington, Inc	Huntington	WV
Harrison County Bank	Lost Creek	WV
One Valley Bank-East, N.A	Martinsburg	WV
South Branch Valley National Bank	Moorefield	WV
Grant County Bank	Petersburg	WV
Union Bank of Tyler County	Sistersville	WV
First National Bank	St. Marys	WV
Terra Alta Bank	Terra Alta	WV

Member	City	State
Wheeling National Bank	Wheeling	WV
Matewan National Bank	Williamson	WV
Federal Home Loan Bank of Atlanta—District 4		
Loyal American Life	Mobile	AL
First National Bank of Opelika	Opelika	AL
City National Bank of Sylacauga	Sylacauga	AL
First National Bank in Sylacauga	Sylacauga	AL
Bank of Tuscaloosa	Tuscaloosa	AL
Bank of Vernon	Vernon	AL
First National Bank of Wetumpka	Wetumpka	AL
Citizens Bank of Winfield	Winfield	AL
Adams National Bank	Washington	DC
American Bank of Bradenton	Bradenton	FL
First National Bank of Manatee	Bradenton	FL
Hernando County Bank	Brooksville	FL
Drummond Community Bank	Chiefland	FL
Security Bank, N.A	Coral Springs	FL
Crystal River Bank	Crystal River	FL
First National Bank of Pasco	Dade City	FL
BankFIRST	Eustis	FL
SunTrust Bank, Southwest Florida	Fort Myers	FL
Community Bank of Homestead	Homestead	FL
First National Bank of Homestead	Homestead	FL
American National Bank of Florida	Jacksonville	FL
Marine National Bank of Jacksonville	Jacksonville	FL
First National Bank of the Florida Keys	Marathon	FL
Marine Bank of the Florida Keys	Marathon	FL
Fidelity Bank of Florida	Merritt Island	FL
Coconut Grove Bank	Miami	FL
The International Bank	Miami	FL
Peoples National Bank of Niceville	Niceville	FL
Enterprise National Bank of Palm Beach	North Palm Beach	FL
Friendship Community Bank	Ocala	FL
Independent Bank of Ocala	Ocala	FL
First State Bank of Sarasota	Sarasota	FL
Prosperity Bank of St. Augustine	St. Augustine	FL
Republic Bank	St. Petersburg	FL
United Bank of Pinellas	St. Petersburg	FL
Guaranty National Bank	Tallahassee	FL
Premier Bank	Tallahassee	FL
SunTrust Bank, Tallahassee, N.A	Tallahassee	FL
Tri-County Bank	Trenton	FL
First National Bank of Wauchula	Wauchula	FL
Premier Bank, FSB	Acworth	GA
Adel Banking Company	Adel	GA
Alma Exchange Bank and Trust	Alma	GA
First National Bank of Alma	Alma	GA
Citizens Bank of Americus	Americus	GA
Athens First Bank and Trust Company	Athens	GA
SunTrust Bank, Northeast Georgia, N.A	Athens	GA
Bankers Bank	Atlanta	GA
Mutual Federal Savings Bank	Atlanta	GA
SouthTrust Bank of Georgia, N.A	Atlanta	GA
First Community Bank of Southwest Georgia	Bainbridge	GA
Cairo Banking Company	Cairo	GA
Georgia Bank and Trust	Calhoun	GA
Bank of Canton	Canton	GA
Community First Bank	Carrollton	GA
Brown Bank	Cobbtown	GA
Community Bank and Trust—Jackson	Commerce	GA
First National Bank of Commerce	Commerce	GA
Cordele Banking Company	Cordele	GA
Community Bank and Trust	Cornelia	GA
Hardwick Bank and Trust Company	Dalton	GA
Fidelity National Bank	Decatur	GA
Merchants and Farmers Bank	Donalsonville	GA
Bank of Dudley	Dudley	GA
Citizens Bank and Trust Company	Eastman	GA
Bank of Ellaville	Ellaville	GA
First National Bank of Griffin	Griffin	GA
Citizens Bank	Hogansville	GA
McIntosh State Bank	Jackson	GA

Member	City	State
First National Bank and Trust Company	Louisville	GA
Exchange Bank	Milledgeville	GA
Bank of Monticello	Monticello	GA
American Banking Company	Moultrie	GA
Bank of Quitman	Quitman	GA
The Tattnall Bank	Reidsville	GA
Bryan Bank and Trust	Richmond Hill	GA
Northwest Georgia Bank	Ringgold	GA
Rossville Bank	Rossville	GA
West Central Georgia Bank	Thomaston	GA
Valdosta Bank and Trust	Valdosta	GA
First National Bank of Cherokee	Woodstock	GA
Carrollton Bank	Baltimore	MD
First National Bank of Maryland	Baltimore	MD
Glen Burnie Mutual Savings Bank	Glen Burnie	MD
Hebron Savings Bank	Hebron	MD
First Financial of Maryland Federal	Lutherville-Timonium	MD
Regal Savings Bank, F.S.B	Owings Mills	MD
Provident State Bank of Preston	Preston	MD
Queenstown Bank of Maryland	Queenstown	MD
The Morris Plan Industrial Bank	Burlington	NC
Home Federal Savings and Loan Association	Charlotte	NC
Park Meridian Bank	Charlotte	NC
Yadkin Valley Bank and Trust Company	Elkin	NC
Fidelity Bank	Fuquay-Varina	NC
Bank of Granite	Granite Falls	NC
Peoples Bank	Newton	NC
First National Bank of Reidsville	Reidsville	NC
Shelby Savings Bank, SSB	Shelby	NC
Mitchell Savings Bank, SSB	Spruce Pine	NC
Wake Forest FS&LA	Wake Forest	NC
Horry County State Bank	Loris	SC
First FS&LA of Charleston	North Charleston	SC
Orangeburg National Bank	Orangeburg	SC
Carolina Southern Bank	Spartanburg	SC
Bank of Franklin	Franklin	VA
Old Point National Bank of Phoebus	Hampton	VA
Salem Bank and Trust, N.A	Salem	VA
First Community Bank of Saltville	Saltville	VA
Community Bank of Northern Virginia	Sterling	VA
Citizens and Farmers Bank	West Point	VA
Federal Home Loan Bank of Cincinnati—District 5		
Bank of Clinton County, Inc	Albany	KY
Citizens Deposit Bank	Arlington	KY
Peoples Bank of Madison County	Berea	KY
Citizens Bank	Brodhead	KY
Bank of Cumberland	Burkesville	KY
Deposit Bank of Carlisle	Carlisle	KY
Cecillian Bank	Cecilia	KY
Peoples State Bank	Chaplin	KY
Farmers Bank	Clay	KY
Tri-County National Bank	Corbin	KY
Farmers National Bank	Danville	KY
Dixon Bank	Dixon	KY
First Citizens Bank	Elizabethtown	KY
Farmers Bank and Capital Trust Company	Frankfort	KY
Franklin Bank and Trust Company	Franklin	KY
First National Bank & Trust Company	Georgetown	KY
Georgetown Bank and Trust Company	Georgetown	KY
The Farmers Bank & Trust Company	Georgetown	KY
Peoples Bank and Trust Company	Greensburg	KY
Peoples State Bank	Hodgenville	KY
United Southern Bank	Hopkinsville	KY
Horse Cave State Bank	Horse Cave	KY
First Southern National Bank	Hustonville	KY
Commonwealth Bank and Trust	Louisville	KY
Republic Bank and Trust Company	Louisville	KY
The First National Bank of Mayfield	Mayfield	KY
Jackson County Bank	McKee	KY
Farmers Bank of Milton	Milton	KY
Morehead National Bank	Morehead	KY
Morganfield National Bank	Morganfield	KY

Member	City	State
Peoples Bank and Trust Company	Owenton	KY
Peoples First National Bank and Trust Company	Paducah	KY
First National Bank of Paintsville	Paintsville	KY
Matewan Bank, FSB	Pikeville	KY
Citizens Bank	Sharpsburg	KY
Springfield State Bank	Springfield	KY
Powell County Bank	Stanton	KY
First Kentucky Bank	Sturgis	KY
Peoples Bank of Tompkinsville	Tompkinsville	KY
Citizens Deposit Bank and Trust, Inc.	Vanceburg	KY
Bank of Whitesburg	Whitesburg	KY
Peoples Commercial Bank	Winchester	KY
Apple Creek Banking Company	Apple Creek	OH
Bellbrook Community Bank	Bellbrook	OH
First National Bank	Bellevue	OH
Citizens Commercial Bank and Trust Company	Celina	OH
Clyde Savings Bank Company	Clyde	OH
State Savings Bank	Columbus	OH
Cortland Savings and Banking Company	Cortland	OH
Community Bank	Crooksville	OH
Dover-Phila Federal Credit Union	Dover	OH
First Federal Savings Bank of Dover	Dover	OH
First National Community Bank	East Liverpool	OH
Peoples Bank	Gambier	OH
Genoa Banking Company	Genoa	OH
Glouster Community Bank	Glouster	OH
First National Bank of Southwestern Ohio	Hamilton	OH
Richland Trust Company	Mansfield	OH
First Merit/Old Phoenix National Bank	Medina	OH
Metamora State Bank	Metamora	OH
Middlefield Banking Company	Middlefield	OH
Consumers National Bank	Minerva	OH
Henry County Bank	Napoleon	OH
Citizens State Bank of Strasburg	New Philadelphia	OH
Osgood State Bank	Osgood	OH
American Savings Association	Portsmouth	OH
Community First Bank, N.A.	Ripley	OH
Sabina Bank	Sabina	OH
Somerville National Bank	Somerville	OH
UniBank	Steubenville	OH
Champaign National Bank and Trust	Urbana	OH
AmeriFirst	Xenia	OH
First National Bank of Zanesville	Zanesville	OH
Bank of Cleveland	Cleveland	TN
First Farmers and Merchants National Bank	Columbia	TN
Union Planters Bank of the Cumberlands	Cookeville	TN
Citizens Tri-County Bank	Dunlap	TN
Citizens Bank	Elizabethton	TN
Erwin National Bank	Erwin	TN
Andrew Johnson Bank	Greeneville	TN
Cheatham State Bank	Kingston Springs	TN
First Knoxville Bank	Knoxville	TN
SunTrust Bank, East Tennessee, N.A.	Knoxville	TN
City State Bank	Martin	TN
Bank of Nashville	Nashville	TN
Capital Bank and Trust Company	Nashville	TN
Regions Bank of Tennessee	Nashville	TN
SunTrust Bank, Nashville	Nashville	TN
Farmers Bank	Parsons	TN
Volunteer State Bank	Portland	TN
First National Bank	Pulaski	TN
First Claiborne Bank	Tazewell	TN
Union Planters of the Lakeway Area	Troy	TN

Federal Home Loan Bank of Indianapolis—District 6

Community State Bank	Avilla	IN
Bath State Bank	Bath	IN
First Bank of Berne	Berne	IN
Bippus State Bank	Bippus	IN
Monroe County Bank	Bloomington	IN
Farmers and Merchants Bank	Boswell	IN
Farmers State Bank	Brookston	IN
People's Trust Company	Brookville	IN

Member	City	State
Irwin Union Bank and Trust Company	Columbus	IN
Fountain Trust Company	Covington	IN
DeMotte State Bank	DeMotte	IN
Peoples State Bank	Ellettsville	IN
National City Bank of Evansville	Evansville	IN
Francisco State Bank	Francisco	IN
Bank of Geneva	Geneva	IN
Mercantile National Bank of Indiana	Hammond	IN
National Bank of Indianapolis	Indianapolis	IN
National City Bank of Indiana	Indianapolis	IN
Salin Bank and Trust Company	Indianapolis	IN
Kentland Federal Savings and Loan Association	Kentland	IN
Farmers State Bank	Lanesville	IN
American State Bank	Lawrenceburg	IN
Peoples Trust Company	Linton	IN
Marengo State Bank	Marengo	IN
Indiana Lawrence Bank	North Manchester	IN
First National Bank	Portland	IN
Tell City National Bank	Tell City	IN
Morris Plan Company of Terre Haute, Inc	Terre Haute	IN
Union Trust Bank	Union City	IN
Lake City Bank	Warsaw	IN
Peoples Loan and Trust Bank	Winchester	IN
Adrian State Bank	Adrian	MI
Alden State Bank	Alden	MI
Hospital and Health Services Credit Union	Ann Arbor	MI
First National Bank of Michigan	East Lansing	MI
State Bank	Fenton	MI
Dort Federal Credit Union	Flint	MI
First Bank, Upper Michigan	Gladstone	MI
United Bank of Michigan	Grand Rapids	MI
Houghton National Bank	Houghton	MI
MFC First National Bank	Iron Mountain	MI
MFC First National Bank—Iron River	Iron River	MI
Lansing Automakers Federal Credit Union	Lansing	MI
North Country Bank and Trust	Manistique	MI
Farmers State Bank of Munith	Munith	MI
Royal Oak Community Credit Union	Royal Oak	MI
North Country Bank	South Range	MI
Michigan Bank, FSB, Troy	Troy	MI
Federal Home Loan Bank of Chicago—District 7		
Anchor State Bank	Anchor	IL
State Bank of Auburn	Auburn	IL
First State Bank of Beardstown	Beardstown	IL
Germantown Trust and Savings Bank	Breese	IL
First National Bank of Bridgeport	Bridgeport	IL
Bank of Carbondale	Carbondale	IL
First National Bank and Trust Company	Carbondale	IL
Central Illinois Bank	Champaign	IL
Chapin Bank	Chapin	IL
Uptown National Bank of Chicago	Chicago	IL
Home State Bank, N.A	Crystal Lake	IL
Farmers State Bank of Danforth	Danforth	IL
PlainsBank of Illinois, N.A	Des Plaines	IL
Amcore Bank, N.A., Rock River Valley	Dixon	IL
First Community Bank	Elgin	IL
Standard Bank and Trust Company	Evergreen Park	IL
First Eagle National Bank	Hanover Park	IL
Bank of Calhoun County	Hardin	IL
CIB Bank	Hillside	IL
State Bank of Jerseyville	Jerseyville	IL
First National Bank	Lacon	IL
Farmers Bank of Liberty	Liberty	IL
Success National Bank	Lincolnshire	IL
Banterra Bank	Marion	IL
Bank of Maroa	Maroa	IL
First Mid-Illinois Bank and Trust, N.A	Mattoon	IL
Highland Community Bank	Maywood	IL
First State Bank	Mendota	IL
National State Bank of Metropolis	Metropolis	IL
Citizens State Bank of Milford	Milford	IL
Brown County State Bank	Mount Sterling	IL

Member	City	State
Citizens Bank of Illinois	Mount Vernon	IL
State Bank of Orion	Orion	IL
Citizens National Bank of Paris	Paris	IL
South Side Trust and Savings Bank	Peoria	IL
Bank of Pontiac	Pontiac	IL
Omni Bank	Pontoon Beach	IL
Princeville State Bank	Princeville	IL
Farmers National Bank of Prophetstown	Prophetstown	IL
Lakeland Community Bank	Round Lake Heights	IL
Marion County Savings Bank	Salem	IL
First Illinois National Bank	Savanna	IL
Bank of Springfield	Springfield	IL
First Community State Bank	Staunton	IL
First National Bank in Taylorville	Taylorville	IL
First National Bank of Waterloo	Waterloo	IL
Grand National Bank	Wauconda	IL
Williamsville State Bank and Trust	Williamsville	IL
Hinsbrook Bank and Trust	Willowbrook	IL
Amcore Bank, NA Northwest	Woodstock	IL
Polk County Bank	Balsam Lake	WI
Baraboo National Bank	Baraboo	WI
Union Bank of Blair	Blair	WI
Great Midwest Bank, S.S.B	Brookfield	WI
Bank North	Crivitz	WI
MidAmerica Bank	Dodgeville	WI
First National Bank in Eagle River	Eagle River	WI
F&M Bank	East Troy	WI
Royal Bank	Elroy	WI
State Bank of Florence	Florence	WI
Bank of Galesville	Galesville	WI
Royal Bank	Gays Mills	WI
First National Bank	Hartford	WI
MidAmerica Bank Hudson	Hudson	WI
Coulee State Bank	La Crosse	WI
Citizens State Bank of Loyal	Loyal	WI
Bank of Luxemburg	Luxemburg	WI
First Business Bank	Madison	WI
Associated Bank Lakeshore	Manitowoc	WI
Citizens Bank of Mukwonago	Mukwonago	WI
First State Bank	New London	WI
Bank of New Richmond	New Richmond	WI
First Bank of Oconomowoc	Oconomowoc	WI
Community Bank of Oconto County	Oconto Falls	WI
MidAmerica Bank North	Phillips	WI
River Valley State Bank	Rothschild	WI
Bank of Somerset	Somerset	WI
Farmers and Merchants State Bank	Stanley	WI
River Bank	Stoddard	WI
Community Bank	Superior	WI
Bank of Verona	Verona	WI
Marathon Savings Bank	Wausau	WI
Federal Home Loan Bank of Des Moines—District 8		
Citizens Bank and Trust Company	Belle Plaine	IA
City State Bank	Central City	IA
Midwest Heritage Bank	Chariton	IA
Firstar Bank Iowa, N.A	Des Moines	IA
Iowa State Bank	Des Moines	IA
Peoples Savings Bank	Elma	IA
Lee County Bank and Trust, N.A	Fort Madison	IA
Grinnell State Bank	Grinnell	IA
Security State Bank	Independence	IA
Community First Bank	Keosauqua	IA
Great River Bank and Trust	LeClaire	IA
Pleasantville State Bank	Pleasantville	IA
First Federal Savings Bank of Siouxland	Sioux City	IA
Northeast Security Bank	Sumner	IA
Farmers and Merchants Savings Bank	Waukon	IA
Earlham Savings Bank	West Des Moines	IA
Farmers Savings Bank	West Union	IA
First Trust and Savings Bank	Wheatland	IA
North American State Bank	Belgrade	MN
Firstar Bank of Minnesota, N.A	Bloomington	MN

Member	City	State
Highland Bank	Bloomington	MN
First American Bank, N.A	Brainerd	MN
Stearns Bank Canby	Canby	MN
First National Bank of Chaska	Chaska	MN
First American Bank, N.A	Crookston	MN
First American Bank, N.A	Detroit Lakes	MN
Republic Bank, Inc	Duluth	MN
Cannon Valley Bank	Dundas	MN
First American Bank, N.A	International Falls	MN
Security State Bank of Lewiston	Lewiston	MN
Minnwest Bank Luverne	Luverne	MN
MidAmerica Bank South	Mankato	MN
MidAmerica Bank	Maplewood	MN
Premier Bank	Maplewood	MN
Security State Bank of Marine	Marine on St. Croix	MN
First American Bank, N.A	Marshall	MN
Bank Windsor	Minneapolis	MN
Franklin National Bank of Minneapolis	Minneapolis	MN
Metro Community Bank, fsb	Minneapolis	MN
Northeast Bank	Minneapolis	MN
First Minnetonka City Bank	Minnetonka	MN
Minnwest Bank Montevideo	Montevideo	MN
Farmers State Bank of New London	New London	MN
Woodlands National Bank	Onamia	MN
United Community Bank	Perham	MN
Farmers and Merchants State Bank of Pierz	Pierz	MN
Security State Bank of Pine Island	Pine Island	MN
The First National Bank and Trust	Pipestone	MN
State Bank of Richmond	Richmond	MN
Minnesota First Credit and Savings, Inc	Rochester	MN
Royalton State Bank	Royalton	MN
Capital Bank	Saint Paul	MN
First State Bank of Excelsior	Shorewood	MN
First American Bank, N.A	South St. Paul	MN
Southview Bank	South St. Paul	MN
Farmers & Merchants State Bank of Springfield	Springfield	MN
Liberty Savings Bank, fsb	St. Cloud	MN
First Integrity Bank, N.A	Staples	MN
Central Bank	Stillwater	MN
Northern State Bank of Thief River Falls	Thief River Falls	MN
Community Bank Vernon Center	Vernon Center	MN
Security State Bank of Wells	Wells	MN
State Bank of Wheaton	Wheaton	MN
First American Bank N.A	Willmar	MN
Town and County State Bank of Winona	Winona	MN
Bank of Advance	Advance	MO
First Community Bank, Missouri	Bernie	MO
Carroll County Savings and Loan Association	Carrollton	MO
Enterprise Bank	Clayton	MO
First Midwest Bank of Dexter	Dexter	MO
Farmers and Merchants Bank of Hale	Hale	MO
Bluff City Mutual Savings and Loan	Hannibal	MO
Farmers and Commercial Bank	Holden	MO
Exchange National Bank of Jefferson City	Jefferson City	MO
Midwest Independent Bank	Jefferson City	MO
Bank Midwest N.A	Kansas City	MO
Bannister Bank and Trust	Kansas City	MO
Country Club Bank, n.a	Kansas City	MO
Union Bank	Kansas City	MO
First Community Bank of Johnson County	Knob Knoster	MO
Midland Bank	Lee's Summit	MO
Madison-Hunnewell Bank	Madison	MO
Martinsburg Bank and Trust	Mexico	MO
Central Bank of Lake of the Ozarks	Osage Beach	MO
First Midwest Bank of Poplar Bluff	Poplar Bluff	MO
Mercantile Bank of Southeast Missouri	Poplar Bluff	MO
Citizens Bank of Princeton	Princeton	MO
Bank of Rothville	Rothville	MO
Anheuser Busch Employees Credit Union	St. Louis	MO
Citizens National Bank of Greater St. Louis	St. Louis	MO
Jefferson Bank and Trust Company	St. Louis	MO
St. Louis Postal Credit Union	St. Louis	MO
First Community National Bank	Steelville	MO
Sterling National Bank	Sugar Creek	MO

Member	City	State
Bank of Sullivan	Sullivan	MO
Carter County State Bank	Van Buren	MO
Bank of Crocker	Waynesville	MO
West Plains Bank	West Plains	MO
Bank of Weston	Weston	MO
Bank Center First, Bismarck	Bismarck	ND
Bank of North Dakota	Bismarck	ND
Towner County State Bank	Cando	ND
State Bank of Oliver County	Center	ND
Community First National Bank	Fargo	ND
Citizens State Bank Grafton-Petersburg	Grafton	ND
First American Bank N.A	Minot	ND
Security State Bank of New Salem	New Salem	ND
American State Bank & Trust Co. of Williston	Williston	ND
Hand County State Bank	Miller	SD
First National Bank	Pierre	SD
Rushmore Bank and Trust	Rapid City	SD
Marquette Bank of South Dakota, N.A	Sioux Falls	SD
The First National Bank in Sioux Falls	Sioux Falls	SD
Day County Bank	Webster	SD
Federal Home Loan Bank of Dallas—District 9		
Citizens First Bank	Arkadelphia	AR
Union Bank of Benton	Benton	AR
First National Bank of Berryville	Berryville	AR
First Community Bank	Conway	AR
First National Bank	De Queen	AR
First National Bank	DeWitt	AR
Citizens First Bank	El Dorado	AR
Bank of England	England	AR
Citizens First Bank Fordyce	Fordyce	AR
Caddo First National Bank	Glenwood	AR
First National Bank of Green Forest	Green Forest	AR
Helena National Bank	Helena	AR
Union Planters Bank of Northeast Arkansas	Jonesboro	AR
Bank of North Arkansas	Melbourne	AR
Commercial Bank and Trust Company	Monticello	AR
First National Bank and Trust Company	Mountain Home	AR
Perry County State Bank	Perryville	AR
Simmons First National Bank	Pine Bluff	AR
Bank of Prescott	Prescott	AR
Merchants and Planters Bank	Sparkman	AR
First National Bank of Beinville Parrish	Arcadia	LA
Louisiana Bank and Trust Company	Baton Rouge	LA
Parish National Bank	Bogalusa	LA
Citizens National Bank of Bossier City	Bossier City	LA
Catahoula—LaSalle Bank	Jonesville	LA
Metro Bank	Kenner	LA
Hibernia National Bank	New Orleans	LA
Guaranty Bank and Trust Company	New Roads	LA
Tensas State Bank	Newellton	LA
Patterson State Bank	Patterson	LA
Iberville Trust and Savings Bank	Plaquemine	LA
Rayne State Bank and Trust Company	Rayne	LA
Teche Bank and Trust Company	St. Martinville	LA
Bank of Sunset and Trust Company	Sunset	LA
Washington State Bank	Washington	LA
Citizens Bank, Columbia, Mississippi	Columbia	MS
Bank of Kilmichael	Kilmichael	MS
Peoples Bank	Mendenhall	MS
Bank of Morton	Morton	MS
Merchants and Planters Bank	Raymond	MS
Walthall Citizens Bank	Tylertown	MS
Merchants Bank	Vicksburg	MS
First National Bank of West Point	West Point	MS
First National Bank of Wiggins	Wiggins	MS
Valley National Bank	Espanola	NM
Lea County State Bank	Hobbs	NM
Bank of the Rio Grande, N.A	Las Cruces	NM
Bank of the Southwest	Roswell	NM
United Bank and Trust	Abilene	TX
Alamo Bank of Texas	Alamo	TX
Austin National Bank	Austin	TX

Member	City	State
Austin County State Bank	Bellville	TX
Brenham National Bank	Brenham	TX
TexasBank	Brownwood	TX
First National Bank of Bryan	Bryan	TX
First State Bank of Canadian	Canadian	TX
First State Bank	Celina	TX
First Bank and Trust of Childress	Childress	TX
First National Bank of Chillicothe	Chillicothe	TX
First Bank of West Texas	Coahoma	TX
Citizens National Bank	Crockett	TX
Founders National Bank—Skillman	Dallas	TX
Preston National Bank	Dallas	TX
First Prosperity Bank	El Campo	TX
Norwest Bank El Paso, N.A	El Paso	TX
Overton Bank and Trust, N.A	Fort Worth	TX
Southwest Bank	Fort Worth	TX
Bank of Galveston	Galveston	TX
Gruver State Bank	Gruver	TX
First State Bank	Hawkins	TX
Northwest Bank, N.A	Houston	TX
Hull State Bank	Hull	TX
Humble National Bank	Humble	TX
Industry State Bank	Industry	TX
City National Bank	Kilgore	TX
First National Bank of La Grange	La Grange	TX
Commerce Bank	Laredo	TX
Longview Bank and Trust Company	Longview	TX
First Valley Bank	Los Fresnos	TX
First State Bank of Louise	Louise	TX
First National Bank of Marshall	Marshall	TX
First Bank	McKinney	TX
Northeast National Bank	Mesquite	TX
City National Bank	Mineral Wells	TX
First National Bank of Missouri City	Missouri City	TX
Fredonia State Bank	Nacogdoches	TX
Gulf Coast Educators Federal Credit Union	Pasadena	TX
First State Bank	Pittsburg	TX
Wood County National Bank	Quitman	TX
First National Bank of Refugio	Refugio	TX
Robert Lee State Bank	Robert Lee	TX
First National Bank of South Texas	San Antonio	TX
Bank of Texas	Thorndale	TX
Tyler Bank and Trust NA	Tyler	TX
Hill Bank and Trust Company	Weimar	TX
Wilson State Bank	Wilson	TX
Fannin Bank	Windom	TX
Federal Home Loan Bank of Topeka—District 10		
Cheyenne Mountain Bank	Colorado Springs	CO
Bank of Cherry Creek, N.A	Denver	CO
First Bank of Cherry Creek, N.A	Denver	CO
FirstBank of Denver, N.A	Denver	CO
Union Bank and Trust	Denver	CO
Mountain Bank	Eagle	CO
Mesa National Bank	Grand Junction	CO
FirstBank of Colorado, N.A	Lakewood	CO
FirstBank of South Jeffco	Littleton	CO
Pioneer Bank of Longmont	Longmont	CO
Peoples National Bank	Monument	CO
Bank of Telluride	Telluride	CO
Labette County State Bank	Altamont	KS
Union State Bank	Arkansas City	KS
Baxter State Bank	Baxter Springs	KS
Community Bank	Chapman	KS
First National Bank	Derby	KS
Pony Express Community Bank	Elwood	KS
Citizens State Bank	Gridley	KS
Citizens State Bank and Trust Company	Hiawatha	KS
First National Bank of Hutchinson	Hutchinson	KS
Brotherhood Bank and Trust	Kansas City	KS
Security National Bank	Manhattan	KS
Exchange National Bank	Marysville	KS
Peoples Bank and Trust Company	McPherson	KS

Member	City	State
First Neodesha Bank	Neodesha	KS
Hillcrest Bank	Overland Park	KS
First State Bank and Trust Company	Pittsburg	KS
Grant County Bank	Ulysses	KS
Union State Bank	Uniontown	KS
First National Bank of Winfield	Winfield	KS
Battle Creek State Bank	Battle Creek	NE
First National Bank	Beemer	NE
Columbus Bank and Trust Company	Columbus	NE
Fremont National Bank and Trust Company	Fremont	NE
Thayer County Bank	Hebron	NE
First National Bank and Trust	Kearney	NE
Union Bank and Trust Company	Lincoln	NE
Martell State Bank	Martell	NE
McCook National Bank	McCook	NE
Adams Bank and Trust	Ogallala	NE
First Westroads Bank, Inc.	Omaha	NE
Metro Health Service Federal Credit Union	Omaha	NE
Mutual First Federal Credit Union	Omaha	NE
Omaha State Bank	Omaha	NE
First National Bank	Ord	NE
First National Bank	Schuyler	NE
First National Bank of Shelby	Shelby	NE
Stanton National Bank	Stanton	NE
Farmers and Merchants State Bank of Wayne	Wayne	NE
Home National Bank	Blackwell	OK
American State Bank	Broken Bow	OK
Oklahoma National Bank	Duncan	OK
First National Bank in Durant	Durant	OK
First United Bank and Trust Company	Durant	OK
Central National Bank & Trust Company of Enid	Enid	OK
Farmers and Merchants National Bank	Fairview	OK
Security First National Bank	Hugo	OK
Landmark Bank Company, N.A.	Madill	OK
First Fidelity Bank, N.A.	Oklahoma City	OK
Lincoln National Bank	Oklahoma City	OK
Southwestern Bank and Trust Company	Oklahoma City	OK
Pauls Valley National Bank	Pauls Valley	OK
Security National Bank	Sapulpa	OK
First State Bank in Temple	Temple	OK
Citizens Bank of Tulsa	Tulsa	OK
First Farmers National Bank	Waurika	OK
City Bank of Weatherford	Weatherford	OK
Federal Home Loan Bank of San Francisco—District 11		
Biltmore Investors Bank, N.A.	Phoenix	AZ
Bank of Arizona	Scottsdale	AZ
Southern California Bank	Anaheim	CA
City National Bank	Beverly Hills	CA
Gold Country National Bank	Brownsville	CA
North State National Bank	Chico	CA
Imperial Thrift and Loan Association	Glendale	CA
Foothill Independent Bank	Glendora	CA
Bank of Hemet	Hemet	CA
First Fidelity Thrift and Loan Association	Irvine	CA
FirstBank, N.A.	Palm Desert	CA
Hewlett Packard Employees FCU	Palo Alto	CA
Mid Valley Bank	Red Bluff	CA
North Valley Bank	Redding	CA
Mechanics Bank of Richmond	Richmond	CA
Roseville First National Bank	Roseville	CA
Bank of the West	San Francisco	CA
Trans Pacific National Bank	San Francisco	CA
Montecito Bank and Trust	Santa Barbara	CA
Bank of America Community Development Bank	Walnut Creek	CA
Bank of Los Angeles	West Hollywood	CA
Bank of Yorba Linda	Yorba Linda	CA
Nevada State Bank	Las Vegas	NV
Pioneer Citizens Bank of Nevada	Reno	NV
Nevada Banking Company	Stateline	NV
First Bank of Beverly Hills	Portland	OR

Member	City	State
Federal Home Loan Bank of Seattle—District 12		
First Interstate Bank of Alaska, N.A.	Anchorage	AK
Bank of Hawaii	Honolulu	HI
D.L. Evans Bank	Burley	ID
Bank of Bridger	Bridger	MT
State Bank and Trust Company	Dillon	MT
First National Bank of Fairfield	Fairfield	MT
Fairview Bank	Fairview	MT
First Security Bank of Malta	Malta	MT
First Citizens Bank of Polson	Polson	MT
First State Bank of Thompson Falls	Thompson Falls	MT
Ruby Valley National Bank	Twin Bridges	MT
First National Bank of White Sulphur Springs	White Sulphur Springs	MT
Whitefish Credit Union Association	Whitefish	MT
O.S.U. Federal Credit Union	Corvallis	OR
The Merchants Bank	Gresham	OR
Community Bank	Joseph	OR
Valley of the Rogue Bank	Rogue River	OR
State Employees Credit Union	Salem	OR
Barnes Banking Company	Kaysville	UT
Cache Valley Bank	Logan	UT
Inter Bank	Duvall	WA
Kittitas Valley Bank, N.A.	Ellensburg	WA
Peoples Bank	Lynden	WA
Inland Northwest Bank	Spokane	WA
Telco Community Credit Union	Tacoma	WA
Clark County School Employees Credit Union	Vancouver	WA
Towne Bank	Woodinville	WA
Norwest Bank Wyoming, N.A.	Casper	WY
Shosone First Bank	Cody	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before April 28, 1998, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1998–99 first quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1998–99 first quarter review cycle must be delivered to the Finance Board on or before the May 28, 1998 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–9261 Filed 4–10–98; 8:45 am]

BILLING CODE 6725–01–U

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 28, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Helen Robbs Brunner, Marked Tree, Arkansas; to acquire additional voting shares of Marked Tree Bancshares, Inc., Marked Tree, Arkansas, and thereby indirectly acquire Marked Tree Bank, Marked Tree, Arkansas.

Board of Governors of the Federal Reserve System, April 8, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–9667 Filed 4–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the

proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 8, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Amtrust, Inc., Dubuque, Iowa; to acquire up to 100 percent of the voting shares of Cuba City State Bank, Cuba City, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Guaranty Capital Corporation, Belzoni, Mississippi; to merge with Hollandale Capital Corporation, Hollandale, Mississippi, and thereby acquire Bank of Hollandale, Hollandale, Mississippi.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Mountain Bancshares, Inc., Newport, Minnesota, and thereby indirectly acquire Mountain Bank, Eagle, Colorado.

Board of Governors of the Federal Reserve System, April 8, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–9666 Filed 4–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 28, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Southeast Capital Corp., Idabel, Oklahoma; to engage *de novo* in community development activities through the leasing of real property to the State of Oklahoma, pursuant to § 225.28(b)(12)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 8, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–9668 Filed 4–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

[Docket No. R–0866]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has decided to not implement an earlier opening time for the Fedwire securities transfer service at this time due to the anticipated cost and technical hurdles identified by various industry participants and concerns expressed by the Treasury. These concerns may decline in the future as participants improve their internal operating environments (e.g., by implementing real-time and straight-through processing and better contingency availability) and gain experience with expanded Fedwire funds transfer operating hours. The Board will monitor developments associated with expanded Fedwire funds transfer hours as well as developments in U.S. government securities settlement practices and, if market demand for transferring government securities earlier in the day increases or the related cost or operational burden declines materially, the Board, in consultation with the Treasury, will reconsider the desirability of opening the Fedwire securities transfer service earlier in the day.

The Board also has approved the introduction of an optional automatic reversal feature for institutions that access the National Book-Entry System via a Fedline connection. The Board believes that the availability of automated receiver control features in the National Book-Entry System would provide these participants with additional flexibility to manage the receipt of misdirected or incorrect securities transfers and any associated debits to their account holding reserve or clearing balances. This feature likely will be made available to Fedline participants during 2000. Once an implementation schedule is finalized, the Reserve Banks will notify depository institutions regarding the specific date that the receiver control feature will be available to Fedline participants.

FOR FURTHER INFORMATION CONTACT: Louise L. Roseman, Associate Director (202/452–2789), Jeff Stehm, Manager (202/452–2217), or Lisa Hoskins, Project Leader (202/452–3437), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. For the hearing impaired *only:* Telecommunications Device for the Deaf, Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

In February 1994, the Board announced approval of an expansion of the operating hours for the Fedwire on-line funds transfer service to 18 hours a day, from 12:30 a.m. to 6:30 p.m. Eastern Time, beginning in 1997 (59 FR 8981, February 24, 1994; 60 FR 110, January 3, 1995).[1] [2] In that announcement, the Board concluded that expanded Fedwire funds transfer operating hours could be a useful component of private-sector initiatives to reduce settlement risk in the foreign exchange markets and would eliminate an operational barrier to potentially important innovation in privately provided payment and settlement services.

Following its action on expanding Fedwire funds transfer operating hours,

[1] All times are Eastern Time unless otherwise noted.

[2] These operating hours became effective on December 8, 1997. (61 FR 5433, November 6, 1996).

the Board requested comment in January 1995 on: (1) the potential benefits, costs, and market implications of opening the on-line Fedwire securities transfer service earlier in the day on a voluntary basis; (2) new service capabilities that would allow depository institutions to control their use of intraday credit during expanded and/or core business hours; and (3) a proposal to establish a firm closing time for the Fedwire securities transfer service (60 FR 123, January 3, 1995). Effective January 2, 1996, the Board adopted a firm closing time for the Fedwire securities transfer service of 3:15 p.m. for transfer originations and 3:30 p.m. for reversals (60 FR 42410, August 15, 1995).

The Board received 36 responses to the request for comment. About 60 percent of the commenters were commercial banks or bank holding companies, including banks that provide government securities clearing and settlement services to dealers and other firms. The number of commenters by type of organization were as follows:

Commercial Banking Organizations [3]	21
Credit Unions	2
Broker/Dealers	2
Clearing House Associations	2
Clearing Organizations	1
Trade Associations	3
Federal Home Loan Banks	2
Federal Reserve Banks	2
State Governments	1
Total public comments	36

[3] Banks, bank holding companies, and operating subsidiaries of banks or bank holding companies.

II. Earlier Opening of the Fedwire Securities Transfer Service

A. Potential Costs

Twenty-three commenters discussed the potential costs associated with earlier operating hours. Seventeen commenters indicated that the potential costs would outweigh the potential benefits; however, three of these commenters indicated that costs would exceed benefits only in the short term. Five other commenters, including the New York Clearing House (NYCH), indicated that the long-term benefits to the payments system outweigh the expense of implementing and maintaining expanded hours of operation for the Fedwire securities transfer service.

The Public Securities Association (PSA), NYCH, Chemical Bank, and other commenters indicated that the amount of change and associated expense that may be required to participate during earlier operating hours would be significant.[4] In particular, a number of active government securities market participants argued that the efficiencies envisioned by the Board would not offset the substantial operating and systems costs (including daylight overdraft charges) that would be incurred by participants if the operating hours were to be expanded. The NYCH also indicated that some costs associated with earlier hours would be difficult to measure. For example, most of the transfers processed via the Fedwire securities transfer system are done in support of domestic dealer activity. The NYCH expressed concern that expanding the hours for these dealer operations would most likely either spread over 15 hours what is now done in 7 hours or allow trading to increase in velocity; in its opinion, neither result would be beneficial.

Chemical Bank, Chemical Securities, Inc. (CSI), First Chicago Corporation (First Chicago), and others indicated that, in order to have the capability to participate during substantially longer Fedwire securities transfer operating hours, they would need to make significant capital investments to re-engineer dealer clearance systems, reduce the length of overnight batch processing cycles, and/or redesign systems from a batch to a real-time environment.[5, 6] Commenters' cost estimates for such system changes ranged from $750,000 to $2 million. In addition, some commenters indicated that ongoing operating expenses would increase as a result of expanded operating hours.

Commenters indicated that expansion of Fedwire securities transfer operating hours would also require changes to systems other than a participant's securities clearance system. Specifically, PSA indicated that organizations such as the Government Securities Clearing Corporation (GSCC) and Depository Trust Company (DTC) would have to upgrade their systems so that all necessary data could be received and/or transmitted within a compressed cycle. PSA and CSI indicated that information important to the settlement process that is received from the GSCC, pricing services, and rating services, for example, typically is not available to market participants until after 12:30 a.m.[7] In addition, PSA noted that dealers also use the current overnight batch processing cycle to perform risk measurement and analysis for over-the-counter derivatives and other transactions. PSA indicated that there is a chance that this risk management process would be compromised by attempting to shorten the current batch processing cycle in order to participate in an earlier opening of Fedwire. Commenters also indicated that personnel costs would be affected by earlier hours. The NYCH, Chemical Bank and others indicated that additional staffing would be required to manage the systems, deal with credit issues, manage compliance, and handle exception processing during earlier hours.

Finally, potential increases in securities-related daylight overdraft charges were a common concern. Chemical Bank observed that the earlier opening time would extend the period during which Chemical could incur daylight overdrafts. Aubrey Lanston, a securities broker/dealer, expressed concern that costs, particularly daylight overdraft charges, resulting from an earlier opening time would increase substantially at a time when the industry is trying to contain and reduce its expenses. Some commenters and Treasury officials expressed concern that any increased costs would be passed on to Treasury in the form of lower prices for Treasury securities, thus increasing borrowing costs.

B. Attempts To Reduce Potential Burden of a Substantially Earlier Opening Time

To mitigate the potential burden of earlier operating hours for participants, the Board requested comment on the feasibility of making participation voluntary during the early hours. Commenters indicated that participation in expanded Fedwire securities transfer hours must be voluntary because of (1)

[4] The comments were received prior to Chemical Bank's merger with Chase Manhattan Bank, N.A. and prior to PSA's formal name change to the Bond Market Association.

[5] Chemical Bank indicated that its dealer clearance system operates from 5:00 a.m. to 10:00 p.m. each day to handle customers' transaction loading before the start of the day, reconcilement, collateralizations (tri-party repo transactions), and report generation. In addition, there is an overnight processing cycle (five hours), which involves the creation of end-of-day database back-ups, generation of reports on microfiche, acquiring and loading security price information for next-day transactions, and preparing the databases to be in a start position for the next business day.

[6] The comments were received prior to First Chicago's merger with NBD Bancorp.

[7] In March 1997, GSCC announced its long-range plans for achieving the industry objectives of straight-through processing and point-of-trade guarantee. GSCC is considering important processing changes, including the move to real-time processing, which would reduce the amount of batch processing that occurs overnight.

the significant costs many market participants would have to incur to develop the capability to participate during substantially longer operating hours, and (2) the risk that receipt of Fedwire delivery-versus-payment (DVP) securities transfers may trigger overdrafts in receiving banks' accounts, which would require all participants to monitor their accounts during the off-hours even if they do not have a business need to participate in the securities transfer service during these hours. Commenters, however, had differing views regarding the design of a mechanism to ensure voluntary participation. Some commenters also believed that competitive pressures would compel firms to participate in expanded hours despite the lack of demonstrated business demand.

One approach the Board considered to mitigate the potential burden of earlier operating hours for participants was to make participation voluntary during the early hours by requiring institutions to affirmatively ''opt-in'' to send and receive DVP transfers during this period. Twenty-seven commenters agreed that participants should have the ability to ''opt-in'' to the earlier operating hours if they are adopted. The commenters, however, had differing views on the design of an ''opt-in'' capability. Nineteen commenters believed that this ability should be available at the securities account level, rather than at the participant (depository institution) level.[8] Many commenters, including Northern Trust Company and Trust Company Bank, observed that banks have dramatically different levels of securities transfer activity among their various Fedwire securities accounts. For example, while there may be a need to transfer securities against payment for investment purposes during earlier operating hours, there may be no similar need with respect to customer securities held for safekeeping.

While most commenters preferred establishing the opt-in feature at the securities account level, several active market participants suggested that opt-in should be permitted at the clearance customer level (e.g., individual dealer level). Chemical Bank indicated that it would otherwise have to enhance its dealer clearance system to exclude selectively those customers that choose not to send/receive DVP transfers during earlier hours, which would result in additional expense for the bank.

In response to industry concerns about technical complexity and increased cost associated with expanded operating hours, the Board considered expanding the operating hours in the near term to permit free deliveries only beginning at 12:30 a.m., with a longer lead time to enable participants to make necessary changes for DVP transfers. The receipt of ''free'' Fedwire securities transfers (e.g., non-DVP transfers) does not raise the same concerns as receipt of DVP transfers because free transfers do not involve a debit to the receiver's funds account at the Reserve Bank and, therefore, cannot trigger or increase an overdraft in the receiving bank's account. While many participants may not have a business need to engage in DVP transfers before the current 8:30 a.m. opening of business, the Boston Clearing House and others indicated that some participants may have a business need prior to 8:30 a.m. to reposition securities collateral among their own securities accounts or to deliver securities as collateral to another participant without engaging in a DVP transfer. Some major market participants, however, expressed concern about the technical complexities of segregating free versus DVP transfers within their securities clearance systems. That is, they indicated it would be at least as difficult to program systems to permit processing of free transfers only during earlier hours as it would to make the necessary changes to enable full participation (e.g., free and DVP transfers) beginning at 12:30 a.m. Therefore, the Board concluded that it would not be useful to expand the securities transfer operating hours for free transfers only.

Some commenters also indicated that they would require substantial lead time (e.g., at least eighteen months) to streamline their back-office processing systems to enable them to participate in a significantly longer Fedwire securities transfer operating day. Several commenters suggested that the expansion of operating hours should be phased in over time, but recommended different implementation periods.

C. Potential Benefits of Earlier Operating Hours

In its January 1995 notice, the Board described several potential benefits or market responses to earlier Fedwire securities transfer operating hours: (1) Access to funding and collateral to support other market activities during earlier hours; (2) shorter times between trade and settlement for cross-border transactions involving U.S. government securities; and (3) availability of an important risk management tool to the financial markets during periods of financial stress. Eighteen of twenty-six commenters that discussed the potential benefits agreed that an earlier Fedwire securities transfer opening time would yield these benefits. Several commenters, however, argued that such benefits may only be realized in the long term or would only accrue to a limited number of participants. Eight commenters did not believe earlier Fedwire securities transfer operating hours would result in the benefits noted by the Board.

The NYCH observed that earlier book-entry hours may enable banks and other financial firms to move securities during non-traditional hours to obtain the liquidity necessary to support the settlement of financial transactions, especially those related to foreign exchange transactions. For example, efforts are currently underway by a private-sector group of U.S. and foreign banks to establish a continuous link settlement system that will reduce foreign exchange settlement risk for banks. Such a mechanism may require significant amounts of dollar liquidity in ''off-hours.'' Bank of America noted that given such initiatives, it is inevitable that payment systems, including the Fedwire securities transfer service, will be required to open earlier. In addition, to the extent that a complementary interrelationship exists between funds transfers that are made over the Fedwire funds transfer service and repo transactions that settle over the Fedwire securities transfer service, some banks (including those represented by the NYCH) believe that the ability to move both funds and securities during the same time period would result in more efficient overall liquidity management and more efficient markets. Therefore, increasing the overlap in operating hours for the Fedwire securities transfer service and the Fedwire funds transfer service may create a more efficient overall mechanism for those market participants that use Fedwire-eligible securities as a liquidity vehicle. Some commenters, however, indicated they were skeptical about the ability to obtain liquidity during off-hours from securities transfers. These commenters stressed the fact that most U.S. government securities are already pledged under a repurchase agreement for the purpose of overnight funding, and unwinding these overnight transactions to obtain early-hours liquidity would require changes in current market practices and impose

[8] A securities account is an account at a Reserve Bank containing book-entry securities held for a participant. A participant may use different securities accounts (e.g., trust, investment, and dealer) to segregate securities held for different purposes.

significant costs on overnight borrowers, primarily dealers.

The Board of Trade Clearing Corporation (BOTCC) observed that in order to secure, reduce, or hedge various financial risks adequately, banks and other firms increasingly require the support of systems that move collateral on a final basis as close as possible to the time that an exposure is created. Bank of America, First Chicago, and the NYCH each indicated that earlier Fedwire securities transfer hours would give market participants the ability to move on a more timely basis U.S. government securities as collateral for a variety of secured transactions in domestic and international markets, thus permitting a more efficient use of collateral. Early opening of the Fedwire securities transfer service along with the Fedwire funds transfer service, therefore, may provide the opportunity for members to obtain funds or credit from their banks and for the clearinghouses' settlement banks to obtain those funds from their members at an earlier hour.

U.S. government securities also serve as a source of collateral in an international or global payment operations context. For example, Bank of America indicated that for U.S. banks participating in foreign payment and settlement systems, earlier book-entry hours would allow the pledging of U.S. government securities within the foreign country's working day and would not limit U.S. banks to pledging only foreign securities. This may become particularly important if U.S. Treasury securities become eligible to secure intraday credit extensions on European payment systems. The NYCH added that parties would be able to shift collateral to cover settlements in several systems or provide collateral to secure foreign borrowings, thus avoiding the excessive cost of maintaining separate or ''sterile'' pools of collateral for each local market or clearing arrangement. U.S. government securities are also a growing aspect of the international securities depositories—Euroclear and Cedel. Both of these systems operate during the European business day, and the ability to move U.S. government securities into and out of these systems throughout their business day may allow participants to use their collateral resources more efficiently. In addition, evolving multilateral netting arrangements for foreign exchange transactions are designed to operate on a 24-hour basis and rely on collateral (including U.S. Treasury securities) as a critical component of the risk management process.

An earlier opening of the Fedwire securities transfer service also may provide opportunities for internationally active market participants to better control settlement risks associated with U.S. government securities transactions executed off-shore by shortening the settlement window.[9] In particular, by opening the Fedwire securities transfer service at 12:30 a.m., market participants in London and Tokyo would have greater opportunities to settle transactions during their local business day. The PSA, however, expressed concern that while an earlier opening would trim a few hours off of the settlement cycle, banks and dealers would incur substantial costs for daylight overdrafts and system upgrades in order to participate during the earlier hours.

The liquidity and risk management benefits of earlier book-entry hours may be particularly important in times of market stress, when obtaining liquidity, hedging exposures, and moving collateral may be critical to containing counterparty and systemic risks. In this regard, the BOTCC commented that the routine availability of the Fedwire securities transfer system during earlier hours would encourage participants to establish operational procedures and systems to support the earlier operating hours; in turn, this would help ensure the reliability of the service during times of market stress.

D. Outlook for Earlier Operating Hours

Although the Board believes that an earlier opening time for the Fedwire securities transfer service could result in long-term benefits, it recognizes that many Fedwire participants are faced with other important technological initiatives, including year-2000 compliance and preparations for straight-through processing. The Board also recognizes that many market participants would require considerable lead time and could incur substantial costs to upgrade their systems and clearing processes to accommodate a significantly earlier opening time.[10] These changes are likely to be substantially more complex than the changes required to participate in earlier Fedwire funds transfer operating hours. In particular, these changes would likely involve adjustments in market funding and trading practices as well as the operations of GSCC and the clearing banks. The Board will monitor developments associated with expanded Fedwire funds transfer hours as well as developments in U.S. government securities settlement practices, and, if market demand for transferring government securities earlier in the day increases or the related cost or operational burden declines materially, the Board will seek additional public comment and reconsider the desirability of opening the securities transfer service significantly earlier in the day. Even if strong market demand develops, however, it is unlikely that the Federal Reserve, in consultation with the Treasury, would open the securities transfer service significantly earlier before the year 2002 due to the lead time identified by market participants that would be required and the resources currently being devoted to year-2000 compliance efforts. In the meantime, the Board encourages market participants to focus on streamlining their end-of-day processing to position their organizations for potential expanded hours in the future as well as to obtain other operational benefits, including enhanced contingency capabilities.

III. Receiver Control Features

In its January 1995 notice, the Board discussed and requested comment on several possible new receiver control features for low to medium volume on-line participants that could be incorporated into the Federal Reserve's centralized securities transfer application known as the National Book-Entry System (NBES).[11] In general, receiver controls would involve the comparison of incoming securities transfers against receipt instructions that are input by the receiving bank into the NBES. Based on this comparison, the NBES could be designed to take one of the following actions: (1) notify the receiving bank that an incoming transfer does not match its receipt instructions; (2) automatically reverse the unmatched transfer from the receiving bank's account to the sending bank's account;

[9] For a fuller description of off-shore trading in U.S. Treasury securities, see Michael J. Fleming, ''The Round-the-Clock Market for U.S. Treasury Securities,'' Federal Reserve Bank of New York Economic Policy Review, July 1997.

[10] The Board believes that, at least initially, only a small number of Fedwire securities transfer service participants, which may represent a large proportion of total volume, would likely have a business need to participate during these expanded hours. First Chicago and the NYCH suggested that the overall population of potential users of DVP transfers during earlier hours is likely to be less than 25 banks nationwide.

[11] Currently, the NBES provides a limited matching feature that compares incoming transfers with pre-entered receipt instructions. When activated, this feature identifies incoming transfers as ''matched'' or ''not matched,'' notifies the receiving participant accordingly, and, if so instructed by the participant, re-delivers (or turns around) ''matched'' securities automatically to another participant. Fedline participants can activate this feature as needed.

or (3) automatically reject the unmatched transfer prior to receipt by the receiving bank. Comments were requested on each of these potential receiver control features.

Eighteen comments were received on the receiver control feature. In general, smaller banks supported receiver controls as a means to prevent the delivery of misdirected and/or incorrect DVP transfers, and, thus, control better their use of securities-related intraday credit. Larger banks expressed concern that if the receiving participant failed to input receipt instructions in a timely or correct manner, transfers would be inappropriately returned to the sender, delaying the settlement of legitimate transfers or leading to the potential abuse of receiver control tools.

The Board believes that receiver controls limited to participants that have Fedline connections to Fedwire would be a desirable feature for the Fedwire securities transfer service and would be unlikely to result in the difficulties expressed by some commenters.[12,13] Fedline participants send and receive relatively small numbers of Fedwire securities transfers and use very limited amounts of Federal Reserve intraday credit, thus the likelihood of any systemic or gridlock effects from the use of the feature would be low.[14] In addition, restricting its use to Fedline participants would address the concerns of certain commenters that the use of an automatic reversal feature by large-volume computer-interface participants could result in the delay of transfers and potential gridlock. The use of the automatic reversal feature also may be limited by the Federal Reserve, at any time, in the unlikely event that any adverse market consequences result from its use.

Because the feature is intended to enable low to medium volume on-line participants to manage better their receipt of unanticipated, misdirected, or incorrect DVP securities transfers and the related debits to their reserve or clearing balances, the Board acknowledges that the timing of some securities transfers for certain participants may be affected by the use of an automated reversal feature. The Board, however, believes that instances of such delays will be limited, isolated, and have no systemic effects on securities settlements.

To the extent that any isolated abuses of the receiver control feature occur, the Board believes that such abuses can and should be resolved between the parties to the transfer. If necessary, this bilateral resolution process might be facilitated by the development of industry guidelines or standards regarding the use of receiver controls by the receiver and the ''good delivery'' of securities by the sender. The Board encourages the development of such industry guidelines. Participants may also wish to establish an industry-sanctioned process to mediate and resolve any perceived abuses. To the extent any abusive practices with regard to receiver controls might be widespread or, at an individual Fedwire participant level, long standing, and a Reserve Bank is made aware of the pattern of abuse or mismanagement of the receiver control feature, the Reserve Bank may counsel the participant(s). If identified abuses continue following counseling by the Reserve Bank, it may in its sole discretion limit or prohibit continued use of the receiver control feature by that participant(s).

The Board, therefore, has authorized the Reserve Banks to proceed with the design and implementation of an automated receiver control feature for institutions that access NBES via Fedline. Consistent with the Federal Reserve's long-term strategy to expand the use of electronic connections in the Fedwire services, the Board believes that the availability of automated receiver control tools in the NBES will encourage institutions that currently communicate transfer instructions to the Reserve Banks via telephone or in writing to migrate toward an electronic connection.

The Reserve Banks plan to make the receiver control feature for Fedline participants available for use in 2000. Once an implementation schedule is finalized, the Reserve Banks will notify depository institutions regarding the specific date that the receiver control feature will be available to Fedline participants.

IV. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of rule or policy changes that have a substantial impact on payment system participants.[15] Under these procedures, the Board will assess whether a change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints, or due to a dominant market position of the Federal Reserve deriving from such differences. If no reasonable modifications would mitigate the adverse competitive effects, the Board will determine whether the anticipated benefits are significant enough to proceed with the change despite the adverse effects.

Other providers of securities transfer services do not provide services that are directly comparable to the Fedwire book-entry securities transfer service because only the Federal Reserve Banks can provide final delivery-versus-payment of securities settled in central bank money. There are other private-sector systems, however, such as the Government Securities Clearing Corporation, the Depository Trust Company, and the Participants Trust Company, that facilitate the clearance and settlement of market trades of U.S. Treasury and/or agency securities. Other U.S. government securities transactions may be cleared and settled on the books of depository institutions to the extent that counterparties are customers of the same depository institution.

The Board does not believe that the implementation of receiver control features on the Fedwire securities

[12] Fedline is the Federal Reserve's proprietary communications software used by depository institutions with a PC-based electronic connection to the Federal Reserve. Depository institutions may also connect electronically to Fedwire through a computer-interface connection, which links the depository institution's mainframe computer to the Federal Reserve's mainframe computer.

[13] Small volume, off-line Fedwire participants are required to provide receipt instructions for any anticipated incoming securities transfers. (A participant is considered ''off-line'' if it does not have an electronic connection to the NBES; instead, such participants provide instructions to the Reserve Banks via telephone or in writing.) If such instructions are not provided or the instructions do not match the incoming securities transfer, the NBES will automatically reverse the transfer to the sender. Large-volume computer-interface Fedwire participants generally have the capability in their internal securities transfer systems to flag unmatched transfers or to automatically reverse unmatched transfers; therefore, they do not need to rely on similar features built into the NBES application.

[14] The use of similar receiver control features by the Depository Trust Company (DTC) and many banks with computer-interface Fedwire connections, for instance, has not resulted in significant operating problems or settlement delays.

[15] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' as revised in March 1990 (55 FR 11648, March 29, 1990).

transfer system would have a direct and material adverse effect on the ability of other service providers to offer similar services. First, these private-sector service providers could provide (and some do provide) receiver control features to their participants. Second, the Fedwire securities transfer service does not compete directly with these service providers, since it either transfers securities not eligible for these other service providers or provides a complementary settlement service. Finally, given the Federal Reserve Banks' provision of intraday credit as a part of the securities settlement process, an automated reversal feature would likely provide some added flexibility and benefit to certain Fedwire participants in managing their receipt of securities transfers.

By order of the Board of Governors of the Federal Reserve System, April 8, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9665 Filed 4–10–98; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Invitation to Submit Guidelines to the National Guideline Clearinghouse

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice.

SUMMARY: The Agency for Health Care Policy and Research (AHCPR) invites organizations, professional societies, and other developers of clinical practice guidelines to submit completed guidelines for inclusion in the World Wide Web-based National Guideline Clearinghouse (NGC).

The AHCPR, in partnership with the American Association of Health Plans (AAHP) and the American Medical Association (AMA), is sponsoring the development of the NGC to promote widespread access to guidelines by the health care community and interested individuals. The NGC is designed to be a comprehensive data base of clinical practice guidelines. Availability on the Web is scheduled for Fall 1998.

Data on each guideline will include: (1) A structured abstract containing information about the guideline and its development; (2) a comparison of guidelines covering similar topics, showing areas of similarity and differences; and (3) the full text of the guideline (when available) or links to full text (when not) and investigation on how to obtain the full text guideline. In addition, the NGC will have a topic-related electronic mail forum for registered users to exchange information on clinical practice guidelines, their development, implementation, and use.

DATES: Guidelines will be received on an ongoing basis by ECRI at the address below. ECRI, a nonprofit health services research organization, will perform the technical work of the NGC, under contract with AHCPR.

ADDRESSES: Organizations interested in contributing to the NGC should submit two hard copies of each guideline and related background information in typed format and electronic (if available), including name, address, phone, and e-mail address of a contact person to: Vivian Coates, NGC Project Director, ECRI, 5200 Butler Pike, Plymouth Meeting, PA 19462–1298.

FOR FURTHER INFORMATION CONTACT: Jean Slutsky, NGC Project Officer, Center for Practice and Technology Assessment, Agency for Health Care Policy and Research, Suite 310, Willco Building, 6000 Executive Boulevard, Rockville, Maryland 20852, telephone (301) 594–4015, fax (301) 594–4027, e-mail: jslutsky@ahcpr.gov.

SUPPLEMENTARY INFORMATION:

Background

Under Title IX of the Public Health Service Act (42 U.S.C. 299–299c–6), AHCPR is charged with enhancing the quality, appropriateness, and effectiveness of health care services and access to such services. AHCPR accomplishes these goals through scientific research and through promotion of improvements in clinical practice, including prevention of diseases and other health conditions, and improvements in the organization, financing, and delivery of health care services.

Increased interest in improving the quality of health care, reducing uncertainty and unnecessary variability in health care decision making, as well as rising health care costs, have stimulated a marked growth over the past 5 years in the development and use of clinical practice guidelines. Yet, many health providers, plans, systems, and purchasers have difficulty gaining access to and keeping abreast of the many clinical practice guidelines now available.

Clinical Practice Guideline Definition

The NGC employs the definition of clinical practice guideline developed by the Institute of Medicine:

> "Clinical practice guidelines are systematically developed statements to assist practitioner and patient decisions about appropriate health care for specific clinical circumstances."

Institute of Medicine. (1990). *Clinical Practice Guidelines: Directions for a New Program,* M.J. Field and K.N Lohr (eds.) Washington, DC: National Academy Press (page 38).

Criteria

A clinical practice guideline must meet all of the following criteria to be included in the NGC:

1. The clinical practice guideline contains systematically developed statements that include recommendations, strategies, or information that assists physicians and/or other health care practitioners and patients make decisions about appropriate health care for specific clinical circumstances.

2. The clinical practice guideline was produced under the auspices of medical specialty associations; relevant professional societies, public or private organizations, government agencies at the Federal, State, or local level; or health care organizations or plans. A clinical practice guideline developed and issued by an individual not officially sponsored or supported by one of the above types of organizations does not meet the inclusion criteria for the National Guideline Clearinghouse.

3. Corroborating documentation can be produced and verified that a systematic literature search and review of existing scientific evidence published in peer reviewed journals was performed during the guideline development. A guideline is not excluded from the National Guideline Clearinghouse if corroborating documentation can be produced and verified detailing specific gaps in scientific evidence for some of the guideline's recommendations.

4. The guidelines is English language, current, and the most recent version produced. Documented evidence can be produced or verified that the guideline was either developed, reviewed, or revised within the last 5 years.

Dated: April 6, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–9708 Filed 4–10–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement No. 98043]

National Partnerships for Human Immunodeficiency Virus (HIV) Prevention; Notice of Availability of Funds for Fiscal Year 1998 Withdrawal

A notice of availability of funds for (FY) 1998 was published in the **Federal Register** on April 3, 1998, [63 FR 16555 through 16561]. The notice is hereby withdrawn. The agency will submit a notice of availability of funds at a later date.

Dated: April 7, 1998.

Arthur C. Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–9619 Filed 4–10–98; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Chronic Fatigue Syndrome Coordinating Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Chronic Fatigue Syndrome Coordinating Committee (CFSCC).

Time and Date: 8:30 a.m.–4 p.m., April 28, 1998. 9:30 a.m.–5 p.m., April 29, 1998.

Place: Hubert H. Humphrey Building, Rooms 703A and 800, #200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting rooms will accommodate approximately 100 people.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

Purpose: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA), to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and other related issues; facilitating increased Department of Health and Human Services (HHS) and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities for collaborative and/or coordinated efforts in research and education; and developing informed responses to constituency groups regarding HHS and SSA efforts and progress.

Matters To be Discussed: Agenda items will include the National Institutes of Health state of the art workshop regarding CFS in adolescents; updates from HHS agencies; CFS information and education; and CFSCC discussion of workshop regarding CFS in adolescents.

Agenda items are subject to change as priorities dictate.

Public comments will be received on the April 29, 1998, meeting for approximately 60 minutes. Public statements presented at this meeting should not be repetitive of previously submitted oral or written statements. Persons wishing to make oral comments should notify the contact person listed below no later than close of business on April 24, 1998. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. These comments will become a part of the official record of the meeting. Due to the time available, public comments will be limited to five minutes per person. Copies of any written comments should be provided at the meeting; please provide at least 100 copies.

Contact Person for More Information: Lisa Blake-DiSpigna, Executive Secretary, CDC, 1600 Clifton Road, NE, M/S C19, Atlanta, Georgia 30333, telephone 404/639–3227, fax 404/639–4138.

Dated: April 3, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–9618 Filed 4–10–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Orthopaedic and Rehabilitation 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). At least one portion of the meeting will be closed to the public.

Name of Committee: Orthopaedic and Rehabilitation 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 27, 1998, 10:30 a.m. to 5 p.m., and April 28, 1998, 8 a.m. to 6 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Hany W. Demian, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12521. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 28, 1998, the committee will: (1) Discuss and make recommendations on a reclassification petition for Polymethylmethacrylate (PMMA) bone cement; (2) consider issues relating to the study and evaluation of bone growth stimulator devices as discussed in the draft guidance document entitled ''Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices;'' and (3) address scientific issues pertaining to investigations and marketing considerations of bone growth stimulators (e.g., inclusion/exclusion criteria, type of control(s), study endpoints, and length of followup). Single copies of the draft guidance document are available to the public by contacting the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 1–800–638–2041, by faxing your request to 301–443–8818. The agency will publish in the near future a notice of availability which will include the web site.

Procedure: On April 27, 1998, from 10:30 a.m. to 11:30 a.m., and on April 28, 1998, from 8 a.m. to 6 p.m., the meeting is open to the public. 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 20, 1998. Oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:45 a.m., on April 27, 1998, and between approximately 2:45 p.m. and 3:45 p.m., on April 28, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the

contact person before April 20, 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.

Closed Committee Deliberations: On April 27, 1998, from 11:30 a.m. to 5 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

FDA regrets that it was unable to publish this notice 15 days prior to the April 27, 1998, Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 8, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–9704 Filed 4–9–98; 12:38 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0451]

Draft Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a proposed guide entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables (the proposed guide).'' The document provides guidance on good agricultural practices (GAP's) and good manufacturing practices (GMP's). The GAP's and GMP's are designed to minimize microbial food safety hazards common to the growing, harvesting, packing, and transport of most fruits and vegetables sold to consumers in an unprocessed or minimally processed (i.e., raw) form. This action is in response to the Presidential initiative to ensure the safety of imported and domestic fruits and vegetables. The proposed guide is intended to assist growers, packers, and other operators in continuing to improve the safety of domestic and imported produce.

DATES: Written comments by June 29, 1998.

ADDRESSES: Submit written comments on the proposed guide to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written requests for single copies of the proposed guide entitled ''Guidance for Industry: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables'' to Lou Carson, Center for Food Safety and Applied Nutrition, 200 C St. SW., rm. 3812, Washington, DC 20204, 202–260–8920. Send one self-adhesive address label to assist that office in processing your request. Comments and requests for copies should be identified with the docket number found in brackets in the heading of this document. A copy of the proposed guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5916, FAX 202–260–9653, e-mail: jsaltsma@bangate.fda.gov, or

Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–2975, FAX 202–205–4422, e-mail: msmith1@bangate.fda.gov.

SUPPLEMENTARY INFORMATION: On October 2, 1997, the President announced the ''Initiative to Ensure the Safety of Imported and Domestic Fruits and Vegetables'' (fresh produce safety initiative). As part of the fresh produce safety initiative, the President directed the Secretary of Health and Human Services (DHHS) and the Secretary of the U.S. Department of Agriculture (USDA), in cooperation with the agricultural community, to issue, within 1 year, guidance on GAP's and GMP's for fresh fruits and vegetables. FDA is coordinating the effort for DHHS.

As part of this effort, FDA and USDA held a series of public meetings between November 17, 1997, and December 12, 1997, to provide the details on a broad approach on how to minimize microbial contamination through the control of water, manure, worker health and hygiene, field and facility sanitation, and transportation. A draft guide entitled ''Working Draft: Guide to Minimize Microbial Food Safety Hazards for Fresh Fruit and Vegetables'' (the working draft) was made available on FDA's World Wide Web (WWW) home page (http://www.fda.gov) and at each public meeting. The Fresh Produce Subcommittee of the National Advisory Committee for Microbiological Criteria for Food also reviewed and commented on sections of a working draft at the November 1997, meeting. Transcripts of these meetings and all comments received on the working draft of the proposed guide are on file in the Dockets Management Branch (address above) under the docket number appearing in brackets in the heading of this document and are accessible via the FDA home page on the WWW (http://www.fda.gov/dockets/dockets.htm).

With this notice, FDA is announcing the availability of the proposed guide. The proposed guide responds to comments received on the draft guidance document and represents the agencies' current thinking on strategies to minimize microbial hazards for fresh fruits and vegetables. The proposed guide does not create or confer any rights for or on any person and does not operate to bind FDA, USDA, or the public. An alternative approach may be used if such approach would effectively serve to reduce the microbial contaminants that could result in foodborne illnesses and if such approach satisfies applicable statutes and regulations. The proposed guide is being distributed for comment purposes, in accordance with the FDA's policy for Level 1 Good Guidance Practices documents as set out in the **Federal Register** of February 27, 1997 (62 FR 8961).

Because the guide is voluntary guidance, and not a regulation imposing binding requirements, FDA is not required to perform an economic impact analysis of the recommendations contained therein. However, the agency recognizes that, to reduce microbial hazards, the industry will want to select good agricultural and manufacturing practices that are most cost-effective, appropriate to their individual operations.

The guide represents the best effort of FDA, USDA, and other technical experts to identify practices that are feasable and that are likely to reduce microbial hazards. However, because of the broad-scope nature of the guide (such as covering all fresh fruits and vegetables grown in all regions of the US and overseas) and the current state of science (such as the need for additional research on pathogen survival under varying field conditions and the impact of various treatments to eliminate or reduce pathogens on the surface of crops with different physical characteristics), FDA has not attempted to rank the risk factors in order of significance or rank the intervention strategies in order of importance. It may, however, be possible to provide such information as science progresses and as additional, more focused documents (such as education and outreach materials on specific commodities or practices) are developed. To this end, FDA is requesting comment on the following:

(1) Current industry practices to reduce microbial hazards and how the recommendations in the guide might be most effectively applied to farms of various sizes. The agency specifically requests comments from small farmers and other industry groups currently employing these or other practices to reduce microbial hazards from fresh produce;

(2) Mechanisms used by growers and packers as part of good agricultural and good management practices programs and cost of application of such mechanisms;

(3) Most appropriate ways to analyze benefits and costs, such as by crop group (e.g., berries, tree fruit, vegetable row crops), by region, or by practice (e.g., manure management, water use in packing houses); and

(4)How to best draw on existing resources and expertise to assemble existing data and analyze costs and benefits (such as industry partnerships or pilot programs) to assess cost effective measures.

Interested persons may, on or before June 29, 1998, submit written comments to the Dockets Management Branch (address above) on the proposed guide. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The proposed guide may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this draft guidance is available on the Internet using the WWW (http://www.fda.gov/dockets/dockets.htm) or (http://vm.cfsan.fda.gov/~dms/fs-toc.html).

Dated: April 3, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–9636 Filed 4–10–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and Its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on May 27–28, 1998. The meeting of the full Council will be open to the public on May 27th; from 8:30 a.m. to 12:00 p.m. in Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland, to discuss administrative issues relating to Council business and special reports. The following subcommittee meetings will be open to the public May 27th from 1:00 p.m. to 2:00 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee meeting will be held in Conference Room 10, Building 31C; Digestive Diseases and Nutrition Subcommittee meeting will be held in Conference Room 7, Building 31C; and Kidney, Urologic and Hematologic Diseases Subcommittee meeting will be held in Conference Room 9, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meetings of the subcommittees and full Council will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on May 27th, from 2:00 p.m. to 5:00 p.m. and again on May 28th, from 8:30 a.m. to 10:00 a.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee, Digestive Diseases and Nutrition Subcommittee; and Kidney, Urologic and Hematologic Diseases Subcommittee. The full Council will meet in closed session on May 28th from 10:00 a.m. to 10:30 a.m. in Conference Room 10, Building 31C. These deliberations, whether held in a subcommittee or in the full council, could reveal confidential trade secrets on commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A final open session of the full Council will be held on May 28th from 10:30 a.m. to 12:00 p.m. to hear reports from the Division Directors and conduct other administrative business.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Natcher Building, Room 6AS–25C, Bethesda, Maryland 20892, (301) 594–8334, in advance of the meeting.

In addition, upon request, a summary of the meeting and roster of the members may be obtained from the Committee Management Office NIDDK, Building 45, Room 6AS–37J, National Institutes of Health, Bethesda, Maryland 20892, (301) 594–8892.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 6, 1998.

Laverne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9570 Filed 4–10–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of the Board of Scientific Counselors, National Institute on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 12–14, 1998 to be held at the Gerontology Research Center, Baltimore, Maryland. On Wednesday, May 13, the meeting will be open to the public for the review of the Intramural Research Program from 8:30 until 11:45 a.m.; and again from 1:00 to 3:30 p.m. On Thursday, May 14, the meeting will be open to the public from 8:30 until 11:30 a.m. and from 12:30 to

1:30 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on Tuesday, May 12, from 8:00 p.m. to recess, Wednesday, May 13, from 8:00 to 8:30 a.m.; and from 3:30 to 4:00 p.m.; and Thursday, May 14, from 8:00 to 8:30 a.m. for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Aging, (NIA), including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer, NIA, Gateway Building, Room 2C218, National Institutes of Health, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Dr. Dan L. Longo, Scientific Director, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, Maryland 21224 will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Scientific Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: April 6, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9571 Filed 4–10–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Meeting of the National Reading Panel

Notice is hereby given of the inaugural meeting of the National Reading Panel. The meeting will be held in Building 31, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting will begin at 9:00 a.m. on April 24, 1998, and is expected to adjourn at 4:00 p.m. The entire meeting will be open to the public.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel will study the effectiveness of various approaches to teaching children how to read and report on the best ways to apply these findings in classrooms and at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the recently announced findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on a review of the literature, the Panel will: determine the readiness for application in the classroom of the results of these research studies; identify appropriate means to rapidly disseminate this information to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

The inaugural meeting will address issues of Panel organization, task assignment, and scheduling of future meetings. A period of time will be set aside at approximately 3:00 p.m. for members of the public to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., Executive Director, National Reading Panel, c/o Ms. Jaimee Nusbacher and either mail them to IQ Solutions, 11300 Rockville Pike, Suite 801, Rockville, Maryland 20852, email them to *jnusbacher@iqsolutions.com*, or fax them to (301) 984–1473. Requests for addressing the Panel should be received by April 13, 1998. Panel business permitting, each public presenter will be allowed five minutes to present his or her views. In the event of a large number of public presenters, the Panel Chair retains the option to further limit the presentation time allowed to each. Although the time permitted for oral presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Jaimee Nusbacher, (301) 984–1471. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jaimee Nusbacher no later than April 13, 1998.

Dated: April 3, 1998.

Duane Alexander,

Director, National Institute of Child Health and Human Development.

[FR Doc. 98–9573 Filed 4–10–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: April 20, 1998.

Time: 8:30 a.m.

Place: St. James Hotel, Washington, DC.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Behavioral and Neurosciences.

Date: May 5, 1998.

Time: 10:00 a.m.

Place: NIH, Rockledge 2, Room 5172 Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 6, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9572 Filed 4–10–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the teleconference meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in April 1998.

The agenda will include the review, discussion and evaluation of individual contract proposals and discussion of information about the Center's procurement plans. Therefore, this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4) and (6) and 5 U.S.C. App. 2, section 10(d).

Substantive program information may be obtained from the contact listed below.

Committee Name: Center for Substance Abuse Prevention, National Advisory Council.

Meeting Date: April 14, 1998.

Place: Center for Substance Abuse Prevention 5515 Security Lane, 9th Floor, Room 900, Rockwall II Bldg., Rockville, MD.

Closed: April 14, 1998, 1 p.m. to 2 p.m.

Contact: Yuth Nimit, Ph.D. Rockwall II Building, Suite 910, Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: April 7, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–9634 Filed 4–10–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of Receipt of Applications.

SUMMARY: The following applicants have applied for a permit to conduct research and recovery activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT—839848

Applicant: Richard P. Braun, Carson National Forest, Taos, New Mexico

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) on the Carson National Forest in New Mexico.

Permit No. PRT—802209

Applicant: Dr. Virginia M. Dalton, Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for lesser long-nosed bats (*Leptonycteris curasoae*) and Mexican long-nosed bats (*Leptonycteris nivalis*) within Arizona and New Mexico.

Permit No. PRT—840014

Applicant: Gail Tunberg, Santa Fe National Forest, Santa Fe, New Mexico

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in New Mexico.

Permit No. PRT—840171

Applicant: Vicky J. Meretsky, Indiana University, Bloomington, Indiana

Applicant requests authorization to conduct presence/absence surveys for Kanab ambersnails (*Oxyloma haydeni kanabensis*) in Arizona.

Permit No. PRT—840214

Applicant: J. Matthew Tanner, Texas Utilities Services, Inc., Dallas, Texas

Applicant requests authorization to conduct presence/absence surveys for interior least terns (*Sterna antillarum*) in the Big Brown Mine in Fairfield, Freestone County, Texas.

Permit No. PRT—841353

Applicant: Clifton Ladd, Loomis & Moore, Austin, Texas

Applicant requests authorization to conduct presence/absence surveys for the following endangered species in Texas:

Tooth Cave Pseudoscorpion (*Tartarocreagis texanus*)
Tooth Cave spider (*Letoneta myopica*)
Tooth Cave ground beetle (*Rhadine persephone*)
Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
Bee Creek Cave harvestman (*Texella reddelli*)
Bone Cave harvestman (*Texella reyesi*)
Coffin Cave mold beetle (*Batrisodes texanus*)
Houston toad (*Bufo houstonensis*)
bald eagle (*Haliaeetus leucocephalus*)
piping plover (*Charadrius melodus*)
red-cockaded woodpecker (*Picoides borealis*)
southwestern willow flycatcher (*Empidonax traillii extimus*)
black-capped vireo (*Vireo atricapillus*)
golden-cheeked warbler (*Dendroica chrysoparia*)

Permit No. PRT—820337

Applicant: Terry Myers, Apache-Sitgreaves National Forests, Springerville, Arizona

Applicant requests authorization to conduct presence/absence surveys and nest monitoring for southwestern willow flycatchers (*Empidonax traillii extimus*) on the Apache-Sitgreaves National Forests in Arizona.

Permit No. PRT—822998

Applicant: John M. McGee, Coronado National Forest, Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) on the Coronado National Forest in Arizona.

Permit No. PRT—841359

Applicant: Abel M. Camarena, Gila National Forest, Silver City, New Mexico

Applicant requests authorization to conduct presence/absence surveys for American peregrine falcons (*Falco pereginus*), and southwestern willow flycatchers (*Empidonax traillii extimus*) in New Mexico.

Permit No. PRT—799294

Applicant: Paul E. Boldt, U.S.D.A., Agricultural Research Service, Temple, Texas

Applicant requests authorization to collect stem cuttings from the wild population of Johnston's frankenia (*Frankenia johnstonii*) in Starr County, Texas.

DATES: Written comments on these permit applications must be received on or before May 13, 1998.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30

days of the date of publication of this notice, to the address above.

Susan MacMullin,

Acting ARD-Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–9586 Filed 4–10–98; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction and Operation of a Residential Development on the Approximately 304-Acre Rough Hollow Property, Lakeway, Travis County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Lakeway Rough Hollow, Ltd. (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number PRT–812690. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction and operation of a residential development on the approximately 304-acre parcel. The impacts to the listed species have been addressed in the associated habitat conservation plan.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days after the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 13, 1998.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director (ATTN: ES), Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Sybil Vosler, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by appointment only during normal business hours (8:00 a.m. to 4:30 p.m.). Written data or comments concerning the application(s) and EA/HCP's should be submitted to the Field Supervisor, Ecological Field Office, Austin, Texas (see **ADDRESSES** above). Please refer to permit number PRT–812690 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the Austin Ecological Services Field Office (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Lakeway Rough Hollow, Ltd. plans to construct a residential development on the 304-acre tract and purchase 116 Mitigation Credits from the Lakeway Mitigation Account. The Lakeway Mitigation Account provided $3.5 million to the City of Austin to enable the purchase of the approximately 942-acre Ivanhoe tract containing essential, high-quality golden-cheeked warbler habitat to be included in the Balcones Canyonlands Preserve in perpetuity. The construction will be located at the Rough Hollow property located on the south side of Lake Travis immediately west of the City of Lakeway and approximately 18 miles west-northwest of the downtown City of Austin.

Alternatives to this action were considered and rejected because selling or not developing the subject property was not economically feasible.

Stephen C. Helfert,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–9031 Filed 4–10–98; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Presidio Trust Meeting

Notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 9 a.m. until 12 noon on Monday, April 27, 1998 at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco, California. The meeting will be a joint meeting of the Presidio Trust and the Golden Gate National Recreation Area Advisory Commission. The main agenda item of this meeting will be the presentation of the draft Presidio Trust Financial Management Program.

A specific final agenda for this meeting will be made available to the public at least 15 days prior to the meeting and can be received by contacting the Presidio Trust at P.O. Box 29052, San Francisco, CA 94129 or calling 415/561–5300.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Presidio Trust Board. A transcript will be available three weeks after the meeting. For copies of the minutes, please contact the Presidio Trust at P.O. Box 29052, San Francisco, CA 94129.

Dated: April 6, 1998.

Craig Middleton,

Director, Intergovernmental Relations.

[FR Doc. 98–9621 Filed 4–10–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the South Dakota State Archaeological Research Center, Rapid City, SD

AGENCY: National Park Service, Interior.

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 in the possession of the South Dakota State Archaeological Research Center, Rapid City, SD.

A detailed assessment of the human remains was made by South Dakota State Archaeological Research Center (SARC) professional staff and contract specialists in physical anthropology and archeology in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Lower Brule Sioux Tribe of the Lower Brule Reservation, Oglala Sioux Tribe of the Pine Ridge Reservation, Rosebud Sioux Tribe of the Rosebud Indian Reservation, Standing Rock Sioux Tribe of North & South Dakota, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, and Upper Sioux Indian Community of the Upper Sioux Reservation.

In 1923, human remains representing one individual were recovered from the Dougherty Mounds (39RO10) at the south end of Lake Traverse, Roberts County, SD during excavations conducted by W.H. Over, Director of the then-Dakota Museum, University of South Dakota-Vermillion (now known as the W.H. Over Museum). No known individual was identified. The 12 associated funerary objects include silver earbobs, an unidentified animal bone, cloth fragments, and elm bark fragments.

Based on the associated funerary objects and manner of interment, this individual has been identified as a Native American. The associated funerary objects indicate the burial dates from the post–1875 era. This site is within the original Sisseton-Wahpeton 1867 reservation boundaries, and Sisseton-Wahpeton band had been documented as using this area of Lake Traverse as early as 1804–1806. The 1923 excavations at this site originally recovered 24 individuals, ten of whom were re-interred following the conclusion of the excavations. During the 1980s, the remaining 14 individuals were repatriated and reburied prior to the enactment of NAGPRA. These human remains and associated funerary objects were discovered in the SARC collections in 1993 during the NAGPRA inventory.

Based on the above mentioned information, officials of the South Dakota State Archaeological Research Center 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 South Dakota State Archaeological Research Center have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 12 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 South Dakota State Archaeological Research Center 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 Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation.

This notice has been sent to officials of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Lower Brule Sioux Tribe of the Lower Brule Reservation, Oglala Sioux Tribe of the Pine Ridge Reservation, Rosebud Sioux Tribe of the Rosebud Indian Reservation, Standing Rock Sioux Tribe of North & South Dakota, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, and Upper Sioux Indian Community of the Upper Sioux Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Renee Boen, Curator, State Archaeological Center, South Dakota Historical Society, P.O. Box 1257, Rapid City, SD 57709–1257; telephone: (605) 394–1936, before May 13, 1998. Repatriation of the human remains and associated funerary objects to the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation may begin after that date if no additional claimants come forward.

Dated: April 2, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–9660 Filed 4–10–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Kuiu Island, AK in the Control of Tongass National Forest, USDA Forest Service, Petersburg, AK

AGENCY: National Park Service, Interior.

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 in the control of Tongass National Forest, USDA Forest Service, Petersburg, AK.

A detailed assessment of the human remains was made by USDA Forest Service professional staff in consultation with representatives of the Organized Village of Kake and the Klawock Cooperative Association.

In 1949, human remains representing one individual were illegally removed from the southwest coast of Kuiu Island in the vicinity of Port Malmesbury by J. Art Robin. In 1954, the USDA Forest Service confiscated these remains and they have been curated at the University of Alaska Museum since that time. No known individual was identified. The five associated funerary objects include a bentwood burial box, two fur blankets, a spruce bark blanket, and moss.

Although the exact location from which these human remains were removed is unknown, it is likely the box is associated with the Port Malmesbury Caves site.

In 1949, human remains representing one individual were illegally removed from Kuiu Island at Port Malmesbury by William T. Vickers. In 1977, the USDA Forest Service law enforcement confiscated these human remains and they have been curated at the University of Alaska Museum since that time. No known individual was identified. The eight associated funerary objects include a bentwood cedar burial box, a woven cedar bark mat, a large piece of tanned hide, a leather hood, an ochre-stained leather bag containing powdered orchre, a woven cedar bark bag, remnants of a fur cap, and braided black fur and rope with eagle feathers. Authorities of the United States Fish and Wildlife Service have been contacted regarding applicability of Federal endangered species statutes to this transfer and will issue the appropriate permits for transfer to the culturally affiliated Native American tribes.

In 1954, human remains representing four individuals were collected without a permit from the surface of a disturbed cave site at Saginaw Bay, Kuiu Island by an unknown person. These human remains were deposited in the University of Alaska Museum at an unknown date and under unknown circumstances. No known individuals were identified. The four associated funerary objects include three copper buttons and faunal material.

Based on the associated funerary objects, manner of interments, and the probable locations of the human remains, these individuals have been determined to be Native American. Radiocarbon dating of the burial box confiscated in 1977 places the date of the burial to approximately 1180 AD. Based on this date, this burial is one of the earliest known examples of Northwest Coast line form design. The box's designs indicate this individual was a member of the Tlingit Killerwhale clan. Ethnographic evidence and oral history indicate that during the smallpox epidemics of the 1800s, the Tlingit communities on Kuiu Island were decimated, and the survivors moved to Kake Village and Klawock Village; the members of the Killerwhale clan in these villages are the descendents of these survivors.

Based on the above mentioned information, officials of the USDA Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of six individuals

of Native American ancestry. Officials of the USDA Forest Service have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 17 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 USDA Forest Service 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 Organized Village of Kake and the Klawock Cooperative Association.

This notice has been sent to officials of the Organized Village of Kake and the Klawock Cooperative Association. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Carol Jorgensen, Deputy Forest Supervisor, Tongass National Forest—Stikine Area, P.O. Box 309, Petersburg, AK 99833; telephone: (907) 772–3841, before May 13, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: April 2, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–9661 Filed 4–10–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Future Use and Operations of Contra Loma Reservoir, Contra Costa County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report and notice of meeting.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and Section 21061 of the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) proposes to prepare an environmental impact statement/environmental impact report (EIS/EIR) for the Future Use and Operations of Contra Loma Reservoir Project, Contra Costa County, California.

The purpose of the EIS/EIR is to allow Contra Costa Water District (CCWD) to comply with a California State Department of Health Services (DOHS) order while maintaining the operational benefits currently derived from Contra Loma Reservoir (Reservoir), including meeting peaking requirements and providing system reliability.

DATES: A scoping meeting will be held on May 7, 1998, at 7:00 p.m., to solicit information from interested parties to assist in determining the scope of the EIS/EIR and to identify the significant issues related to this proposed action.

Written comments on the scope of the EIS/EIR may be submitted to the Bureau of Reclamation at the address provided below by May 18, 1998.

ADDRESSES: The scoping meeting will be held at the Antioch Senior Center, 415 W. Second Street, Antioch, CA 94509.

Written comments on the project scope should be sent to Mr. Robert Eckart, Bureau of Reclamation, MP–150, 2800 Cottage Way, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eckart, telephone (916) 978–5051.

SUPPLEMENTARY INFORMATION: The Contra Loma Dam and Reservoir were constructed by Reclamation in 1967 as part of the Central Valley Project for the purpose of providing peaking requirements and system reliability for the Contra Costa Canal system. CCWD has a contract with Reclamation for water supply and for operations and maintenance of the Contra Costa Canal system, including Contra Loma Dam and Reservoir.

The California State DOHS issued an order that requires CCWD to either cease use of the reservoir for a drinking water supply or cease use of the reservoir for water body contact. CCWD held a scoping meeting on November 13, 1997, regarding this order.

The proposed action includes the continued use of the Reservoir as a drinking water supply and the construction of a separate swimming lagoon within the existing reservoir footprint. The lagoon would be physically separated from the main portion of the 80-acre reservoir with a cement-covered earthen berm. Water in the lagoon would be pumped, filtered, and treated to appropriate water quality standards for recreation use. This Proposed Action would allow existing drinking water and swimming uses to continue at the Reservoir.

Two ''No Action'' alternatives will be evaluated in the EIS/EIR: (1) No Action—Stop using the Reservoir for water supply; water body contact recreation continues; and (2) No Action—Stop using the reservoir for water body contact recreation; use of Reservoir for drinking water supply continues.

Other alternatives under consideration include those that would allow water body contact to continue while meeting peaking and system reliability requirements through either new or existing facilities.

Dated: April 6, 1998.

Robert Stackhouse,

Acting for Regional Director.

[FR Doc. 98–9617 Filed 4–10–98; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–404]

In the Matter of Certain SDRAMs, DRAMs, ASICs, Ram-and-Logic Chips, Microprocessors, Microcontrollers, Processes for Manufacturing Same, and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Delete Certain Patent Claims From the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') (Order No. 13) in the above-captioned investigation granting complainant's motion to delete certain patent claims from the investigation.

FOR FURTHER INFORMATION CONTACT: John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094.

SUPPLEMENTARY INFORMATION: On November 14, 1997 the Commission instituted this investigation based on a complaint filed by Samsung Electronics Co., Ltd. and Samsung Austin Semiconductor, L.L.C. (collectively ''Samsung'') alleging that the importation and sale of certain semiconductor products violates section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by infringing certain claims of U.S. Letters Patent 5,444,026 (the ''026 patent'') and U.S. Letters Patent 4,972,373. The respondents in the investigation are

Fujitsu Ltd. and Fujitsu Microelectronics, Inc.

On February 25, 1998, Samsung moved to amend the complaint and notice of investigation by deleting from the investigation all claims of the ''026 patent that were at issue. Samsung stated that it sought to withdraw its allegations regarding these claims in order to ensure prompt resolution of the investigation and, specifically, to ensure that the target and hearing dates will be met. Samsung further stated that withdrawal of these claims would significantly narrow the issues presented in the investigation and substantially lessen the amount of discovery to be taken. Thus, Samsung asserted that good cause existed for the ALJ to grant its motion. Samsung's motion was unopposed by the respondents and the Commission investigative attorneys.

On March 17,1998, the ALJ issued an ID granting Samsung's motion to amend the complaint and notice of investigation. No party petitioned for review of the ALJ's ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

Issued: April 6, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–9624 Filed 4–10–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. CBS Corporation and American Radio Systems Corporation; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *CBS Corporation and American Radio Systems Corporation,* Case No. 1:98CV00819. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day pubic comment period and compliance with the Antitrust Procedures and Penalties Act. 15 U.S.C. § 16(b)–(h).

The United States filed a civil antitrust Complaint on March 31, 1998, alleging that the proposed acquisition of American Radio Systems Corporation (''ARS'') by CBS Corporation (''CBS'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that CBS and ARS own and operate numerous radio stations throughout the United States, and that they each own and operate radio stations in the Boston, Massachusetts, St. Louis, Missouri and Baltimore, Maryland metropolitan areas. This acquisition would give CBS control over more than 40 percent of the radio advertising revenues in those metropolitan areas, and would give CBS the ability to raise prices and reduce services to many advertisers. As a result, the combination of these companies would substantially lessen competition in the sale of radio advertising time in the Boston, St. Louis and Baltimore metropolitan areas.

The prayer for relief seeks: (a) Adjudication that CBS's proposed acquisition of ARS would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits CBS to complete its acquisition of ARS, yet preserves competition in the markets in which the transaction would raise significant competitive concerns. A Stipulation, proposed Final Judgment embodying the settlement, and Competitive Impact Statement were filed with the Court at the same time the Complaint was filed.

The proposed Final Judgment orders CBS to divest WEEI–AM, WAAF–FM, WEGQ–FM and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore, all of which are currently owned by ARS. Unless the United States grants an extension of time, CBS must divest these radio stations within six months after CBS places certain stations which it is required to dispose of by FCC rules into FCC disposition trusts (with an outside date of nine months after the Complaint was filed) or within five business days after notice of entry of the Final Judgment, whichever is later.

If CBS does not divest these stations within the divestiture period, the Court, upon application of the United States, is to appoint a trustee to sell the assets. The proposed Final Judgment also requires CBS to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, these stations will be operated independently as viable, ongoing businesses, and kept separate and apart from CBS's other radio stations in Boston, St. Louis and Baltimore. Further, the proposed Final Judgment requires defendants to give the United States prior notice regarding future radio station acquisitions or certain agreements pertaining to the sale of radio advertising time in Boston, St. Louis or Baltimore.

The United States and CBS and ARS have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

A Competitive Impact Statement filed by the United States describes the Compliant, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, 1401 H Street, NW., Suite 4000, Washington, DC 20530 (telephone: 202–307–0001). Copies of the Complaint, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530 (telephone: 202–514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. CBS Corporation and American Radio Systems Corporation, Defendants

[No. 98–0819]

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as through the same were in full force and effect as an Order of the Court.

(4) The parties recognize that there could be a delay in obtaining approval by or a ruling of a government agency related to the divestitures required by Section IV of the Final Judgment, notwithstanding the good faith efforts of the defendants and any prospective Acquirer, as defined in the Final Judgment. In this circumstance, plaintiff will, in the exercise of its sole discretion, acting in good faith give special consideration to forebearing from applying for the appointment of a trustee pursuant to Section V of the Final Judgment, or from pursuing legal remedies available to it as a result of such delay, provided that: (i) Defendants have entered into one or more definitive agreements to divest the WOCT–FM Assets, the WEGO–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets, as defined in the Final Judgment, and such agreements and the Acquirer or Acquiers have been approved by plaintiff; (ii) All papers necessary to secure any governmental approvals and/or rulings to effectuate such divestitures (including but not limited to FCC, SEC and IRS approvals or rulings) have been filed wit the appropriate agency; (iii) Receipt of such approvals are the only closing conditions that have not been satisfied or waived; and (iv) Defendants have demonstrated that neither they nor the prospective Acquirer or Acquiers are responsible for any such delay.

(5) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(6) In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event the proposed Final Judgment is not entered pursuant to this Stipulation, the time, has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(7) Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: March 31, 1998.

For Plaintiff United States of America:

Allen P. Grunes,

U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20005, (202) 307–0001.

For Defendant CBS Corporation:

Joe Sims,

Jones, Day, Reavis & Pogue, 1450 G Street, N.W., Washington, D.C. 20005, (202) 879–3939.

For Defendant American Radio Systems Corporation:

Timothy J. O'Rourke,

Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036, (202) 776–2000.

So Ordered:

_____

United States District Judge

Certificate of Service

I, Allen P. Grunes, hereby certify that, on March 31, 1998, I caused the foregoing document to be served on defendants CBS Corporation and American Radio Systems Corporation by having a copy mailed, first-class, postage prepaid, to:

Joe Sims,

Jones, Day, Reavis, & Pogue, 1450 G St., N.W., Washington, D.C. 20005, Counsel for CBS Corporation.

Timothy J. O'Rourke,

Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036, Counsel for American Radio Systems Corporation.

Allen P. Grunes.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. CBS Corporation and American Radio Systems Corporation, Defendants

[No. 98–0819]

Final Judgment

WHEREAS, plaintiff, the United States of America, filed its Complaint in this action on March 31, 1998, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the purpose of this Final Judgment is prompt and certain divestiture of certain assets to assure

that competition is not substantially lessened;

AND WHEREAS, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to plaintiff that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants CBS and ARS, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''CBS'' means defendant CBS Corporation, a Pennsylvania corporation with its headquarters in New York, New York, and includes its successors and assigns, its subsidiaries, and directors, officers, managers, agents and employees acting for or on behalf of CBS.

B. ''ARS'' means defendant American Radio Systems Corporation, a Delaware corporation with its headquarters in Boston, Massachusetts, and includes its successors and assigns, its subsidiaries, and directors, officers, managers, agents and employees acting for or on behalf of ARS.

C. ''WOCT–FM Assets'' means all of the assets, tangible or intangible, used in the operation of the WOCT 104.3 FM radio station in Baltimore, Maryland, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the Federal Communications Commission (''FCC'') and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

D. ''WEGQ–FM Assets'' means all of the assets, tangible or intangible, used in the operation of the WEGQ 93.7 FM radio station in Boston, Massachusetts, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

E. ''WAAF–FM Assets'' means all of the assets, tangible or intangible, used in the operation of the WAAF 107.3 FM radio station in Worcester, Massachusetts, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

F. ''WEEI–AM Assets'' means all of the assets, tangible or intangible, used in the operation of the WEEI 850 AM radio station in Boston, Massachusetts, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

G. ''WRKO–AM Assets'' means all of the assets, tangible or intangible, used in the operation of the WRKO 680 AM radio station in Boston, Massachusetts, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

H. ''KSD–FM Assets'' means all of the assets, tangible or intangible, used in the operation of the KSD 93.7 FM radio station in St. Louis, Missouri, including but not limited to: all real property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

I. ''KLOU–FM Assets'' means all of the assets, tangible or intangible, used in the operation of the KLOU 103.3 FM radio station in St. Louis, Missouri, including but not limited to: All real

property (owned and leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

J. ''Baltimore Area'' means the Baltimore, Maryland Metro Survey Area as identified by The Arbitron Radio Market Report for Baltimore (Spring 1997), which is made up of the following counties: Anne Arundel, Baltimore, Baltimore City, Carroll, Harford, Howard, and Queen Annes.

K. ''Boston Area'' means the Boston, Massachusetts Metro Survey Area as identified by The Arbitron Radio Market Report for Boston (Spring 1997), which is made up of the following counties: Essex, Middlesex, Norfolk, Plymouth, and Suffolk.

L. ''St. Louis Area'' means the St. Louis, Missouri Survey Area as identified by The Arbitron Radio Market Report for St. Louis (Spring 1997), which is made up of the following counties: Clinton, Franklin, Jefferson, Jersey, Lincoln, Madison, Monroe, St. Charles, St. Clair, St. Louis, St. Louis City, and Warren.

M. ''CBS Radio Station'' means any radio station owned by CBS or ARS and licensed to a community in the Baltimore Area, the Boston Area, or the St. Louis Area, other than WOCT–FM in the Baltimore Area, WEGQ–FM, WAAF–FM, WEEI–AM and WRKO–AM in the Boston Area, and KSD–FM, and KLOU–FM in the St. Louis Area.

N. ''Non-CBS Radio Station'' means any radio station licensed to a community in the Baltimore Area, the Boston Area, or the St. Louis Area that is not a CBS Radio Station.

O. ''Acquirer'' means the entity or entities to whom defendants divest the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and/or the KLOU–FM Assets under this Final Judgment.

P. ''FCC Disposition Trust'' means the FCC-approved trust or trusts established for the purpose of insuring compliance with FCC numerical limitations on radio local ownership.

Q. ''FCC Trust Radio Stations'' means those stations which CBS will transfer into the FCC Disposition Trust prior to consummation of the proposed acquisition.

III. Applicability

A. The provisions of this Final Judgment apply to each of the defendants, their successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each defendant shall require, as a condition of the sale or other disposition of all or substantially all of the assets used in its business of owning and operating its portfolio of radio stations in the Baltimore Area, the Boston Area, or the St. Louis Area, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment; provided, however, that defendants need not obtain such an agreement from an Acquirer in connection with the divestiture of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and/or the KLOU–FM Assets; and provided further that if any divestiture assets are placed in an FCC Disposition Trust, defendants shall undertake to require that the trustee be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment, within six (6) months after CBS assigns the FCC Trust Radio Stations to the FCC Disposition Trust, or nine (9) months after the filing of the complaint in this action, whichever is earlier, to divest the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets to one or more Acquirers acceptable to plaintiff in its sole discretion; provided, however, notwithstanding the foregoing, the divestitures required by this Final Judgment need not be accomplished prior to five (5) days after notice of the entry of this Final Judgment by the Court.

B. Defendants agree to use their best efforts to divest the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets, and to obtain all regulatory approvals necessary for such divestitures, as expeditiously as possible. Plaintiff, in its sole discretion, may extend the time period for the divestitures for two (2) additional thirty (30)-day periods of time, not to exceed sixty (60) calendar days in total.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability for sale of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets. Defendants shall inform any person making a bonafide inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. Defendants shall make known to any person making an inquiry regarding a possible purchase of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and/or the KLOU–FM Assets that the assets described in Section II (C) through (I) are being offered for sale and may be purchased separately or as a multi-station package of two or more stations. Defendants shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all information regarding the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets customarily provided in a due diligence process, except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to plaintiff at the same time that such information is made available to any other person.

D. Defendants shall permit bona fide prospective purchasers of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and/or the KLOU–FM Assets to have access to personnel and to make such inspection of the assets, and any and all financial, operational or other documents and information customarily provided as part of a due diligence process.

E. Unless plaintiff otherwise consents in writing, the divestitures pursuant to Section IV of this Final Judgment, or by the trustee appointed pursuant to Section V, shall include all the WOCT–

FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that such assets can and will be used by an Acquirer or Acquirers as viable, ongoing commercial radio businesses. The divestitures, whether pursuant to Section IV or V of this Final Judgment, shall be made (i) to an Acquirer or Acquirers that (a) in plaintiff's sole judgment, has or have the capability and intent of competing effectively, and has or have the managerial, operational and financial capability to compete effectively as radio station operators in the Baltimore Area, the Boston Area, and the St. Louis Area, and (b) intends or intend in good faith to continue the operations of the radio station as were in effect in the period immediately prior to the filing of the complaint in this action (unless any significant change in the operations planned by an Acquirer is accepted by the plaintiff in its sole discretion); and (ii) pursuant to agreements the terms of which shall not, in the sole judgment of plaintiff, interfere with or otherwise diminish the ability of the Acquirer or Acquirers to compete effectively against defendants.

F. Defendants shall not interfere with any efforts by any Acquirer or Acquirers to employ the general manager or any other employee of WOCT–FM, WEGQ–FM, WAAF–FM, WEEI–AM, WRKO–AM, KSD–FM or KLOU–FM.

V. Appointment of Trustee

A. In the event that defendants have not divested the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of plaintiff, a trustee selected by plaintiff to effect the divestiture of the assets.

B. After the trustee's appointment has become effective, only the trustee shall have the right to sell the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets. The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section IV and VII of this Final Judgment and consistent with FCC regulations, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser acceptable to plaintiff, in its sole judgment, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to the sale of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, or the KLOU–FM Assets by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants, and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divestitures and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the spend with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys and any other persons retained by the trustee shall have full and complete access to the personnel, books, records and facilities related to the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets, and defendants shall develop financial or other information relevant to the assets to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit prospective purchasers of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets to have access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, or the KLOU–FM Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest these assets.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such reports to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment.

VI. Preservation of Assets/Hold Separate

Until the divestiture of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and the KLOU–FM Assets required by Section IV of the Final Judgment has been accomplished:

A. Prior to the consummation of CBS's acquisition of ARS, defendants shall maintain the independence of their respective radio stations in the Baltimore Area. Following the consummation of CBS's acquisition of ARS, defendants shall take all steps necessary to operate WOCT–FM as a separate, independent, ongoing, economically viable and active competitor to CBS's other stations in the Baltimore Area, and shall take all steps necessary to insure that, except as necessary to comply with Section IV and paragraphs (D) and (K) of this Section of the Final Judgment, the management of said station, including the performance of decision-making functions regarding marketing and pricing, will be kept separate and apart from, and not influenced by, CBS.

B. Prior to the consummation of CBS's acquisition of ARS, defendants shall maintain the independence of their respective radio stations in the Boston Area. Following the consummation of CBS's acquisition of ARS, defendants shall take all steps necessary to operate WEGQ–FM, WAAF–FM, WEEI–AM and WRKO–AM as separate, independent, ongoing, economically viable and active competitors to CBS's other stations in the Boston Area, and shall take all steps necessary to insure that, except as necessary to comply with Section IV and paragraphs (E), (F), (G), (H), (L), (M), (N) and (O) of this Section of the Final Judgment, the management of said stations, including the performance of decision-making functions regarding marketing and pricing, will be kept separate and apart from, and not influenced by, CBS.

C. Prior to the consummation of CBS's acquisition of ARS, defendants shall maintain the independence of their respective radio stations in the St. Louis Area. Following the consummation of CBS's acquisition of ARS, defendants shall take all steps necessary to operate KSD–FM and KLOU–FM as separate, independent, ongoing, economically viable and active competitors to CBS's other stations in the St. Louis Area, and shall take all steps necessary to insure that, except as necessary to comply with Section IV and paragraphs (I), (J), (P) and (Q) of this Section of the Final Judgment, the management of said stations, including the performance of decision-making functions regarding marketing and pricing, will be kept separate and apart from, and not influenced by, CBS.

D. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by WOCT–FM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

E. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by WEGQ–FM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

F. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by WAAF–FM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

G. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by WEEI–AM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

H. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by WRKO–AM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

I. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by KSD–FM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

J. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by KLOU–FM, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said station.

K. Defendants shall take all steps necessary to ensure that the assets used in the operation of WOCT–FM are fully maintained. WOCT–FM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

L. Defendants shall take all steps necessary to ensure that the assets used in the operation of WEGQ–FM are fully maintained. WEGQ–FM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

M. Defendants shall take all steps necessary to ensure that the assets used in the operation of WAAF–FM are fully maintained. WAAF–FM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

N. Defendants shall take all steps necessary to ensure that the assets used in the operation of WEEI–AM are fully maintained. WEEI–AM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

O. Defendants shall take all steps necessary to ensure that the assets used in the operation of WRKO–AM are fully maintained. WRKO–AM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

P. Defendants shall take all steps necessary to ensure that the assets used in the operation of KSD–FM are fully maintained. KSD–FM's sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

Q. Defendants shall take all steps necessary to ensure that the assets used in the operation of KLOU–FM are fully maintained. KLOU–FM's sales and marketing employees shall not be

transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

R. Defendants shall not, except as part of a divestiture approved by plaintiff, sell any WOCT–FM Assets, WEGQ–FM Assets, WAAF–FM Assets, WEEI–AM Assets, WRKO–AM Assets, KSD–FM Assets, or KLOU–FM Assets.

S. Defendants shall take no action that would jeopardize the sale of the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, or the KLOU–FM Assets.

T. Defendants shall appoint a person or persons to oversee the assets to be held separate and who will be responsible for defendants' compliance with Section VI of this Final Judgment.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify plaintiff of the proposed divestitures. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, or the KLOU–FM Assets, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from defendants, the proposed purchaser or purchasers, or any other third party, additional information concerning the proposed divestitures and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiff has been provided the additional information requested from defendants, the proposed purchaser or purchasers, and any third party, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser or upon objection by the plaintiff, a divestiture proposed under Section IV or Section V may not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Financing

Defendants are ordered and directed not to finance all or any part of any purchase by an Acquirer made pursuant to Sections IV or V of this Final Judgment without the prior written consent of plaintiff.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of their compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, and/or the KLOU–FM Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a buyer or buyers for the WOCT–FM Assets, the WEGQ–FM Assets, the WAAF–FM Assets, the WEEI–AM Assets, the WRKO–AM Assets, the KSD–FM Assets, or the KLOU–FM Assets.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiff an affidavit which describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to preserve WOCT–FM, WEGQ–FM, WAAF–FM, WEEI–AM, WRKO–AM, KSD–FM, and KLOU–FM pursuant to Section VI of this Final Judgment. Defendants shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in their earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after such change is implemented.

C. Defendants shall preserve all records of efforts made to preserve the assets to be divested and effect the divestitures.

X. Notice

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the ''HSR Act''), defendants, without providing advance notification to the plaintiff, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any Non-CBS Radio Station; provided, however, that defendants need not provide notice under this provision for any direct or indirect acquisition of equity of a Non-CBS Radio Station that would result in defendants' holding no more than five percent of the total equity of the station.

B. Defendants, without providing advance notification to the plaintiff, shall not directly or indirectly enter into any agreement or understanding that would allow defendants to market or sell advertising time or to establish advertising prices for any Non-CBS Radio Station.

C. Notification described in (A) and (B) shall be provided to the United States Department of Justice in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5–9 of the instructions must be provided only with respect to CBS Radio Stations in the Baltimore Area, the Boston Area, and the St. Louis Area. Notification shall be provided at least thirty (30) days prior to acquiring any such interest covered in (A) or (B) above, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans

discussing the proposed transaction. If within the 30-day period after notification, representatives of the Department make a written request for additional information, defendants shall not consummate the proposed transaction or agreement until twenty (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder.

D. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XI. Compliance Inspection

For the purpose of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the plaintiff, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, directors, officers, employees and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in the Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by either defendant to plaintiff, and such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Pubic Interest

Entry of this Final Judgment is in the public interest.

Dated _____.

_____

United States District Judge

Certificate of Service

I, Allen P. Grunes, hereby certify that, on March 31, 1998, I caused the foregoing document to be served on defendants CBS Corporation and American Radio Systems Corporation by having a copy mailed, first-class, postage prepaid, to:

Joe Sims,

Jones, Day, Reavis & Pogue, 1450 G St., NW., Washington, DC 20005, Counsel for CBS Corporation.

Timothy J. O'Rourke,

Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, NW., Washington, DC 20036, Counsel for American Radio Systems Corporation.

Allen P. Grunes.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. CBS Corporation and American Radio Systems Corporation, Defendants

[Case Number 1:98CV00819]

JUDGE: Emmet G. Sullivan
DECK TYPE: Antitrust
DATE STAMP: 03/31/98

Competitive Impact Statement

Plaintiff, the United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Plaintiff filed a civil antitrust Complaint on March 31, 1998, alleging that a proposed acquisition of American Radio Systems Corporation (''ARS'') by CBS Corporation (''CBS'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that CBS and ARS both own and operate numerous radio stations throughout the United States, and that they each own and operate radio stations in the Boston, St. Louis, and Baltimore metropolitan areas. The acquisition would give CBS a significant share of the radio advertising market in each of these metropolitan areas, control over a high percentage of the available radio signals which cover the markets, and control over stations that are close substitutes for each other based on their specific audience characteristics. In Boston, according to 1997 industry estimates, the acquisition would give CBS control of 3 out of 5 top radio stations or 59 percent of the radio advertising revenues. In St. Louis, CBS would control 4 out of the 7 top radio stations or 49 percent of the radio advertising revenues. Finally, CBS would control 5 of the top 9 radio stations or 46 percent of the radio advertising revenues in Baltimore. As a result, the combination would substantially lessen competition in the sale of radio advertising time in

the Boston, St. Louis, and Baltimore metropolitan areas.

The prayer for relief seeks: (a) An adjudication that the proposed transactions described in the Complaint would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the transaction; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits CBS to complete its acquisition of ARS, yet preserves competition in the markets in which the transactions would raise significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

The proposed Final Judgment orders CBS to divest WEEI–AM, WEGQ–FM, WAAF–FM and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore. These stations are currently owned by ARS. Unless the plaintiff grants a time extension, CBS must divest these radio stations within six months after CBS places certain stations which it is required to dispose of by FCC rules into FCC disposition trusts. The FCC disposition trusts require disposition within six months, with the result that the divestitures required under the Final Judgment for antitrust purposes and the divestitures required for FCC regulatory purposes will be accomplished during the same period of time. In order to insure prompt divestiture, the proposed Final Judgment provides that the divestitures shall take place within 6 months of the date CBS places stations into the FCC disposition trusts or 9 months from the date the Complaint in this action is filed, whichever is sooner. This provision establishes an outside date based on the filing of the Complaint in the event that there is any delay associated with the establishment of the FCC disposition trusts. (Plaintiff has no reason to believe that there will be any such delay.) Finally, in the event that the Court does not, for any reason, enter the Final Judgment within the time period measured by the establishment of the FCC disposition trusts or the filing of the complaint, the divestitures are to occur within five (5) business days after notice of entry of the Final Judgment.

If CBS does not divest these stations within the divestiture period, the Court, upon plaintiff's application, is to appoint a trustee to sell the assets. The proposed Final Judgment also requires CBS to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, these stations will be operated independently as viable, ongoing businesses, and kept separate and apart from CBS's other radio stations in Boston, St. Louis and Baltimore. Further, the proposed Final Judgment requires defendants to give plaintiff prior notice regarding future radio station acquisitions or certain agreements pertaining to the sale of radio advertising time in Boston, St. Louis or Baltimore.

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. The Alleged Violations

A. The Defendants

CBS is a Pennsylvania corporation with its headquarters in New York, New York. It currently operates 76 radio stations located in 17 metropolitan areas in the United States. It owns four radio stations in the Boston area (WBCN–FM, WBZ–AM, WODS–FM and WZLX–FM), one station in the St. Louis area (KMOX–AM), and five radio stations in the Baltimore area (WCAO–AM, WHFS–FM, WJFK–AM, WLIF–FM and WXYV–FM). In 1996, its revenues from its Boston stations were approximately $69,600,000, its revenues from its St. Louis station were approximately $21,900,000, and its revenues from its Baltimore stations were approximately $15,900,000.

ARS is a Delaware corporation headquartered in Boston, Massachusetts. It owns and operates 85 radio stations located in 19 metropolitan areas nationwide. It owns six radio stations in the Boston area (WAAF–FM, WBMX–FM, WEEI–AM, WEGQ–FM, WNFT–AM, and WRKO–AM), four radio stations in the St. Louis area (KEZK–FM, KLOU–FM, KSD–FM, and KYKY–FM), and five radio stations in the Baltimore area (WBGR–AM, WBMD–AM, WOCT–FM, WQSR–FM and WWMX–FM). In 1996, its revenues from its Boston stations were approximately $55,700,000, its revenues from its St. Louis stations were approximately $26,950,000, and its revenues from its Baltimore stations were approximately $26,850,000.

B. Description of the Events Giving Rise to the Alleged Violations

On September 19, 1997, CBS (formerly known as Westinghouse Electric Corporation) entered into an Agreement and Plan of Merger with ARS. This Agreement was amended and restated on December 18, 1997, and further amended on December 19, 1997. Pursuant to the Agreement, ARS's radio operations will be acquired by CBS. ARS's tower operations will be separately spun off and will not be acquired by CBS. The transaction is valued at approximately $1.6 billion. The result of this transaction, as is more fully discussed below, would be to give CBS a significant share of the radio advertising market in Boston, St. Louis, and Baltimore as well as a significant percentage of advertising directed to certain target audiences in these areas.

CBS and ARS previously have competed for the business of local and national companies seeking to advertise in the Boston, St. Louis, and Baltimore areas. The proposed acquisition by CBS of ARS, and the threatened loss of competition that would be caused thereby, precipitated the government's suit.

C. Anticompetitive Consequences of the Proposed Transaction

1. Sale of Radio Advertising Time in Boston

The Complaint alleges that the provision of advertising time on radio stations serving the Boston, St. Louis, and Baltimore Metro Service Area (''MSA'') constitutes a line of commerce and section of the country, or relevant market, for antitrust purposes. The MSA is the geographical unit for which Arbitron furnishes radio stations, advertisers and advertising agencies with data to aid in evaluating radio audience size and composition. Advertisers use this data in making decisions about which radio station or combination of radio stations can deliver their target audiences in the most efficient and cost-effective way. The Boston MSA includes five counties: Essex, Middlesex, Norfolk, Plymouth, and Suffolk. The St. Louis MSA includes twelve counties: Clinton, Franklin, Jefferson, Jersey, Lincoln, Madison, Monroe, St. Charles, St. Clair, St. Louis, St. Louis City, and Warren. The Baltimore MSA includes seven counties: Anne Arundel, Baltimore, Baltimore City, Carroll, Hartford, Howard, and Queen Anne's.

Local and national advertising that is placed on radio stations within the Boston, St. Louis, and Baltimore MSAs is aimed at reaching listening audiences

within the respective MSAs, and other radio stations do not provide effective access to these audiences. Thus, if there were a small but significant nontransitory increase in radio advertising prices within one of these MSAs, advertisers would not buy enough advertising time from radio stations outside of the Boston, St. Louis, or Baltimore MSAs to defeat the increase.

Radio stations earn their revenues from the sale of advertising time to local and national advertisers. Many local and national advertisers purchase radio advertising time in Boston, St. Louis, or Baltimore because they find such advertising preferable to advertising in other media for their specific needs. For such advertisers, radio time (a) may be less expensive and more cost-efficient than other media at reaching the advertiser's target audience (individuals most likely to purchase the advertiser's products or services); (b) may reach certain target audiences that cannot be reached as effectively through other media; or (c) may offer promotional opportunities to advertisers that they cannot exploit as effectively using other media. For these and other reasons, many local and national advertisers in Boston, St. Louis, or Baltimore who purchase radio advertising time view radio either as a necessary advertising medium for them or as a necessary advertising complement to other media.

Although some local and national advertisers may switch some of their advertising to other media rather than absorb a price increase in radio advertising time in Boston, St. Louis, or Baltimore, the existence of such advertisers would not prevent radio stations from raising their prices a small but significant amount. At a minimum, stations could raise prices profitably to those advertisers who view radio either as a necessary advertising medium for them, or as a necessary advertising complement to other media. Radio stations, which negotiate prices individually with advertisers, can identify those advertisers with strong radio preferences. Consequently, radio stations can charge different advertisers different rates. Because of this ability to price discriminate between different customers, radio stations may charge higher rates to advertisers that view radio as particularly effective for their needs, while maintaining lower rates for other advertisers.

2. Harm to Competition

The Complaint alleges that CBS's proposed acquisition of ARS would lessen competition substantially in the provision of radio advertising time on stations in the Boston, St. Louis, or Baltimore MSAs. The proposed transactions would create further market concentration in already highly concentrated markets, and CBS would control a substantial share of the advertising revenues in these markets. CBS's market share of radio advertising revenues in Boston would rise from 33 percent to 59 percent after the proposed transaction (BIA *Investing in Radio* 4th ed. 1997). According to the Herfindahl-Hirschman Index (''HHI''), a widely-used measure of market concentration defined and explained in Appendix A, CBS's post-transaction HHI in Boston would be 4059, representing an increase of 1746 points. In St. Louis, CBS's post-transaction share of radio advertising revenue would increase from 22 to 49 percent. CBS's post-transaction HHI would equal 3075, representing an increase of 1200 points. In Baltimore, CBS's market share of radio advertising revenue would increase from 17 to 46 percent as a result of the transaction. CBS's post-transaction HHI in Baltimore would be 3077, an increase of 985 points. These substantial increases in concentration are likely to give CBS the unilateral power to raise advertising prices and reduce the level of service provided to advertisers in Boston, St. Louis, and Baltimore.

Furthermore, the proposed transactions would eliminate head-to-head competition between CBS and ARS for advertisers seeking to reach specific audiences. Advertisers select radio stations to reach a large percentage of their target audience based upon a number of factors, including, *inter alia*, the size of the station's audience, the characteristics of its audience, and the geographic reach of a station's signal. Many advertisers seek to reach a large percentage of their target audience by selecting those stations whose audience best correlates to their target audience. Today, several CBS and ARS stations in Boston, St. Louis, and Baltimore compete head-to-head to reach the same audiences and, for many local and national advertisers buying time in those markets, the stations are close substitutes for each other based on their specific audience characteristics. The proposed transaction would eliminate such competition.

Format changes are unlikely to deter the anticompetitive consequences of this transaction. If CBS raised prices or lowered services to those advertisers who buy ARS and CBS stations because of their strength in delivering access to certain specific audiences, non-CBS radio stations in Boston, St. Louis, and Baltimore respectively, would not be induced to change their formats to attract a greater share of the same listeners and to serve better those advertisers seeking to reach such listeners. Successful radio stations are unlikely to undertake a format change solely in response to small but significant increases in price being charged to advertisers by a multi-station firm such as CBS, because they would likely lose a substantial portion of their existing audiences. Even if less successful stations did change format, they still would be unlikely to attract enough listeners to provide a suitable alternative to CBS.

Finally, new entry into the Boston, St. Louis, or Baltimore radio advertising markets is highly unlikely in response to a price increase by CBS. No unallocated radio broadcast frequencies exist in these markets. Also, it is unlikely that stations located in adjacent communities could boost their power so as to enter the Boston, St. Louis, or Baltimore markets without interfering with other stations on the same or similar frequencies, a violation of FCC regulations.

For all of these reasons, plaintiff concludes that the proposed transactions would lessen competition substantially in the sale of radio advertising time on radio stations serving the Boston, St. Louis, and Baltimore MSAs, eliminate actual competition between CBS and ARS, and result in increased prices and reduced quality of service for radio advertising time on stations in the Boston, St. Louis, and Baltimore MSAs, all in violation of Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of radio advertising time in the Boston, St. Louis, and Baltimore MSAs. It requires the divestiture of WEEI–AM, WEGQ–FM, WAAF–FM, and WRKO–FM in Boston, the divestiture of KSD–FM and KLOU–FM in St. Louis, and the divestiture of WOCT–FM in Baltimore. This relief will reduce the market share in advertising revenues CBS would have achieved through the proposed transaction from 59 percent to 39 percent in the Boston market, 49 percent to 39 percent in the St. Louis market, and from 46 percent to about 40 percent in the Baltimore radio market.

The divestitures will ensure that the affected markets will remain competitive. First, no firm will dominate the competitively significantly radio signals in any market. Second, advertisers will have sufficient alternatives to the merged firm in reaching groups of radio listeners most

affected by the transaction; that is, advertisers can reasonably efficiently reach such audiences (''buy around'') without using the merged firm. Third, the ownership structure in each market is such that it will allow for the possibility of at least three significant competitors who may compete for advertisers' business.

Unless plaintiff grants an extension of time, CBS must divest WEEI–AM, WEGQ–FM, WAAF–FM, and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore, within six months after CBS places stations into FCC disposition trusts (with an outside date of nine months after the Complaint has been filed) or within five (5) business days after notice of entry of the Final Judgment, whichever is later. Until the divestitures take place, these stations will be maintained as viable and independent competitors to CBS's other stations in the Boston, St. Louis, and Baltimore MSAs.

The divestitures must be to a purchaser or purchasers acceptable to the plaintiff in its sole discretion. Unless plaintiff otherwise consents in writing, the divestitures shall include all the assets of the stations being divested, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that such assets can and will be used as viable, ongoing commercial radio businesses. In addition, the purchaser or purchasers must intend in good faith to continue the operations of the radio stations as were in effect in the period immediately prior to the filing of the complaint, unless any significant change in the operations planned by a purchaser is accepted by the plaintiff in its sole discretion. This provision is intended to insure that the stations to be divested remain competitive with CBS's other stations in Boston, St. Louis, and Baltimore.

If defendants fail to divest these stations within the time periods specified in the Final Judgment, the Court, upon plaintiff's application, is to appoint a trustee nominated by plaintiff to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of WEEI–AM, WEGQ–FM, WAAF–FM, and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore, and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which they are accomplished. After appointment the trustee will file monthly reports with the plaintiff, defendants and the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee has not accomplished the divestitures within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the plaintiff and defendants, who will each have the right to be heard and to make additional recommendations.

The proposed Final Judgment requires that prior to the consummation of the transaction, defendants will maintain the independence of their respective radio stations in Boston, St. Louis, and Baltimore. Following the consummation of CBS's acquisition of ARS, CBS is required to maintain WEEI–AM, WEGQ–FM, WAAF–FM, and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore as separate and apart from defendant CBS's other Boston, St. Louis, and Baltimore stations, pending divestiture. The Judgment also contains provisions to ensure that these stations will be preserved, so that the stations remain viable, aggressive competitors after divestiture.

The proposed Final Judgment also prohibits CBS from entering into certain agreements with other Boston, St. Louis, and Baltimore radio stations without providing at least thirty (30) days' notice to the Department of Justice. Specifically, CBS must notify the Department before acquiring any interest in another Boston, St. Louis, or Baltimore radio station. Such acquisitions could raise competitive concerns but might be too small to be reported otherwise under the Hart-Scott-Rodino (''HSR'') premerger notification statute. Moreover, CBS may not agree to sell radio advertising time for any other Boston, St. Louis, or Baltimore radio station without providing plaintiff with notice. In particular, the provision requires CBS to notify the Department before it enters into any Joint Sales Agreements (''JSAs''), where one station takes over another station's advertising time, or any Local Marketing Agreements (''LMAs''), where one station takes over another station's broadcasting and advertising time, or other comparable arrangements, in the Boston, St. Louis, or Baltimore areas. Agreements whereby CBS sells advertising for or manages other Boston, St. Louis, or Baltimore area radio stations would effectively increase its market share in these MSAs. Despite their clear competitive significance, JSAs probably would not be reportable to the Department under the HSR Act. Thus, this provision in the proposed Final Judgment ensures that the Department will receive notice of and be able to act, if appropriate, to stop any agreements that might have anticompetitive effects in the Boston, St. Louis, and Baltimore markets.

The relief in the proposed Final Judgment is intended to remedy the likely anticompetitive effects of CBS's proposed transaction with ARS in Boston, St. Louis, and Baltimore. Nothing in this Final Judgment is intended to limit the plaintiff's ability to investigate or to bring actions, where appropriate, challenging other past or future activities of defendants in the Boston, St. Louis, and Baltimore MSAs.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the plaintiff has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the plaintiff written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the

Federal Register. The plaintiff will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the plaintiff will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Craig W. Conrath, Chief, Manager Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against defendants. Plaintiff is satisfied, however, that the divestiture of WEEI–AM, WEGQ–FM, WAAF–FM, and WRKO–AM in Boston, KSD–FM and KLOU–FM in St. Louis, and WOCT–FM in Baltimore, and other relief contained in the proposed Final Judgment will preserve viable competition in the sale of radio advertising time on stations serving the Boston, St. Louis, and Baltimore MSAs. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e).

As the United States Court of Appeals for the D.C. Circuit held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [1] Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *citing United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*. 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls 'within the range of acceptability or is within the reaches of public interest.' '' [3]

This is strong and effective relief that should fully address the competitive harm posed by the proposed transactions.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the plaintiff in formulating the proposed Final Judgment.

Date: March 31, 1998.

Respectfully submitted,

Allen P. Grunes,

Merger Task Force, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.; Suite 4000, Washington, D.C. 20530, (202) 307–0001.

Exhibit A—Definition of HHI and Calculations for Market

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large numbers of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on he basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), *reprinted in* U.S.C.C.A.N. 6535, 6538.

[2] *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see BNS*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '') (citations omitted).

[3] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd. sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette Co.*, 406 F. Supp. at 716 (citations omitted); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See Merger Guidelines § 1.51.

Certificate of Service

I, Allen P. Grunes, hereby certify that, on March, 31, 1998, I caused the foregoing document to be served on defendants CBS Corporation and American Radio Systems Corporation by having a copy mailed, first-class, postage prepaid, to:

Joe Sims,

Jones, Day, Reavis & Pogue, 1450 G St., N.W., Washington, D.C. 20005, Counsel for CBS Corporation.

Timothy J. O'Rourke,

Dow, Lohnes & Albertson, 1200 New Hampshire Ave., N.W., Washington, D.C. 20036, Counsel of American Radio Systems Corporation.

Allen P. Grunes,

[FR Doc. 98–9374 Filed 4–10–98; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On March 5, 1998, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on April 7, 1998 to the following applicants.

Gerald L. Kooyman Permit No. 99–001

William R. Fraser Permit No. 99–002

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 98–9625 Filed 4–10–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43 issued to the Detroit Edison Company (the licensee) for operation of the Fermi 2 plant located in Monroe County, Michigan.

The proposed amendment would revise Technical Specification (TS) 3.8.1.1 to change the emergency diesel generator (EDG) allowed outage time (AOT) from 3 to 7 days. This would be a one-time amendment, effective from the date of issuance until September 30, 1998. In order to use the extended AOT, the revised TS will require the licensee to ensure the alternate AC power source (combustion turbine-generator 11–1) is operable and to verify the planned activity is not potentially risk significant in accordance with use of the licensee's On-Line System Maintenance Risk Matrix specified in its Integrated Work Management Guidelines.

The one-time amendment was requested in a submittal dated April 3, 1998. It relies on the technical information and the discussion of no significant hazards consideration (NSHC) associated with an earlier submittal and supplements for a permanent amendment dated November 22, 1995, as supplemented February 19, April 19, May 3, June 12, and December 4, 1996, and January 30 and August 7, 1997. The staff issued a **Federal Register** notice on February 28, 1996 (61 FR 7550), providing the notice of consideration of issuance of the amendment, proposed no significant hazards consideration, and opportunity for a hearing. The proposed one-time amendment does not modify the discussion of NSHC. However, the discussion will be repeated below. The portions of the November 22, 1995, submittal related to changes in EDG surveillance testing and reporting requirements (also discussed in the NSHC) were addressed in amendment no. 107 issued on June 20, 1996.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident. Changing the out-of-service time, surveillance frequency and reporting requirements for emergency diesel generators (EDGs) will not affect the initiation of an accident, since EDGs are not associated with any accident initiation mechanism. The proposed changes will not impact the plant design or method of EDG operation. The increased out-of-service time has been evaluated to have only a small impact on plant risk. Performing the EDG inspections during plant operations will decrease plant risk during plant outages. Deleting the accelerated testing provisions will not affect the consequences of an accident since the implementation of a maintenance and monitoring program for EDGs consistent with the provisions of the maintenance rule will assure EDG performance as discussed in Generic Letter 94–01. Deleting reporting requirements has no impact on consequences of an accident since reporting has no accident effect. Based on the amount of electrical system redundancy, the small increase in plant risk during operations and the decrease in plant risk during outages, this change will not result in a significant increase in the probability or consequences of an accident.

2. The proposed changes do not create the possibility of a new or different accident from any previously evaluated. The proposed changes do not modify the plant design or method of diesel operation. Therefore, no new accident initiator is introduced, nor is a new type of failure created. For these reasons, no new or different type of accident is created by these changes.

3. The proposed changes do not involve a significant reduction in a margin of safety. Since implementation of a maintenance program for the EDGs consistent with the Maintenance Rule will ensure that high EDG performance standards are maintained, the accelerated testing schedule is not needed to maintain the margin of safety. Deleting reporting requirements has no impact on safety or margin of safety. Increasing the allowed out-of-service time for one division of onsite AC power will slightly increase EDG unavailability during plant operation. However, this change does not impact the redundancy of offsite power supplies, the

allowed out-of-service time if both divisions are inoperable, or the ability to cope with a station blackout event. This request also does not change the Action statement for AC electrical power systems required when the plant is shutdown. The increase in core damage frequency was assessed to be small by an evaluation using the plant PSA [probabilistic safety assessment] for the operating condition. Enabling the diesel generator inspections to be performed on-line will improve safety while shutdown by reducing EDG out-of-service time during outages. For these reasons, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of 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 May 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 Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. 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 John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, 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 April 3, 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 Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 8th day of April 1998.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–9655 Filed 4–10–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has revised a guide in its Regulatory Guide Series. The Regulatory Guide Series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 4.7, ''General Site Suitability Criteria for Nuclear Power Stations,'' contains guidance on the major site characteristics related to public health and safety and environmental issues that the NRC staff considers in determining the suitability of sites for light-water-cooled nuclear power stations.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of regulatory guides, both the final and draft versions, should be made in writing to the Printing, Graphics and Distribution Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or by fax at (301) 415–5272. Telephone requests cannot be accommodated. Final guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 25th day of March 1998.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 98–9654 Filed 4–10–98; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Executive Order 12976; Compensation Practices of Government Corporations

ACTION: Notice of availability of information.

SUMMARY: This notice informs the public of the availability of information relating to the Pension Benefit Guaranty Corporation's compensation practices for its senior executives, pursuant to section 5 of Executive Order 12976.

FOR FURTHER INFORMATION CONTACT: Sharon Barbee Fletcher, Director, Human Resources Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4110. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4110.)

SUPPLEMENTARY INFORMATION: Executive Order 12976, Compensation Practices of Government Corporations, requires certain government corporations to submit to the Office of Management and Budget certain information relating to the government corporation's compensation practices for its senior executives. Pursuant to section 5 of the order, the PBGC will make available to the public, upon request, the information submitted to OMB pursuant to section 3 of the order.

Issued in Washington, DC, on this 7th day of April 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–9656 Filed 4–10–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23105; 812–10786]

Liberty Variable Investment Trust, et al.; Notice of Application

April 7, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the act and rule 18f–2 under the act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit Liberty Asset Management Company (''LAMCO'') to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

APPLICANTS: Liberty Variable Investment Trust (''LVIT''), LAMCO, and Liberty Advisory Services Corp. (''LASC'').

FILING DATES: The application was filed on September 16, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 4, 1998, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Liberty Variable Investment Trust and

Liberty Asset Management Company, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210–2214; Liberty Advisory Services Corp., 125 High Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. LVIT is registered under the Act as an open-end management investment company and currently offers several series (the ''LVIT Funds'') which serve as funding vehicles for variable annuity contracts (''VA Contracts'') and variable life insurance policies (''VLI Policies'') issued by separate accounts of Keyport Life Insurance Company and other affiliated and unaffiliated insurance companies (''Participating Insurance Companies''). LVIT established the Liberty All-Star Equity Fund, Variable Series (the ''LVIT All-Star Fund'') as a new series in August 1997.

2. LASC, an indirect wholly-owned subsidiary of Liberty Financial Companies, Inc. (''LFC''), is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). LASC designs and supervises a continuous investment program for LVIT. LASC also is responsible for administering the operations of LVIT.

3. LAMCO, an indirect wholly-owned subsidiary of LFC, is registered as an investment adviser under the Advisers Act. Pursuant to a management agreement among LVIT, LASC and LAMCO, LAMCO serves as a co-adviser with LASC. LAMCO allocates and reallocates the LVIT All-Star Fund's portfolio among two or more independent investment management firms (''Sub-Advisers''), which are selected and recommended by LAMCO in accordance with LAMCO's multi-manager methodology.[1] LVIT All-Star Fund currently has five Sub-Advisers. LAMCO's sole investment advisory function is comprised of the recommendation and monitoring of the Sub-Advisers.[2]

4. The division of duties and responsibilities for the LVIT All-Star Fund allows LAMCO to dedicate itself to the role of selecting and monitoring Sub-Advisers, leaving administrative responsibilities for the LVIT All-Star Fund to LASC. LAMCO is paid by LASC out of the fund management fee LASC receives from LVIT and, LAMCO, in turn, pays the Sub-Advisers a portion of this fee.

5. The Sub-Advisers' responsibility is limited to the discretionary investment management of the respective portions of the LVIT All-Star Fund's portfolio assigned to them by LAMCO and related recordkeeping and reporting. All present and future Sub-Advisers of the LVIT All-Star Fund and of any Future Funds are and will be registered as investment advisers under the Advisers Act.

6. Applicants request an exemption to permit LAMCO to enter into and materially amend advisory agreements with Sub-Advisers without obtaining shareholder approval. No exemptive relief is being sought for LVIT All-Star Fund's advisory agreement with LAMCO or LASC, which will remain subject to the shareholder approval requirements of the Act.

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Applicants believe that under LAMCO's multi-manager methodology the Sub-Advisers function as the equivalent of individual portfolio managers in a conventional fund structure. Applicants state that VA Contract and VLI Policy holders selected the LVIT All-Star Fund with knowledge of LAMCO's multi-manager methodology and, in effect, determined to rely on LAMCO's ability to select, monitor, and replace the Sub-Advisers.

3. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. Before a Future Fund that does not presently have an effective registration statement may rely on the order requested in this application, the operation of the Future Fund in the manner described in the application will be approved by its initial shareholder before shares of such Future Fund are made available to public VA Contract or VLI Policy purchasers.

2. LVIT will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to this application with respect to the LVIT All-Star Fund and any Future Fund. In addition, the LVIT All-Star Fund and any Future Fund will hold itself out to the public as employing the sub-adviser structure described in this application. The prospectus with respect to the LVIT All-Star Fund and any Future Fund will prominently disclose that LAMCO and LASC have the ultimate responsibility for the investment performance of such Funds due to LASC's responsibility to oversee LAMCO and LAMCO's responsibility to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. Neither the LVIT All-Star Fund nor any Future Fund will enter into a sub-advisory agreement with any Sub-Adviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of LAMCO, LASC or the LVIT Funds other than by reason of serving as a Sub-Adviser to one or more of the Funds (an ''Affiliated Sub-Adviser'') without such agreements, including the compensation to be paid thereunder, being approved by the holders of the VA Contracts and VLI Policies with assets allocated to any sub-account of a separate account for which the LVIT All-Star Fund or such Future Fund serves as a funding vehicle.

4. At all times a majority of the board of trustees of LVIT will be persons each of whom is not an ''interested person'' (as defined in section 2(a)(19) of the Act) of the LVIT All-Star Fund or any Future Fund (the ''Independent Trustees''), and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

[1] The manner of operation and rationale of LAMCO's multi-manager methodology and the substance and effect of the requested order have been disclosed in LVIT's prospectus since the effective day of the Post-Effective Amendment to the Registration Statement of LVIT, which added the LVIT All-Star Fund as a series of LVIT.

[2] Applicants also request an exemption for future multi-managed series of LVIT advised by LAMCO and LASC and operated in substantially the same manner as the LVIT All-Star Fund (''Future Funds'').

5. No trustee or officer of LVIT or director of LAMCO or LASC will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such trustee, director, or officer) any interest in any Sub-Adviser except for (i) ownership of interests in LAMCO, LASC, LFC, or any other entity that controls, is controlled by, or is under common control with LAMCO or LASC, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or any entity that controls, is controlled by, or is under common control with a Sub-Adviser.

6. When a change of Sub-Adviser is proposed for the LVIT All-Star Fund with an Affiliated Sub-Adviser, LVIT's trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in LVIT's board minutes, that the change is in the best interests of LVIT and its shareholders [3] and does not involve a conflict of interest from which LAMCO, LASC or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. Within 90 days of the hiring of a Sub-Adviser, owners of VA Contracts or VLI Policies with assets allocated to any registered separate account for which the LVIT All-Star Fund or any Future Fund serves as a funding medium will be furnished all information about the Sub-Adviser and its sub-advisory agreement that would be included in a proxy statement, including any change in such disclosure caused by the addition of a new Sub-Adviser. LAMCO will meet this condition by providing shareholders within 90 days of the hiring of a Sub-Adviser, with an informal information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (the ''Exchange Act''). Such information statement will also meet the requirements of Item 22 of Schedule 14A under the Exchange Act. The Participating Insurance Companies will ensure that the information statement is sent to each owner of a VA Contract or VLI Policy funded in whole or in part by shares of the LVIT All-Star fund or such Future Fund.

8. LASC will provide general investment management services to the LVIT All-Star Fund, including overall supervisory responsibility for the general management and investment of the portfolio of the LVIT All-Star Fund. LAMCO, subject to review and approval by LVIT's trustees, will: (i) Together with LASC, set overall investment strategies for the LVIT All-Star Fund; (ii) recommend Sub-Advisers; (iii) when appropriate allocate and reallocate the LVIT All-Star Fund's assets among the Sub-Advisers; and (iv) monitor and evaluate the investment performance of the Sub-Advisers, including their compliance with the LVIT All-Star Fund's investment objectives, policies, and restrictions.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9663 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

[3] The term ''shareholder'' of the LVIT All-Star Fund or any Future Fund includes the holders of the VA Contracts and VLI Policies for which the LVIT All-Star Fund and any Future Fund serves as the funding medium.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23104; 812–10764]

Nationwide Investing Foundation, et al.; Notice of Application

April 6, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting existing and future series of Nationwide Investing Foundation (''NIF''), Nationwide Investing Foundation II (''NIF II''), Nationwide Investing Foundation III (''NIF III''), and Nationwide Separate Account Trust (''NSAT'') to enter into and amend advisory agreements with certain subadvisers without obtaining shareholder approval.

APPLICANTS: NIF, NIF II, NIF III, NSAT, and Nationwide Advisory Services, Inc. (the ''Adviser'').

FILING DATES: The application was filed on August 20, 1997, and amended on March 19, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is incorporated in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 27, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Three Nationwide Plaza, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Senior Counsel, at (202) 942–0568 or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee by writing the SEC's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C. 20549, or by telephone at (202) 942–8090.

Applicants' Representations

1. Each of NIF, NIF II, NIF III, and NSAT (collectively, the ''Trusts) is a registered open-end management investment company offering multiple series (the ''Funds'') with different investment objectives and policies. NIF and NIF II presently offer to the public four and two Funds, respectively. NIF III, which presently consists of nine inactive Funds, was created primarily to acquire all the Funds of NIF, NIF II and one other trust pursuant to a plan of reorganization to be effected in May 1998. NSAT, which presently consists of fifteen series (fourteen of which are covered by the application),[1] offers shares to life insurance company separate accounts to fund the benefits of variable insurance and annuity policies, and to other open-end management investment companies created by the Adviser. The Trusts may each create additional Funds in the future

2. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act'') and a wholly-owned subsidiary of Nationwide Life Insurance Company, serves as the investment adviser for each Trust. The Adviser provides general investment management services for each Fund under an investment advisory agreement (collectively, ''Investment Advisory

[1] Applicants are not seeking relief for the Nationwide Strategic Value Fund, a series of NSAT. Accordingly, that series is excluded from the definition of the term ''Fund.''

Agreements''). The Investment Advisory Agreements meet the requirements of section 15(a) of the Act and have been approved for each Fund by the Board of Trustees of the respective Trust (the ''Board'') and the shareholders of the Fund.

3. Specific portfolio management for the Funds is provided by the Adviser and/or one or more subadvisers (the ''Subadvisers''). At present, only three Funds, each a series of NSAT, have engaged more than one Subadviser: Nationwide Small Company Fund has engaged six Subadvisers, Nationwide Income Fund has engaged two Subadvisers, and Nationwide Select Advisers Mid Cap Fund has engaged three Subadvisers. Each Subadviser is registered under the Advisers Act and performs services pursuant to a written subadvisory agreement (''Subadvisory Agreement''). Each Fund pays an investment advisory fee to the Adviser, out of which the Adviser pays the Subadvisers.

4. For the Funds employing Subadvisers, the Adviser seeks to enhance performance and reduce market risk by allocating assets among one or more Subadvisers (a ''Multiple Adviser Arrangement''). The Adviser evaluates prospective Subadvisers and then monitors their performance. The Adviser also recommends to the Trust's Board whether a Subadviser's contract should be renewed, modified or terminated.

5. Applicants request an order under section 6(c) of the Act granting relief from section 15(a) of the Act and rule 18f–2 thereunder to permit them to enter into and materially amend, and the Subadvisers to act pursuant to, written advisory contracts without approval by a majority of the outstanding voting securities of each Fund. Applicants request that such exemptive relief apply to any other open-end management investment company or series thereof that in the future is advised by the Adviser, or by a person controlling, controlled by or under common control with, the Adviser (a ''Future Fund''), provided such Future Fund operates in substantially the same manner as the Funds and complies with the terms and conditions of the application.

Applicants' Legal Analysis

1. Section 15(a) of the Act and rule 18f–2 thereunder provide, together and in substance, that it is unlawful for any person to act as an investment adviser to a Fund except pursuant to a written contract which has been submitted to and approved by the vote of a majority of the outstanding voting securities of the Fund.

2. Section 6(c) of the Act authorizes the SEC to exempt any person or transaction or any class or classes of persons or transactions from any provision of the Act or rules under the Act, if such exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the section 6(c) standards for an exemption have been met.

3. Applicants state that the Trusts' investment management structure under a Multiple Adviser Arrangement differs from that of traditional investment companies. For Funds with one Subadviser, the Adviser has overall oversight responsibility so that additional or new Subadvisers can be retained to improve the Fund's overall performance. For Funds with more than one Subadviser, the Adviser has overall oversight responsibility so that assets can be reallocated or new Subadvisers retained. Applicants believe that investors in a Fund with a Multiple Adviser Arrangement are, in effect, electing to have the Adviser select one or more Subadvisers to achieve that Fund's investment objectives. Subadvisers are engaged solely for selection of portfolio investments, and do not have broader management or administrative responsibilities with respect to a Fund or the Trusts. Applicants submit that shareholders will continue to vote on the Investment Advisory Agreements, and that requiring shareholder approval of the Subadvisory Agreements would increase a Trust's expenses and delay the prompt implementation of actions deemed advisable by the Adviser and the Trust's Board.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Adviser will not enter into a Subadvisory Agreement with any Subadviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds or by reason of controlling, being controlled by, or under common control with another Subadviser (other than the Adviser) (an ''Affiliated Subadviser'') without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund, or in the case of a Fund offered by NSAT, by the unit holders of any separate account for which that Fund serves as a funding medium.

2. At all times, a majority of each Trust's trustees will be persons each of whom is not an ''interested person'' of that Trust as defined in section 2(a)(19) of the Act (''Independent Trustees''), and the nomination of new or additional Independent Trustees will be placed with the discretion of the then existing Independent.

3. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Trust's trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's board minutes, that such change is in the best interests of the Fund and its shareholders (or, in the case of a Fund offered by NSAT, the unit holders of any separate account for which that Fund serves as a funding medium) and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

4. With respect to Multiple Adviser Arrangements, the Adviser will provide general management services to each such Fund, including overall supervisory responsibility for the general management and investment of such Funds' securities portfolios, and, subject to review and approval by the applicable Trust's Board, will: (i) Set the Funds' overall investment strategies; (ii) select Subadvisers; (iii) allocate and, when appropriate, reallocate a Fund's assets among the Adviser and one or more Subadvisers; (iv) monitor and evaluate the performance of the Subadvisers; and (v) implement procedures reasonably designed to ensure that the Subadvisers comply with the relevant Fund's investment objectives, policies, and restrictions.

5. Within 90 days of the hiring of any new Subadviser, the Adviser will furnish shareholders (or, in the case of a Fund offered by NSAT, the unit holders of any separate account for which that Fund serves as a funding medium) all information about the new Subadviser that would be included in a proxy statement.

Such information will include any change in such disclosure caused by the addition of a new Subadviser. The Adviser will meet this condition by providing shareholders (or, in the case of a Fund offered by NSAT, the unit holders of any separate account for which the Fund serves as a funding medium) with an information statement which meets the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (the ''1934 Act''). The information statement

will also meet the requirements of Item 22 of Schedule 14A under the 1934 Act.

6. Each Fund, and any Future Fund, will disclose in its respective prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus relating to a Fund will prominently disclose that the Adviser has the ultimate responsibility to oversee Subadvisers and recommend their hiring, termination and replacement.

7. Before a Fund may rely on the order requested by applicants, the operations of the Fund in the manner described in the application will have been or will be approved by a majority of that Fund's outstanding voting securities (or, in the case of a Fund offered by NSAT, the unitholders of any separate account for which that Fund serves as a funding medium), as defined in the Act. In the case of a Future Fund whose public shareholders (or separate account in the case of a Future Fund offered by NSAT) purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 6 above, by the sole initial shareholder before offering shares of such Future Fund (or, in the case of a Future Fund offered by NSAT, units of the separate account for which that Fund serves as a funding medium) to the public.

8. No Trustee of officer of the Trusts or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such trustee, director or officer) any interest in a Subadviser except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9596 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39834; File No. SR–EMCC–98–2]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Definition of ''Settlement Day''

April 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 1, 1998, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the definition of ''Settlement Day'' in EMCC's rules to provide for recommendations by trade organizations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. EMCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

From time to time, trade associations, such as the Emerging Markets Trading Association (''EMTA'' [3]), publish schedules that establish recommended trading and settlement dates for the emerging markets debt marketplace. According to EMCC, it needs to have the ability to coordinate its settlement activities in a manner that is consistent with the settlement schedule recommended by these organizations.

Currently, EMCC's rules define ''settlement day'' as the day on which an EMCC eligible instrument is scheduled to settle as established by the original contraparties to the transaction. The proposed rule change amends the definition of settlement day to enable EMCC to change the date designated as the settlement day by the contraparties if a trade organization recommends a different day as a settlement date. Before changing the settlement day, EMCC will issue an Important Notice to notify its members of the change. Nevertheless, the contraparties may use their original settlement date if they agree to settle their trade outside of EMCC.[4]

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will provide EMCC with the flexibility to coordinate settlement dates with the appropriate industry trade organizations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities. The Commission believes that allowing EMCC to amend the

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by EMCC.

[3] EMTA is the trade association of those involved in trading emerging market instruments.

[4] As amended, settlement day will be defined as ''the day on which the EMCC Eligible Instrument Transaction is scheduled to settle as established by the original contra-parties to the transaction. Notwithstanding the foregoing, if a trade organization issues a notice suggesting that a day not be a settlement date, and Members submit trades indicating such day as the Settlement Day, the Corporation, in its sole discretion, may change the Settlement Day to the next date with a settlement date as recommended by the trade organization.''

definition of settlement day will enable EMCC to better coordinate its settlement activities with the recommendations of the appropriate trade associations.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice. EMTA has recommended that the emerging markets debt marketplace be closed in the U.S. on Good Friday, April 10, 1998, and has issued a settlement schedule recommending that transactions which would otherwise be scheduled to settle on April 10, 1998, settle on April 13, 1998. Accelerated approval will give EMCC adequate time to notify its members of the change in the settlement date.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC. All submissions should refer to File No. SR–EMCC–98–2 and should be submitted by May 4, 1998.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–EMCC–98–2) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9662 Filed 4–10–98; 8:45 am]

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[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39833; File No. SR–MSRB–98–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Rule G–15(d)(ii) Concerning Automated Confirmation/Acknowledgment of Customer Transactions

April 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 3, 1998, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the Board. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing amendments to Board rule G–15(d)(ii), concerning automated confirmation/acknowledgment of customer transactions (hereafter referred to as ''the proposed rule change''). The text of the proposed rule change is as follows:[2]

G–15 Confirmation, Clearance and Settlement of Transactions With Customers

(a)–(c) No change.

(d) Delivery/Receipt vs. Payment Transactions.

(i) No change.

(ii) *Requirement for Confirmation/Acknowledgment.*

(A) *Use of Registered Clearing Agency or Qualified Vendor.* Except as provided in this paragraph *(ii) of rule G–15(d)*, no broker, dealer or municipal securities dealer shall effect a customer transaction for settlement on a delivery vs. payment or receipt vs. payment (DVP/RVP) basis unless the facilities of a *C*[c]learing *A*[a]gency [registered with the Securities and Exchange Commission (registered clearing agency)] *or Qualified Vendor* are used for automated confirmation and acknowledgment of the transaction. Each broker, dealer and municipal securities dealer executing a customer transaction on a DVP/RVP basis shall: (A) ensure that the customer has the capability, either directly or through its clearing agent, to acknowledge transactions in an automated confirmation/acknowledgment system operated by a [registered] *C*[c]learing *A*[a]gency *or Qualified Vendor;* (B) submit or cause to be submitted to a [registered] *C*[c]learing *A*[a]gency *or Qualified Vendor* all information and instructions required by the [registered] *C*[c]learing *A*[a]gency *or Qualified Vendor* for the production of a confirmation that can be acknowledged by the customer or the customer's clearing agent; and (C) submit such transaction information to the automated confirmation/acknowledgment system on the date of execution of such transaction; provided that a transaction that is not eligible for automated confirmation and acknowledgment through the facilities of a [registered] *C*[c]learing *A*[a]gency shall not be subject to this paragraph (ii).

(B) Definitions for Rule G–15(d)(ii).

(1) ''Clearing Agency'' shall mean a clearing agency as defined in Section 3(a)(23) of the Act that is registered with the Commission pursuant to Section 17A(b)(2) of the Act or has obtained from the Commission an exemption from registration granted specifically to allow the clearing agency to provide confirmation/acknowledgment services.

(2) ''Qualified Vendor'' shall mean a vendor of electronic confirmation and acknowledgment services that:

(A) for each transaction subject to this rule: (i) delivers a trade record to a Clearing Agency in the Clearing Agency's format; (ii) obtains a control number for the trade record from the Clearing Agency; (iii) cross-references the control number to the confirmation and subsequent acknowledgment of the trade; and (iv) electronically delivers any acknowledgment received on the trade to the Clearing Agency and includes the control number when delivering the acknowledgment of the trade to the Clearing Agency;

(B) annually certifies: (i) with respect to its electronic trade confirmation/acknowledgment system, that it has a capacity requirements evaluation and monitoring process that allows the vendor to formulate current and anticipated estimated capacity requirements; (ii) that its electronic trade confirmation/acknowledgment

[1] 15 U.S.C. 78s(b)(1).

[2] Italicizing indicates new language; [brackets] indicate deletions.

system has sufficient capacity to process the volume of data that it reasonably anticipates to be entered into its electronic trade confirmation/acknowledgment service during the upcoming year; (iii) that its electronic trade confirmation/acknowledgment system has formal contingency procedures, that the entity has followed a formal process for reviewing the likelihood of contingency occurrences, and that the contingency protocols are reviewed, tested, and updated on a regular basis; (iv) that its electronic confirmation/acknowledgment system has a process for preventing, detecting, and controlling any potential or actual systems or computer operations failures, including any failure to interface with a Clearing Agency as described in rule G–15(d)(ii)(B)(2)(A), above, and that its procedures designed to protect against security breaches are followed; and (v) that its current assets exceed its current liabilities by at least five hundred thousand dollars;

(C) when it begins providing such services, and annually thereafter, submits an Auditor's Report to the Commission staff and obtains from the Commission staff a statement that the Commission staff does not object to the Auditor's Report. (An Auditor's Report will be deemed unacceptable if it contains any findings of material weakness.);[3]

(D) notifies the Commission staff immediately in writing of any material change to its confirmation/acknowledgment systems. (For purposes of this subparagraph (D) ''material change'' means any changes to the vendor's systems that significantly affect or have the potential to significantly affect its electronic trade confirmation/acknowledgment systems, including changes that: (i) affect or potentially affect the capacity or security of its electronic trade confirmation/acknowledgment system; (ii) rely on new or substantially different technology; (iii) provide a new service as part of the Qualified Vendor's electronic trade confirmation/acknowledgment system; or (iv) affect or have the potential to adversely affect the vendor's confirmation/acknowledgment system's interface with a Clearing Agency.);

(E) immediately notifies the Commission staff in writing if it intends to cease providing services;

(F) provides the Board with copies of any submissions to the Commission staff made pursuant to subparagraphs (C), (D), and (E) of this rule G–15(d)(ii)(B)(2) within ten business days.

(G) promptly supplies supplemental information regarding its confirmation/acknowledgment system when requested by the Commission staff or the Board.

(3) ''Auditor's Report'' shall mean a written report which is prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association and which: (A) verifies the certifications described in subparagraph (d) (ii) (B) (2) (B) of this rule G–15; (B) contains a risk analysis of all aspects of the entity's information technology systems including, computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing; and (C) contains the written response of the entity's management to the information provided pursuant to (A) and (B) of this subparagraph (d) (ii) (B) (3) of rule G–15.

(C) Disqualification of Vendor. A broker, dealer or municipal securities dealer using a Qualified Vendor that ceases to be qualified under the definition in rule G–15(d)(ii)(B)(2) shall not be deemed in violation of this rule G–15(d)(ii) if it ceases using such vendor promptly upon receiving notice that the vendor is no longer qualified.

(iii) No change.

(e) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The clearance of institutional customer transactions is accomplished today in large part through the use of automated confirmation/acknowledgment systems operated by clearing agencies registered with the Commission (''registered clearing agencies''). These systems have provided substantial efficiencies and cost savings by ensuring timely settlement and eliminating some of the time consuming and expensive manual processing associated with paper confirmations. The Board views these systems as a critical part of the national system of clearance and settlement mandated by Section 17A of the Act.[4]

Board rule G–15(d)(ii) requires that customer transactions in municipal securities which are effected on delivery versus payment or receipt versus payment (''DVP/RVP'') settlement basis must, if eligible for processing in an automated confirmation/acknowledgment system, be confirmed and acknowledged through such a system. The rule currently specifies that the confirmation/acknowledgment system must be one operated by a registered securities clearing agency. Other self-regulatory organizations (''SROs'') in the securities market also have similar rules requiring confirmation/acknowledgment through registered clearing agencies. Based on a request from a private vendor, it appears some private vendors, who are not registered securities clearing agencies, nevertheless may wish to market confirmation/acknowledgment services to brokers, dealers and municipal securities dealers.

The Board believes that competition among confirmation/acknowledgment service providers is a desirable goal and ultimately will make the clearance and settlement process more efficient and responsive to the needs of the securities industry. At the same time, the Board believes that, if private vendors are to provide a clearance or settlement service that previously has been provided only by registered clearing agencies under supervision of the Commission, appropriate safeguards must be provided to assure that the systems offered by private vendors are reliable and are effectively integrated into the national system of clearance and settlement.

The proposed rule change would allow brokers, dealers and municipal securities dealers to comply with rule G–15(d)(ii) through the use of confirmation/acknowledgment systems operated by non-registered ''qualified vendors.'' to become a ''qualified vendor'' of confirmation/acknowledgment services, an entity would have to:

- For each transaction that it processes in its confirmation/acknowledgment system, deliver a trade

[3] At this time, the Commission staff intends to indicate that a vendor's initial Auditor's Report is not unacceptable and that the vendor therefore is a qualified vendor for purposes of Rule G–15 by issuing a letter to the vendor stating that it will not recommend enforcement action against any of the Board's member organizations that elect to use the confirmation/affirmation services of the vendor.

[4] 15 U.S.C. 78q–1.

record to a registered clearing agency, obtain a control number, cross reference the control number to the confirmation/acknowledgment, electronically deliver any acknowledgment received from a customer or a customer's agent to the registered clearing agency and include such control number when delivering acknowledgments to the clearing agency.

- Certify to the integrity and capacity of the electronic confirmation/acknowledgment system and that it will maintain monitoring and contingency procedures.
- On an annual basis, submit an independent auditor's report to the Commission staff which the Commission staff does not object to.
- Notify the Commission staff in writing of any material changes in the systems by which it offers electronic confirmation/acknowledgment services.
- Submit to the Board copies of any of the above filings with the Commission staff within ten business days.
- Supply supplemental information regarding its confirmation/acknowledgment services, as requested by the Board or the Commission staff.

The Board believes that these requirements for a vendor to become and remain qualified are necessary to assure that the confirmation/acknowledgment services used in the securities industry are reliable and are integrated into the national system of clearance and settlement. The proposed rule change is responsive to the Commission staff's request (contained in a letter, dated November 25, 1997 from Mr. Richard R. Lindsey, Director, Division of Market Regulation) that SROs consider adoption of uniform rule amendments which allow vendors to provide confirmation/acknowledgment services under circumstances similar to those specified in the proposed rule change.[5]

(b) As set forth in Section 15B(b)(2)(C) of the Act,[6] the Board has the authority to adopt rules to ''foster cooperation and coordination with persons engaged in . . . clearing, settling, processing information with respect to, and facilitating transactions in municipal securities.''

The Board's role in this area is given additional direction by Section 17A of the Act,[7] which mandates the creation of a national system of automated clearance and settlement of securities transactions. Section 17A expressly includes municipal securities within the stated objectives.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will have any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it applies equally to all brokers, dealers and municipal securities dealers involved in DVP/RVP customer transactions.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Board. All submissions should refer to File No. SR–MSRB–98–06 and should be submitted by May 4, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9593 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

[5] The Commission notes that the proposed rule change addresses the concerns raised by the Petition for Rulemaking filed by Thomson Financial Services (''Thomson'') with the Commission in December 1996. Thus, the Commission will respond to Thomson's petition after the final disposition of the proposed rule change.

[6] 15 U.S.C. 78o–4(b)(2)(C).

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39831; File No. SR–NASD–98–20]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to Permitting Qualified Vendors to Provide Confirmation and Affirmation Services to Institutional Customers

April 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 5, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the NASD. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD Regulation, Inc. (''NASD Regulation'') is proposing to amend Rule 11860 of the NASD's Uniform Practice Code to permit members to use the facilities of a Qualified Electronic Vendor for electronic confirmation and affirmation of depository eligible transactions. Below is the text of the proposed rule change (proposed new language is in italics; proposed deletions are in brackets):

11860. Acceptance and Settlement of COD Orders

(a) No member shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased or delivery of

[1] 15 U.S.C. 78s(b)(1).

securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(5) The facilities of a [securities depository] *Clearing Agency* shall be utilized for the [confirmation, acknowledgment and] book-entry settlement of all depository eligible transactions [covered by this Rule] except transactions that are to be settled outside the United States. *The facilities of either a Clearing Agency or a Qualified Vendor shall be utilized for the electronic confirmation and affirmation of all depository eligible transactions.*

(b) Definitions.

(1) *''Clearing Agency'' shall mean a clearing agency as defined in Section 3(a)(23) of the Act that is registered with the Commission pursuant to Section 17A(b)(2) of the Act or has obtained from the Commission an exemption from registration granted specifically to allow the clearing agency to provide confirmation and affirmation services.*

(2) ''Depository eligible transactions'' shall mean transactions in those securities for which confirmation, affirmation, [and] *or* book entry settlement can be performed through the facilities of a [securities depository] *Clearing Agency.*

[(2) ''Securities depository'' shall mean a clearing agency as defined in Section 3(a)(23) of the Act, that is registered with the Commission pursuant to Section 17A(b)(2).]

(3) ''Qualified Vendor'' shall mean a vendor or electronic confirmation and affirmation service that:

(A) Shall, for each transaction subject to this rule: (i) deliver a trade record to a Clearing Agency in the Clearing Agency's format; (ii) obtain a control number for the trade record from the Clearing Agency; (iii) cross-reference the control number to the confirmation and subsequent affirmation of the trade; and (iv) include the control number when delivering the affirmation of the trade to the Clearing Agency.

(B) Certifies (i) with respect to its electronic trade confirmation/affirmation system, that it has a capacity requirements evaluation and monitoring process that allows the vendor to formulate current and anticipated estimated capacity requirements; (ii) that its electronic trade confirmation/affirmation system has sufficient capacity to process the volume of data that it reasonably anticipates to be entered into its electronic trade confirmation/affirmation system during the upcoming year; (iii) that its electronic trade confirmation/affirmation system has formal contingency procedures, that the entity has followed a formal process of reviewing the likelihood of contingency occurrences, and that the contingency protocols are reviewed, tested and updated on a regular basis; (iv) that its electronic trade confirmation/affirmation system has a process for preventing, detecting, and controlling any potential or actual systems or computer operations failures, and its procedures designed to protect against security breaches are followed; and (v) that its current assets exceed its current liabilities by at least $500,000;

(C) When it begins providing such services, annually thereafter, and whenever it makes material changes to the services it provides, submits an Auditor's report to the Association and the Commission[2] *which is not deemed unacceptable by the Commission staff (for purposes of this subparagraph (C) ''material change'' means any changes to its systems that significantly affect or have the potential to significantly affect its electronic trade confirmation/affirmation systems, including: changes that: (i) affect or potentially affect the capacity or security of its electronic trade confirmation/affirmation system; (ii) rely on new or substantially different technology; or (iii) provide a new service to the Qualified Vendor's electronic trade confirmation/affirmation system); and*

(D) Immediately notifies the Association and the Commission in writing if it intends to cease providing services, and supplies supplemental information regarding their electronic trade confirmation/affirmation services as requested by the Association or the Commission.

(E) A vendor may cease to be qualified if the Commission staff: (i) deems the Auditor's report unacceptable either because it contains any findings of material weaknesses, or for other identified reasons; or (ii) notifies the vendor in writing that it is no longer qualified. If the vendor ceases to be qualified, the member using that vendor shall not be deemed in violation of this Rule if it ceases using such vendor promptly upon receiving notice that the vendor is no longer qualified.

(4) ''Auditor's report'' shall mean a written report that is prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association and that (i) verifies the certifications contained in subsection (b)(3)(B) above; (ii) contains a risk analysis of all aspects of the entity's information technology systems, including computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing; and (iii) contains the written response of the entity's management to the information provided pursuant to (A) and (B).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Background

NASD Uniform Practice Code (UPC) Rule 11860 was adopted in 1982 to resolve problems relating to the financial exposure to broker/dealers resulting from inaccurate and failed institutional transactions.[3] The financial exposure results from institutional customers that insist on ''COD/DVP'' transaction terms that permit them to delay payment for securities until the securities are delivered to the institution's custodian (the ''Cash-on-Delivery'') and to delay delivery of securities until payment is received (the ''Delivery-Versus-Payment'') (''customer-side'' settlement). Thus, unlike the terms of a retail transaction where payment and delivery to the clearinghouse are required within three days, the settlement occurs at the institution's custodian bank which does not make payment or release securities except in exchange for securities or payment.

Additional financial exposure occurs because the broker/dealer will usually sell or purchase securities on behalf of the institutional customer from another member (''street-side'' settlement). In

[2] With respect to the determination of whether a vendor is a ''Qualified Vendor,'' the Commission interprets NASD Regulation's use of the word ''Commission'' in the proposed rule change to mean Commission staff.

[3] Other SROs have adopted similar rules requiring confirmations/acknowledgments for institutional transactions to be processed through a registered clearing agency.

this situation, the member is subject to financial exposure for the institutional transaction until the institution's custodian bank forwards securities or payment that will cover the street-side transaction. The institution's custodian bank will only act on instructions in the form of an acknowledged confirmation.

Institutional transactions are large dollar transactions that require accurate communications among multiple parties to achieve settlement in numbers of accounts that the institution represents. If there is any delay in settlement with the institution or the transaction is a ''fail'' because the institution refuses to recognize the trade, the broker/dealer is subject to financial exposure for a large dollar, institutional transaction and subject to financing charges and additional net capital requirements during the time until settlement with the custodian bank or the member otherwise takes steps to clear the ''fail'' from its books.

The rules of the SROs were adopted jointly in 1982 to address the securities industry's inability at that time to process institutional securities transactions efficiently during periods of high-volume trading. Traditional manual methods of confirming, affirming, and settling such trades were costly, time-consuming, and prone to error, all of which led to an unacceptable number of failed transactions. The SROs sought to address these problems by requiring depository participants to use their depositories' automated systems for confirmation, acknowledgment, and settlement of depository-eligible trades. At that time the principal (and currently the only) confirmation/affirmation system operated by a depository was the Institutional Delivery (ID) system operated by the Depository Trust Company (DTC).

One vendor of institutional confirmation and acknowledgment services has expressed a desire to provide to DTC on behalf of their customers, confirmations and acknowledgments. Rule 11860, however, requires such providers to be registered clearing agencies. The vendor inquired about changing the rule to permit unregistered vendors to provide such services.

After discussions with various participants, users and regulators, NASD Regulation has developed a proposed rule change that will address the regulatory concerns involved in opening the clearance and settlement system to unregistered outside vendors, while at the same time exposing the process to the innovation and cost-cutting that competition from outside vendors can produce.[4]

(2) Proposed Rule Change

NASD Regulation is proposing to amend Subsection (a)(5) of Rule 11860 to permit either a Clearing Agency or a Qualified Vendor to provide electronic confirmation and affirmation of all depository eligible transactions. The principal provision of the proposed rule change is the definition of ''Qualified Vendor'' in proposed new subparagraph 10860(b)(3). The definition provisions address information formatting, vendor qualifications, vendor capability, and notice from the vendor of any changes to its services or systems. The provisions are designed to prevent and minimize disruptions in the clearance and settlement system that could result from participation by less-than-Qualified Vendors.

Under paragraph (b)(3)(A) of the proposed rule change a Qualified Vendor must be able to: (1) deliver a trade record to a Clearing Agency in the Clearing Agency's format; (2) obtain a control number for the trade record from the Clearing Agency; (3) cross-reference the control number to the confirmation and subsequent affirmation of the trade; and (4) include the control number when delivering the affirmation of the trade to the Clearing Agency. These requirements will ensure that the clearing agency's functions in completing the clearance and settlement of a transaction will not be disrupted by submissions from vendors that are incompatible with the clearing agency's systems.

Paragraph (b)(3)(B) of the proposed rule change requires a Qualified Vendor to certify that its electronic trade confirmation/affirmation system has a process for evaluating and monitoring capacity requirements. This process must permit the vendor to establish current and anticipated estimated capacity requirements. In addition the Qualified Vendor must certify that its system has sufficient capacity to process the data volume that it expects to handle. The Qualified Vendor also must certify that its system has formal contingency procedures that are regularly reviewed, tested and updated and that it can prevent, detect, and control systems or computer operations failures. The Qualified Vendor also must certify that it has followed a formal process of reviewing the likelihood of contingency occurrences. The Qualified Vendor also must certify that its procedures are designed to protect against security breaches and that the procedures are followed. Finally, a Qualified Vendor must certify that its current assets exceed its current liabilities by at least $500,000.

Paragraph (b)(3)(C) of the proposed rule change requires Qualified Vendors, when they begin to provide services, annually thereafter, and whenever they make ''material changes'' to their services to submit an ''Auditor's report'' to the Association and the Commission which the Commission staff does not deem unacceptable.[5]

In addition, for purposes of this subparagraph (b)(3)(C), the term ''material change'' means any change to its systems that significantly affect or have the potential to significantly affect its systems. Such changes include those that, affect or potentially affect the capacity or security of its electronic trade confirmation/affirmation system, rely on new or substantially different technology, or provide a new service to the Qualified Vendor's electronic trade confirmation/affirmation system. This notice provision is intended to prevent vendors from unilaterally and without notice upsetting the clearance and settlement system. Such advance notice will permit customers and regulators to evaluate the effect of the changes and take such steps as may be necessary to prevent disruptions in clearing and settling transactions.

Paragraph (b)(4) of the proposed rule change specifies that the Auditor's report is a written report prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association. The report must verify the vendor's certifications required under paragraph (b)(3)(B) of the proposed rule above. The report also must include a risk analysis of all aspects of the vendor's information technology systems, including computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing. Finally, the report must include the vendor management's

[4] The Commission notes that the proposed rule change addresses the concerns raised by the Petition for Rulemaking filed by Thomson Financial Services (''Thomson'') with the Commission in December 1996. Thus, the Commission will respond to Thomson's petition after the final disposition of the proposed rule change.

[5] At this time, the Commission staff intends to indicate that a vendor's initial Auditor's report is not unacceptable and that the vendor therefore is a qualified vendor for purposes of Rule 11860 by issuing a letter to the vendor stating that it will not recommend enforcement action against any of the Association's member organizations that elect to use the confirmation/affirmation services of the vendor.

written response to the information provided under paragraph (b)(3)(A) and (B), above.

Paragaph (b)(3)(D) of the proposed rule requires Qualified Vendors to immediately notify the Association and the Commission in writing if they intend to cease providing services and supply supplemental information about their services upon the request of the Association or the Commission. This provision will provide the Association and the Commission notice of circumstances when vendors, in ceasing to provide services, may create disruptions to the clearance settlement system and to take such steps as may be necessary to minimize disruptions. In addition, this provision will permit the Association and the Commission to obtain information from vendors even though the vendors are not members of the Association or registered as clearing agencies. Such information is important to regulators in overseeing the clearance and settlement system.

Under paragraph (b)(3)(E) a vendor may cease to be qualified if the Commission staff deems the Auditor's report to be unacceptable either because it contains any findings of material weaknesses, or for other identified reasons, or notifies the vendor in writing that the Commission staff has determined that the vendor is no longer qualified. This provision will permit the Commission staff to evaluate whether a vendor is qualified at any time. The principal opportunities for the Commission staff to make such evaluations will be when the vendor submits its certifications and Auditor's report. In addition, the Commission will be afforded other opportunities to evaluate a vendor's qualifications through information obtained in connection with a vendor's notices under paragraph (b)(3)(D) or as a result of supplemental information supplied by a vendor under paragraph (b)(3)(E), or through information obtained from any other source available to the Commission. Finally, if a vendor ceases to be qualified, the member using the vendor must cease using the vendor promptly upon receiving notice that the vendor is no longer qualified. NASD Regulation is requesting that the proposed rule change be effective within 45 days of Commission approval.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[6] in that the proposed rule change will permit Qualified Vendors to offer confirmation, affirmation and related services in connection with the clearance and settlement of institutional securities transactions thereby increasing the options available to participants in institutional securities transactions and enhancing the clearance and settlement system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All submissions should refer to File No. SR–NASD–98–20 and should be submitted by May 4, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9591 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78o–3.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39830; File No. SR–NYSE–98–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Consisting of Amendments to Its Rule Regarding COD Orders

April 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 18, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 387 to permit electronic confirmation/affirmation of depository eligible COD Orders by ''Qualified Vendors.''[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] The text of the amendments is attached as Exhibit A to this notice.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rule 387 currently requires that the facilities of a Commission registered securities depository/clearing agency be utilized by Exchange member organizations for the confirmation, affirmation and book entry settlement of COD transactions in depository eligible securities. Certain private vendors have requested that they be allowed to provide member organizations with electronic confirmation/affirmation services on COD institutional trades even though such vendors are not Commission registered clearing agencies.

The Exchange, working in conjunction with other SROs and a committee of representatives from the Securities Industry Association, developed the proposed amendments in order to allow the above request made by certain private vendors. To provide such services, an entity would have to become a ''qualified vendor'' by complying with the new provisions as set forth in the amended rule. These provisions require such vendors to do the following:

- For each transaction, deliver a trade record to the Clearing Agency, obtain a control number, cross reference the control number to the confirmation/affirmation and include such control number when delivering affirmations to the clearing agency.
- Certify to the Commission [3] the integrity and capacity of the electronic confirmation/affirmation system and that the vendor will maintain monitoring and contingency procedures.
- Submit an Auditor's Report to the Commission on an annual basis, which is not deemed unacceptable by the Commission.[4]
- Notify the Commission in writing of any significant electronic confirmation/affirmation system changes.
- Notify the Commission in writing if the qualified vendor intends to cease providing confirmation/affirmation services.
- Submit to the Exchange copies of any of the above filings with the Commission within ten business days.
- Supply supplemental information regarding the vendor's electronic trade confirmation/affirmation services as requested by the Exchange or the Commission.

The proposed Rule 387 amendments are responsive to the SEC's request (contained in a letter, dated November 25, 1997 from Mr. Richard R. Lindsey, Director, Division of Market Regulation) that self-regulatory organizations adopt uniform rule amendments which allow ''qualified vendors'' to provide confirmation/affirmation services, provided the conditions set forth in the amended rule are met.[5]

(2) Statutory Basis

The proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [6] in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Under the proposal, additional electronic confirmation and affirmation services will be available to COD customers because such electronic services will now be permitted to be performed by ''qualified vendors'' that meet specific standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 4, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A— Proposed Amendments to Rule 387

Additions italicized

Deletions [bracketed]

COD Orders

Rule 387. (a) No member organization shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(1) through (4) No change.

[(5) The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.]

(5) The facilities of a Clearing Agency shall be utilized for the book-entry settlement of all depository eligible

[3] With respect to the determination of whether a vendor is a ''qualified vendor,'' the Commission interprets the Exchange's use of the word ''Commission'' in the proposed rule change to mean Commission staff.

[4] At this time, the Commission staff intends to indicate that a vendor's initial Auditor's Report is not unacceptable and that the vendor therefore is a qualified vendor for purposes of Rule 387 by issuing a letter to the vendor stating that it will not recommend enforcement action against any of the Exchange's member organizations that elect to use the confirmation/affirmation services of the vendor.

[5] The Commission notes that the proposed rule change addresses the concerns raised by the Petition for Rulemaking filed by Thomson Financial Services (''Thomson'') with the Commission in December 1996. Thus, the Commission will respond to Thomson's petition after the final disposition of the proposed rule change.

[6] 15 U.S.C. 78f(b)(5).

transactions. The facilities of either a Clearing Agency or a Qualified Vendor shall be utilized for the electronic confirmation and affirmation of all depository eligible transactions.

Supplementary Material:

.10 No change.

.30 For the purpose of this rule, a [''securities depository''] ''*Clearing Agency*'' shall mean a Clearing Agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission *(''Commission'')* pursuant to Section 17A(b)(2) of the Act *or has obtained from the Commission an exemption from registration granted specifically to allow the Clearing Agency to provide confirmation and affirmation services.*

.40 For the purposes of this rule, ''depository eligible transactions'' shall mean transactions in those securities for which confirmation, [acknowledgment] *affirmation,* and book entry settlement can be performed through the facilities of a [securities depository] *Clearing Agency* as defined in Rule 387.30.

.50 ''Qualified Vendor'' shall mean a vendor of electronic confirmation and affirmation services that:

(A) Shall, for each transaction subject to this rule: (i) deliver a trade record to a Clearing Agency in the Clearing Agency's format; (ii) obtain a control number for the trade record from the Clearing Agency; (iii) cross-reference the control number to the confirmation and subsequent affirmation of the trade; and (iv) include the control number when delivering the affirmation of the trade to the Clearing Agency;

(B) Has submitted a certification to the Commission which is not deemed unacceptable by the Commission: (i) With respect to its electronic trade confirmation/affirmation system, that it has a capacity requirements, evaluation, and monitoring process that allows the vendor to formulate current and anticipated estimated capacity requirements; (ii) that its electronic trade confirmation/affirmation system has sufficient capacity to process the specified volume of data that it reasonably anticipates to be entered into its electronic trade confirmation/ affirmation service during the upcoming year; (iii) that its electronic trade confirmation/affirmation system has formal contingency procedures, that the entity has followed a formal process of reviewing the likelihood of contingency occurrences, and that the contingency protocols are reviewed and updated on a regular basis; (iv) that its electronic trade confirmation/affirmation system has a process for preventing, detecting, and controlling any potential or actual systems integrity failures, and its procedures designed to protect against security breaches are followed; and (v) that it has cash reserves of not less than five hundred thousand dollars;

(C) Has submitted and shall continue to submit on an annual basis, an Auditor's Report to the Commission which is not deemed unacceptable by the Commission. An Auditor's Report will be deemed unacceptable if it contains any findings of material weakness;

(D) Notifies the Commission in writing of any changes to its systems that significantly affect or have the potential to significantly affect its electronic trade confirmation/affirmation system including, without limitation, changes that: (i) Affect or potentially affect the capacity or security of its electronic trade confirmation/affirmation system; (ii) rely on new or substantially different technology; or (iii) provide a new service to the Qualified Vendor's electronic trade confirmation/affirmation system;

(E) Immediately notifies the Commission in writing if it intends to cease providing services;

(F) Provides the Exchange with copies of any submissions to the Commission made pursuant to .50 (B), (C), (D) and (E) of this rule within ten business days; and

(G) Supplies supplemental information regarding their electronic trade confirmation/affirmation services as requested by the Exchange or the Commission.

.60 ''Auditor's Report'' shall mean a written report which is prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association and which (i) Verifies the certifications contained in .50(B) above; (ii) contains a risk analysis of all aspects of the entity's information technology systems including, without limitation, computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing; and (iii) contains the written response of the entity's management to the information provided pursuant to (i) and (ii) above.

[FR Doc. 98–9592 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39832; File No. SR–DTC–95–23]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Implementing the Matching Feature in the Institutional Delivery System

April 6, 1998.

On November 8, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–95–23) under Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to implement a matching feature in DTC's Institutional Delivery (''ID'') system. Notice of the proposal was published in the **Federal Register** on January 19, 1996.[2] The Commission received 39 comment letters. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

In a previous filing with the Commission, DTC described several additional features that it planned to add to the ID system, one of which was a matching feature.[3] The purpose of DTC's present rule filing is to obtain approval of implementation of the matching feature.

The matching feature is an enhancement to the current procedures for confirmation and affirmation processing in the ID system. Currently, when a broker-dealer executes a trade on behalf of an institution, it can use the ID system to notify the institution of the execution of the trade (''notification of order execution''). After receiving a notification of order execution, the institution then can use the ID system to furnish the broker-dealer with instructions for the proper allocation of the trade among the institution's different accounts (''allocation instructions'').[4] Using the allocation instructions, the broker-dealer furnishes the ID system with the information necessary (''trade data'') for the ID system to produce a confirmation, which then is delivered through the ID system to the institution. If the

[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 36685 (January 5, 1996), 61 FR 1417.

[3] Securities Exchange Act Release No. 33466 (January 12, 1994), 59 FR 3139 [File No. SR–DTC–93–07] (order approving proposed rule change relating to the ID system).

[4] Use of the ID system by DTC participants for notice of order execution and allocation instructions is optional.

confirmation accurately represents the institution's requested trade and the proper allocation, the institution or its designated affirming party affirms the trade (*i.e.*, acknowledges that it will settle the trade on settlement date) by sending an affirmed confirmation to the broker-dealer through the ID system. The trade then goes into DTC's settlement process.

Under the rule change, if a broker-dealer and an institution elect to use the matching feature the ID system will compare trade data submitted by the broker-dealer with allocation instructions submitted by the institution. If the trade data and allocation instructions match and if the institution also is the affirming party, the ID system will produce a matched affirmed confirmation. At this point, the trade will go into DTC's settlement process. If the trade data and allocation instructions match but the institution is not the affirming party, the ID system will produce a matched confirmation and will send it to the designated affirming party to be affirmed.[5]

Throughout the day, broker-dealers and institutions will be able to use the ID system's inquiry capabilities to view any unmatched items. At the end of the day, an ''unmatched report'' will be generated for each broker-dealer and institution. This report will list all broker-dealer trade data and allocation instructions that were not matched by the end of the day. Unmatched trades appearing on the unmatched report will be carried over from day to day unless the broker-dealer or institution cancels its instruction or the institution affirms the trade.

II. Comment Letters

The Commission received 39 comment letters in response to the filing.[6] In its comment letter, Thomson commended DTC for its efforts to improve the efficiency of the domestic securities market, but expressed concern over the potentially anticompetitive impact of the proposed rule change on unregistered entities that provide confirmation and affirmation services. Specifically, Thomson stated that it is concerned that approval of DTC's proposed matching feature ''will impose a serious and unwarranted burden on competition if certain antiquated self-regulatory organization (SRO) rules are interpreted in a way that prevents Thomson from providing its own matching service to its clients.''[7] Thomson requested the Commission not to approve DTC's proposed matching feature ''unless assurance is obtained that the SROs will not interpret their rules in such an anticompetitive fashion.'' Thomson stated that ''[b]efore approving DTC's current proposal, the Commission should ensure that the combination of allocations and confirmations into one step does not result in an unintended expansion of the scope of the antidiluvian SRO Rules [to regulate the communication of allocation information between institutions and their brokers].''[8]

The remaining 38 commenters supported Commission approval of adding the matching feature to the ID system.[9] Many of these commenters expressed multiple reasons why the matching feature should be approved. Twenty-five commenters stated that they believe that approval of the matching feature will streamline the settlement process and allow it to occur more expeditiously.[10] Nine commenters stated that they believe that the matching feature will reduce risk in the settlement cycle and will promote safety and soundness in the clearance and settlement of securities transactions.[11] Twenty-two commenters stated that they believe that the matching feature is

[5] In the ID system, the affirming party may be the institution, the institution's agent, or another party designated by the institution (*i.e.*, an ''interested party'').

[6] Letters from: P. Howard Edelstein, President, Thomson Electronic Settlements Group, Thomson Trading Services, Inc., (''Thomson'') (February 9, 1996); Harold L. Johnson, Deputy General Counsel, Municipal Securities Rulemaking Board (''MSRB'') (February 28, 1996); George J. Minnig, Managing Director, Pershing, (May 23, 1996); Walter Psaila, Senior Vice President, Director of Clearance and Settlement, Paine Webber, (May 22, 1996); Vito DiMattia, Senior Vice President, NatWest Securities (''NatWest'') (May 23, 1996); Patrick K. Blackburn, Senior Vice President, The Chicago Corporation (''TCC'') (May 22, 1996); J. Phillip Smith, President, Lewco Securities Corp. (''Lewco'') (May 28, 1996); John J. Sanders, Jr., Principal, Robertson Stephens & Company (''Robertson'') (May 29, 1996); Arthur Quartermaine, Director, Global Operations, Goldman, Sachs & Co. (''Goldman'') (May 22, 1996); Philip Lanz, Managing Director, Bear Stearns, (May 29, 1996); Nicholas Sariano, First Vice President, Dean Witter Reynolds, Inc. (''Dean Witter'') (May 31, 1996); Richard A. Bednarz, Managing Director & Product Manager, Princeton Financial Systems, Inc. (''Princeton Financial'') (June 4, 1996); James R. Hiatrides, Managing Director, Scudder, Stevens & Clark, Inc. (''Scudder'') (June 5, 1996); Frank J. Simonds, Vice President, Investment Management Services, Trust Operations, NBD Bank (''NBD'') (June 3, 1996); Neil C. Carfora, Vice President, State Street Bank and Trust Company (''State Street'') (June 6, 1996); Arthur L. Thomas, Senior Vice President, Director, Global Operations Services, Merrill Lynch, (June 14, 1996); Ernest A. Pittarelli, Managing Director, UBS Securities LLC (''UBS'') (June 6, 1996); Peter J. Murray, Director, CS First Boston (''CS First'') (June 21, 1996); Jenny Mastragelo, Equity Trading, Operations, Eaton Vance Management (''Eaton'') (June 13, 1996); George J. Minnig, Chairman, Regulatory and Clearance Committee, Securities Industry Association (''SIA'') (June 24, 1996); Ed Brands, Chairperson, Bank Depository User Group (''BDUG'') (June 28, 1996); Dennis J. Donnelly, Senior Managing Director, McDonald & Company Securities, Inc. (''McDonald'') (June 28, 1996); Denise R. Youngblood, Munder Capital Management (''Munder'') (June 22, 1996); Jill M. Considine, President, New York Clearing House, (July 3, 1996); Richard F. Woerner, Controller, Merganser Capital Management Corporation (''Merganser'') (June 26, 1996); Robert Donovan, Senior Vice President, Legg Mason Wood Walker, Inc. (''Legg Mason'') (May 28, 1996); Jerome J. Clair, Senior Vice President, Smith Barney, (July 9, 1996); Stephen L. Zeitz, Director, Investment Operations, Providian Capital Management (''Providian'') (July 10, 1996); Ronald L. Grooms, Sr. Vice President & Treasurer, Invesco Funds Group, Inc. (''Invesco Funds'') (July 8, 1996); Dennis J. Donnelly, Senior Managing Director, McDonald & Company Securities, Inc. (''McDonald'') (June 28, 1996); John E. Nolan, Senior Vice President, Raymond James & Associates, Inc. (''Raymond James'') (June 12, 1996); Roselyn Kracov, State Street Bank & Trust Company, Co-Chair, Industry Standardization for Institutional Trade Communication (''ISITC'') (July 31, 1996); Dan O'Keefe, Senior Vice President, The Northern Trust Company (''Northern Trust'') (August 30, 1996); Stephen M. Wellman, Vice President/Director of Operations, Pilgram Baxter & Associates (''Pilgrim Baxter'') (August 23, 1996); Jean Hendrick, Senior Vice President, Asset Management Services, Barnett Bank (''Barnett'') (September 11, 1996); Jennifer Parker, SAFECO Asset Management (''SAFECO'') (November 22, 1996); Operations Advisory Committee, to The Honorable Arthur Levitt, Jr., Commission (December 12, 1996); Debra P. Turner, Wedge Capital Management (''Wedge Capital'') (February 5, 1997); Wendy A. Laidlaw, Administrative Manager, R.M. Davis, Inc., (''R.M. Davis'') (February 28, 1997).

[7] The exchanges, the National Association of Securities Dealers, (''NASD''), and the Municipal Securities Rulemaking Board (''MSRB'') currently have rules that prohibit broker-dealers from accepting delivery versus payment and receipt versus payment (''DVP/RVP'') orders from their customers unless a customer or its agent uses the facilities of a registered clearing agency for the confirmation acknowledgment (*i.e.*, affirmation), and book entry settlement of all depository eligible securities (''SRO confirmation rules''). The SRO confirmation rules are: American Stock Exchange Rule 423(5); Chicago Stock Exchange Article XV, Rule 5; New York Stock Exchange (''NYSE'') Rule 387(a)(5); Pacific Exchange Rule 9.12(a)(5), Philadelphia Stock Exchange Rule 274(b); NASD Rule 11860(a)(5); and MSRB Rule G–15(d)(ii).

[8] Currently, the SRO confirmation rules preclude broker-dealers and institutions from using Thomson's services for the confirmation and affirmation of DVP/RVP trades in depository eligible securities settling in the United States because Thomson is not a registered clearing agency. However, the SRO confirmation rules do not prevent broker-dealers from using Thomson's trade allocation or certain other services.

[9] In December 1996, Thomson filed a petition with the Commission requesting that the Commission use its authority to amend the SRO confirmation rules to allow Thomson to offer confirmation/affirmation services. Many of the comment letters that the Commission received in response to Thomson's petition also expressed support for approving DTC's matching feature.

[10] Pershing, Paine Webber, TCC, Robertson, Goldman, Bear Stearns, Princeton Financial, State Street, Merrill Lynch, CS First, BDUG, SIA, Munder, New York Clearing House, Legg Mason and Smith Barney, Providian, Invesco Funds, Raymond James, ISITC, Northern Trust, Pilgrim Baxter, Barnett, SAFECO, Operations Advisory Committee, Wedge Capital, R.M. Davis.

[11] Pershing, UBS, SIA, BDUG, New York Clearing House, and Bear Stearns, Providian, Pilgrim Baxter, Operations Advisory Committee; R.M. Davis.

an essential step towards a shorter settlement cycle.[12] Fifteen commenters stated that they believe that the electronic trade confirmation vendors for DVP/RVP trades should be regulated entities and voiced concern over potential changes to the SRO confirmation rules and the use of unregulated systems for the confirmation/affirmation of securities transactions.[13]

Two commenters stated that they believe that the issue of DTC's matching proposal is separate from the issue of whether multiple electronic trade confirmation systems are appropriate.[14] One of these commenters stated that it believes that the importance of DTC's matching procedure outweighs any anticompetitive effects it would have on other trade confirmation systems and that its implementation should not be delayed.[15]

III. Discussion

Under Section 19(b)(2) of the Act, [16] the Commission must approve a proposed rule change filed by an SRO (including a clearing agency) unless the Commission finds that the proposed rule change is inconsistent with the requirements of the Act and the regulations thereunder applicable to the SRO. Sections 17A(b)(3)(A), (F), and (I) of the Act [17] require, among other things, that a clearing agency be organized and its rules be designed to facilitate and promote the prompt and accurate clearance and settlement of securities transactions and that the rules not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that DTC's matching feature should promote efficiencies in the clearance and settlement of securities transactions by combining some of the steps that normally are required for the settlement of institutional trades under traditional confirmation/affirmation processing. The Commission believes further that this combination of steps should streamline the clearance and settlement process which in turn should reduce the likelihood of errors and the number of trades that settle late because presettlement steps have not been completed by settlement time.

The Commission notes that although combining processing steps by a matching intermediary enhances processing efficiency, it also focuses processing risk and eliminates a separate affirmation step that would allow the broker-dealer or its customer to detect errors that could delay settlement or cause the trade to fail. However, DTC is a registered clearing agency and therefore is subject to statutory and regulatory risk control requirements and to the Commission's supervision. As a result, the Commission believes that DTC's proposal is consistent with its obligations under the Act, including its responsibility to facilitate the prompt and accurate clearance and settlement of securities transactions.

In reviewing the proposed rule change, the Commission has also considered the impact that it would have on competition.[18] The Commission notes that the use of the matching feature by DTC participants is optional and that the SRO confirmation rules do not require the use of the matching feature in the confirmation and affirmation of securities transactions. The Commission believes that the proposed rule change itself does not impose any inappropriate burden on competition. Rather, any possible burden on competition identified by Thomson arises from potential interpretations of SRO rules governing member use of confirmation and affirmation services.

In response to Thomson's concerns, the Commission has postponed approving DTC's matching feature while the effort to resolve issues relating to the operation of the SRO confirmation rules has been ongoing. The NYSE, the NASD, and the MSRB recently have filed proposed rule changes with the Commission to amend their SRO confirmation rules.[19] Under these proposed rule changes, broker-dealers would be permitted to use the services of certain qualified entities that are not registered clearing agencies to carry out the type of confirmation/affirmation processing now handled by the ID system. These qualified entities would be required to submit affirmed confirmations to a registered clearing agency for trade settlement. The Commission believes that these rule changes should increase competition in the business of traditional confirmation/affirmation processing.

The proposed changes to the SRO confirmation rules do not address whether entities other than registered clearing agencies may provide matching services. The Commission has carefully examined the legal and policy issues that are raised in connection with matching services and has concluded that matching trade data and allocation instructions for institutional securities trades should be considered a clearing agency function under Sections 3(a)(23) and 17A of the Act.[20] Under the Commission's interpretation, registration as a clearing agency or a conditional exemption from registration would be required to conduct matching services. The Commission has issued a release that presents its analysis of this issue.[21]

On approval of its rule filing, DTC may provide matching services because it is a registered clearing agency. This approval will continue irrespective of the Commission's ultimate decision on whether or not matching is a clearing agency function. The Commission notes that DTC's matching proposal itself does not impose anticompetitive burdens on others but rather offers improved services to all DTC users. Furthermore, the Commission believes that DTC's proposal does not have an anticompetitive effect. Under the Commission's interpretation outlined above, any entity wishing to compete with DTC will either register as a clearing agency or will obtain an exemption from registration and will then offer a similar matching service. Therefore, the Commission believes that approval of the proposed rule change should not be delayed on competition grounds.

Because the Commission finds that DTC's matching feature is designed to facilitate the prompt and accurate clearance and settlement of securities transactions by enhancing the conformation/affirmation process in DTC's ID system and otherwise is consistent with Section 17A(b)(3) of the Act, the Commission is approving DTC's proposed rule change.

IV. Conclusion

The Commission finds that DTC's proposal is consistent with the requirements of the Act and particularly

[12] Pershing, Paine Webber, TCC, Robertson, Princeton Financial, Scudder, State Street, Merrill Lynch, Eaton, McDonald, Munder, New York Clearing House, Merganser, and Legg Mason, Providian, Invesco Funds, Raymond James, McDonald, ISITC, Northern Trust, Pilgrim Baxter, Operations Advisory Committee, Wedge Capital.

[13] MSRB, Pershing, Paine Webber, TCC, Robertson, CS First, Bear Stearns, Dean Witter, SIA, BDUG, NBD, State Street, UBS, Smith Barney, Barnett.

[14] New York Clearing House, Operations Advisory Committee.

[15] New York Clearing House.

[16] 15 U.S.C. 78s(b)(2).

[17] 15 U.S.C. 78q–1(b)(3)(A), (F), and (I).

[18] The Commission has also considered the proposed rule's impact on efficiency and capital formation.

[19] Securities Exchange Act Release Nos. 39830 (April 6, 1998) [File No. SR–NYSE–98–07], 39831 (April 6, 1998) [File No. SR–NASD–98–20], and 39833 (April 6, 1998) [File No. SR–MSRB–98–06].

[20] 15 U.S.C. 78c(a)(23) and 78q–1.

[21] Securities Exchange Act Release No. 39829 (April 6, 1998).

with Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–23) be, and hereby is, approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9595 Filed 4–10–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of Consular Affairs

[Public Notice 2786]

Emergency Clearance of Proposed Information Collection; Nonimmigrant Visa Application

SUMMARY: The Department of State has submitted the following emergency processing public information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by April 14, 1998 or such earlier date as possible. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Emergency Clearance and Reinstatement of a previously approved collection for which approval has expired.

Originating Office: The Office of Consular Affairs, Visa Services.

Title of Information Collection: Nonimmigrant Visa Application.

Frequncy: On occasion.

Form Number: OF–156.

Respondents: Aliens.

Estimated Number of Respondents: 8,300,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 8,300,000.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

Therefore, the Department of State is seeking emergency clearance for use of the form OF–156 (Nonimmigrant Visa Application Form).

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC, 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed form by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Glen H. Johnson,

Acting, Chief Information Officer.

[FR Doc. 98–9454 Filed 4–10–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice; correction.

SUMMARY: The Department of Transportation published a document in the **Federal Register** of April 2, 1998, concerning an extension of a currently approved collection of information for 3 years. The document contained an incorrect title.

FOR FURTHER INFORMATION CONTACT: Deborah M. Freund, (202) 366–4009.

Correction

In the **Federal Register** issue of April 2, 1998, FR Doc. 98–8662, on page 16290, third column, first paragraph under Federal Highway Administration (FHWA), correct the title to read *Accident Record Keeping Requirements.*

Dated: April 2, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–9609 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of a currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 63 FR 3784, January 26, 1998.

DATES: Comments must be submitted on or before May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Richard Weaver, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2811.

SUPPLEMENTARY INFORMATION:

Maritime Administration

Title: Merchant Marine Medals and Awards.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0506.

Affected Public: Eligible Merchant Seamen

Abstract: This information collection provides the Maritime Administration with a method for documenting and processing requests for merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during World War II, Korean War, Vietnam War and Operation DESERT STORM and the replacement of previously issued awards.

Need and Use of the Information: This information is used by MARAD personnel to process and verify requests for service awards. The issuance of awards is based upon requests from the public.

Estimated Annual Burden Hours: 2500 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to

minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on April 3, 1998.

Vanester M. Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 98–9626 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 63 FR 4687, January 30, 1998.

DATES: Comments must be submitted on or before May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone 202–267–2326.

SUPPLEMENTARY INFORMATION:

United States Coast Guard

Title: Recreational Boating Safety Survey.

Type of Request: NEW Information Collection.

OMB Control Number: 2115–NEW.

Affected Public: Voluntary participants interested in recreational boating.

Abstract: The United States Coast Guard has concerns with the number of deaths related to the lack of boating safety education and drownings due to not wearing personal floatation devices (PFDs). A survey has been developed to collect information from participants interested in recreational boating, to help determine whether or not to set Federal requirements for boaters to wear PFDs or for vessel operators to attend boating safety training.

Need and Use for Information: Under 46 U.S.C. 4302, the Coast Guard is authorized to issue regulations to establish minimum safety requirements for recreational vessels and to require the carriage or use of associated equipment.

Frequency: One time.

Annual Burden Estimate: 2560 Burden Hours.

Send all comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention USCG Desk Officer. Comments are invited on: the need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; 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; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on April 3, 1998.

Vanester M. Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 98–9627 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for three year extension. The ICR describes the nature of the information collection and its expected burden.

DATES: Comments must be submitted on or before May 13, 1998.

FOR FURTHER INFORMATION OR COPY OF COLLECTION OF INFORMATION CONTACT: Michael Robinson, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

Title: Generic Clearance for Customer Surveys.

OMB No.: 2127–0579.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals, businesses, institutions, State, Local and Tribal Government.

Abstract: The National Highway Traffic Safety Administration (NHTSA) management uses customer surveys as one input to decision on how to better serve its customer, assess whether customer expectations with NHTSA products and services have been met identify customer needs, better structure the organization to facilitate serving customers, improve work processes, forecast future trends, allocate resources and stimulate innovation.

Estimated Annual Burden: 3,171 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on April 6, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–9628 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending April 3, 1998

The following Agreements were filed with the Department of Transportation

under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3690.

Date Filed: March 31, 1998.

Parties: Members of the International Air Transport Association.

Subject: COMP Mail Vote 926, Worldwide Currency Adjustment—from Greece, Intended effective date: April 15, 1998.

Docket Number: OST–98–3691.

Date Filed: March 31, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC2 Telex Mail Vote 925, Special Construction Rule (Reso 024j), Intended effective date: May 1, 1998.

Paulette V. Twine,

Federal Register Liaison.

[FR Doc. 98–9611 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending April 3, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3680.

Date Filed: March 30, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 27, 1998.

Description: Application of Redemption, Inc. d/b/a Island Air Service, pursuant to 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled, interstate transportation of persons, property and mail.

Docket Number: OST–98–3692.

Date Filed: March 31, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 28, 1998.

Description: Application of Polar Air Cargo, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, requests an Amendment to its Certificate of Public Convenience and Necessity for Route 651 authorizing Polar to engage in scheduled foreign air transportation of property and mail between any point or points in the United States and the following countries (in addition to those currently contained in Polar's Certificate for Route 651): Albania, Algeria, Armenia, Aruba, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belarus, Bosnia, Botswana, Brunei Darussalam, Bulgaria, Chile, Cote d'lvoire, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Ethiopia, Finland, Georgia, Ghana, Greece, Grenada, Guatemala, Honduras, Hungary, Iceland, Israel, Jamaica, Jordan, Kenya, Kuwait, Kyrgyz Republic, Latvia, Liberia, Lithuania, Luxembourg, Macau, Macedonia, Malawi, Malta, Moldova, Morocco, Namibia, the Netherlands Antilles, Nicaragua, Norway, Oman, Poland, Portugal, Qatar, Romania, Senegal, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tadjikistan, Tanzania, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Uzbekistan, Zaire and Zimbabwe. Polar also requests authority to integrate its operations under its amended Certificate with all services Polar is otherwise authorized to conduct pursuant to its exemption and certificate authority consistent with applicable international agreements.

Docket Number: OST–98–3707.

Date Filed: April 3, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 30, 1998.

Description: Application of Western Pacific Airlines, Inc. pursuant to 49 U.S.C. Section 41105, for a Disclaimer of Jurisdiction over the transaction by which WestPac will transfer to a wholly-owned subsidiary certain airline-related assets, including the airlines' DOT and FAA-issued certificates and other authorities, airline-related documents, WestPac's tradename, trademarks and goodwill, all of WestPac's spare parts and tooling, and certain furniture and office equipment.

Paulette V. Twine,

Federal Register Liaison.

[FR Doc.98–9612 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–3721]

Office of Vessel Traffic Management, Vessel Traffic Service (VTS) Commanding Officers Conference

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Office of Vessel Traffic Management is hosting a Vessel Traffic Service (VTS) Commanding Officers Conference on May 13, 1998. Topics to be discussed at this meeting include VTS Customer Satisfaction, Ports and Waterway Safety Assessments (PAWSA), Automatic Identification Systems (AIS), Partnerships, and Port Operations Information for Safety and Efficiency (POISE). This public meeting is meant to discuss, answer questions, and get feedback from the public about program direction. The Coast Guard is also seeking written feedback on AIS.

DATES: The open meeting will be held on Wednesday, May 13, 1998 from 9 a.m. to 5 p.m. Written material must reach the Coast Guard on or before May 1, 1998.

ADDRESSES: The meeting will be held at the 1st Hangar Air Station Training Room at 2710 North Harboor Drive, San Diego, California 92101. You may mail comments to the Docket Management Facility, [USCG 1998–3721], U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW, Washington, DC 20593–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this notice. Comments and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at *http;//dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Carol Kelly, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–

9329. For information concerning this notice, contact Ms. Diane Schneider, Coast Guard Office of Vessel Traffic Management at 202–267–0352 or LCDR Frank Elfring, Coast Guard Office of Vessel Traffic Management at 202–267–6623.

SUPPLEMENTARY INFORMATION:

Background Information

Trends in vessel transit statistics show America's commercial waterways are increasingly more congested with larger vessels. In conjunction with this trend, there is an increasing urgency to move traffic through ports more efficiently and coordinate ship movements with ongoing port operations. Additionally, there is a great desire to mitigate incidences of miscommunication during inclement weather conditions and at night, which can result in accidents and near-miss encounters.

Later this year, the International Maritime Organization's (IMO) Subcommittee on Safety of Navigation is likely to conclude that AIS transponders are useful and worthwhile instruments for promoting safety in international waters and has prepared a recommendation on performance standards for a universal shipborne AIS. Concurrently, the Coast Guard is testing AIS as a domestic VTS tool in both the ship-to-ship and ship-to-shore modes. In anticipation of advancement of this innovative AIS technology, the Coast Guard is seeking public feedback on AIS, benefits to domestic waterways safety, and application of this technology to domestic vessels by way of carriage requirements.

The following projects are being tested and evaluated and will be discussed at the meeting: Ports and Waterways Safety Assessment (PAWSA), Port Operations Information for Safety and Efficiency (POISE), and Ports and Waterway Safety Systems (PAWSS).

PAWSA's main objective is to analyze current safety standards and waterways management tools. By analyzing these things, the Coast Guard will be able to determine whether or not a Vessel Traffic Service (VTS) is necessary in that port.

POISE is a computer Internet-based system that provides a collection of hot links to information about port activities.

PAWSS is an acquisition for future VTS in U.S. waters. This system is primarily an AIS-based system that will meet IMO technical and operational standards.

Request for Comments

The Coast Guard encourages submission of written data, views, or arguments on this notice. Persons submitting comments should include their names and addresses, identify this notice [USCG 1998–3721], the specific issue that each comment addresses, and the reason for the comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing, to the Department of Transportation Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period.

Agenda for Meeting

(1) 9 a.m.–10:15 a.m.—Program Direction.

(2) 10:30 a.m.–11:30 a.m.—Update on Ports and Waterway Safety Assessments.

(3) 1 p.m.–2 p.m.—Partnerships for Operating Vessel Traffic Services.

(4) 2 p.m.–3 p.m.—Update on Automatic Identification Systems.

(5) 3:15 p.m.–4 p.m.—Vessel Traffic Management Customer Satisfaction Tools.

(6) 4 p.m.–4:30 p.m.—Port Operations Information for Safety and Efficiency (POISE) Demonstration.

Public Meeting

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify Ms. Diane Schneider or LCDR Elfring listed under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted before, during, or after the meeting. Persons unable to attend the public meetings are encouraged to submit written comments as outlined above.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request assistance at the meeting(s), contact Ms. Diane Schneider or LCDR Elfring at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: April 6, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–9640 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29194]

RIN 2120–AC22

Emissions and Dispersion Modeling System Policy for Airport Air Quality Analysis; Interim Guidance to FAA Orders 1050.1D and 5050.4A

AGENCY: Federal Aviation Administration, DOT.

ACTION: Policy Statement.

SUMMARY: This document provides a statement of Federal Aviation Administration (FAA) policy concerning the required use of the FAA Emissions and Dispersion Modeling System (EDMS) to assess the air quality impacts of proposed airport development projects. To date, the EDMS has been considered an FAA preferred model for airport air quality analysis. The policy statement is intended to ensure consistency and quality of analysis performed to assess the air quality impacts of airport emission sources for purposes of complying with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq. (NEPA) and the Clean Air Act as amended, 42 U.S.C. 7401, 7506(c) general conformity (general conformity) requirements.

EFFECTIVE DATE: April 13, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Ann Draper, Analysis and Engineering Branch (AEE–120), Technology Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3494.

SUPPLEMENTARY INFORMATION: The EDMS was developed by the FAA in cooperation with the U.S. Air Force (USAF) in the mid-1980's as a complex source microcomputer model to assess the air quality impacts of proposed airport development projects. It has since been the FAA preferred model for airport air quality analysis. On July 20, 1993, the Environmental Protection Agency (EPA) accepted the EDMS as a formal EPA ''Preferred Guideline'' model for use in civil airports and

military bases. In response to the growing needs of the air quality analysis community and changes in regulations, the FAA in cooperation with the USAF re-engineered and enhanced EDMS in 1997 to create EDMS Version 3.0. EDMS Version 3.0 was built under the guidance of a government and industry advisory board composed of experts from the scientific, environmental policy, and analysis fields.

The FAA provides guidance on the use of EDMS in FAA Report No. AEE–AEE–97–03, ''Air Quality Procedures for Civilian Airports and Air Force Bases,'' which updates and replaces the original version of the handbook, FAA Report No. FAA–82–21.

The FAA is taking this opportunity to identify EDMS as the *required* model to perform the air quality analyses for aviation emission sources from airport projects instead of the *preferred* model, as stated in the FAA's ''Air Quality Procedures for Civilian Airports and Air Force Bases.'' This policy statement will serve as the interim written document until the revised FAA Orders 1050, Policies and Procedures for Considering Environmental Impacts, and 5050, Airport Environmental Handbook, are published.

Policy Statement

EDMS is designed to assess the air quality impacts of airport emission sources, particularly *aviation* sources, which consist of aircraft, auxiliary power units, and ground support equipment. EDMS also offers the capability to model other airport emission sources that are not aviation-specific, such as power plants, fuel storage tanks, and ground access vehicles.

Except for air toxics or where advance written approval has been granted to use an equivalent methodology and computer model by the FAA Office of Environment and Energy (AEE–120), the air quality analyses for aviation emission sources from airport projects conducted to satisfy NEPA and general conformity requirements under the Clean Air Act must be prepared using the most recent EDMS model available at the start of the environmental analysis process. In the event that EDMS is updated after the environmental analysis process is underway, the updated version of EDMS may be used to provide additional disclosure concerning air quality but use is not required. A complete description of all inputs, particularly the specification of non-default data, should be included in the documentation of the air quality analysis for purposes of complying with NEPA and general conformity requirements. Users also must provide one copy of EDMS input files used in the analysis and the corresponding output files to the FAA responsible official on magnetic media specified by the FAA responsible official.

As stated above, EDMS currently is not designed to perform air toxic analyses for aviation sources, and may be supplemented with other air toxic methodology and models in consultation with the appropriate FAA regional program office. Use of supplemental methodology and models for more refined analysis of *non-aviation* sources also is permitted in consultation with the appropriate FAA regional program office.

This policy is being issued in order to ensure consistency and quality of analysis performed to assess the air quality impacts of airport emission sources for purposes of complying with NEPA and general conformity requirements.

Issued in Washington, DC, on April 6, 1998.

Paul R. Dykeman,

Deputy Director of Environment and Energy.

[FR Doc. 98–9641 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting to be held April 27–May 1, 1998, starting at 9 a.m. on April 27. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Washington, DC 20036.

The agenda will be as follows:

Specific Working Group Sessions: April 27: Working Group (WG)–2, WAAS, Rooms A and B; WG–4B Airport Surface Surveillance, Room C; April 28: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; WG–2, WAAS, Room C; April 29: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; WG–2, WAAS, Room C; WG–2A, GPS/GLONASS, Room D, 9 a.m.–12 noon; WG–2C, GPS/Inertial, Room D, 1 p.m.–4:30 p.m.; April 30: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B, 9 a.m.–12 noon.

Plenary Session Agenda, April 30, 1:30 p.m.–4:30 p.m., Rooms A and B; May 1, 9 a.m.–4:30 p.m., Rooms A and B: (1) Chairman's Introductory Remarks; (2) Review/Approval of Minutes of Previous Meeting; (3) Review WG Progress and Identify Issues for Resolution: (a) GPS/WAAS (WG–2); (b) GPS/GLONASS (WG–2A); (c) GPS/Inertial (WG–2C); (d) GPS/Precision Landing Guidance and Airport Surface Surveillance (WG–4); (e) Interference (WG–6); (4) Review of EUROCAE Activities; (5) Review/Approval of Proposed Final Drafts: MASPS for LAAS Cat I/II/III, Interface Control Document for LAAS, and Change 3 to RTCA/DO–229; (6) Assignment/Review of Future Work; (7) Other Business; (8) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. Harold Moses, RTCA Program Director, at (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 7, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–9647 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–3409]

Third Party CDL Knowledge and Skills Testing Pilot Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to conduct a pilot project; request for comments.

SUMMARY: The Federal Highway Administration is proposing a pilot project to evaluate the use of third party testers to administer commercial driver's license (CDL) knowledge testing under certain conditions. The FHWA is proposing this action in response to requests from Arizona, Colorado and Florida. These States desire this added flexibility as a means to streamline State Government and improve customer services. Upon completion of the pilot project, the FHWA would evaluate the results and make a final determination as to whether the integrity of the CDL

knowledge testing process and the security of the testing documents could be maintained under the administration of third party testers.

DATES: Comments should be received no later than June 12, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Alvarez, Office of Motor Carrier Research and Standards, HCS–20, (202) 366–4706, or Ms. Judy Rutledge, Office of the Chief Counsel, HCC–20, (202) 366–0834, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su__docs.

Background

Section 12005 (a) of the Commercial Motor Vehicle Safety Act of 1986 (the Act), Pub. L. 99–570, 100 Stat. 3207–170, –171 (codified at 49 U.S.C. 31305(a)), directs the issuance of minimum testing standards to ensure the fitness of drivers of commercial motor vehicles (CMV's). In general, the standards must include knowledge and skills tests. The knowledge test must cover the driver's knowledge of the Federal regulations related to the safe operation of CMV's and knowledge of the vehicle's safety systems. The skills test must cover basic vehicle control skills, safe driving skills, air brake skills, and pre-trip inspection skills. At a minimum, applicants for a CDL must pass standard knowledge and skills tests.

Section 12006 of the Act (49 U.S.C. 31308) requires the Secretary of the Department of Transportation (the Secretary), after consultation with the States, to prescribe minimum uniform standards for issuing CDLs, including the requirement to pass written and driving tests prescribed under 49 U.S.C. 31305(a). Section 12009 of the Act (49 U.S.C. 31311) sets the requirements for State participation in the CDL program and includes requirements that States adopt the testing and licensing standards issued by the Secretary under 49 U.S.C. 31305(a) and issue licenses only to individuals who pass written and driving tests that comply with minimum standards of the Secretary. Nowhere in the Act, however, is there a requirement that States actually administer the written and driving tests, nor is there a prohibition against contracting out the administration of tests to third parties.

The original Act, in section 12005(c)(3), specifically provided that the States could use third parties to administer driving skills tests with grant money then authorized. The Act made no mention of third party knowledge testing, and subsection (c) of section 12005, when codified at 49 U.S.C. 31312, remained applicable only to basic grants for which funding has not been available in several years.

According to the grant provision in section 12005(c)(3) of the Act, a third party may be a person or a department, agency, or instrumentality of a local government. The FHWA, in the third party skills testing standards (49 CFR 383.75), interpreted this provision to include any public or private organization having an agreement with the State. Examples of potential third party testers include employers, public transit authorities, school boards, and driver training schools.

States are considering the privatization of driver licensing operations through the use of third party providers to perform all or part of the licensing process including administration of the CDL knowledge tests. State licensing agencies believe that the use of third party testers to administer CDL knowledge tests will enable the States to reduce their workload and costs while improving customer service. The third party testers will bear the time and costs of administering the CDL knowledge tests. The States believe that competitive bidding for third party contracts will drive down the costs for administering the CDL knowledge tests, resulting in a cost savings to the consumers. They also believe that customer service will be improved by having more testing sites with more flexible hours of service throughout the State. This pilot project will enable those participating States to evaluate whether or not these beliefs are true.

The FHWA believes that a State should have the option of allowing third party testers to administer knowledge tests so long as the State implements proper safeguards to protect the integrity of the knowledge testing process and the security of the testing documents. The safety purposes of knowledge testing would be compromised if the integrity of the process was allowed to break down. The FHWA is proposing a pilot project to evaluate the use of third party testers to administer CDL knowledge testing under certain conditions.

Pilot Project

The FHWA proposes an 18-month pilot project, followed by a final report by each participating State. The participating States will submit their final reports to the FHWA within two months after completion of the pilot. The final report will be based on the FHWA's evaluation criteria. The FHWA will review and evaluate the project results in the submitted reports and make a determination as to whether or not to proceed with the rulemaking process to allow all States the choice to contract with third party testers to administer the CDL knowledge tests.

The FHWA will require each pilot State applicant to submit a plan describing their procedures for conducting the pilot. These procedures must be clear and concise and demonstrate that all the pilot project conditions specified by the FHWA will be followed.

Pilot State Selection

The FHWA will select up to six States from those States who submit proposals for participation. In making pilot State selections, the FHWA will consider the contents of the proposal, including the plan for carrying out the pilot, geographic location, and current CDL driver population of the State. The FHWA is interested in obtaining a diverse group of States for pilot purposes, if practicable.

State Proposal

States wishing to participate in the pilot project must submit a proposal plan that includes the following:

1. Selection criteria for third party testing organizations (testers), including type of organizations (e.g. driving schools, motor carriers, vocational schools, etc.);
2. Proposed number of third party testers;
3. Proposed number of examiners per third party tester;
4. Number of testing sites and identification of their locations;
5. Applicants third parties will examine (e.g. own employees, truck driving school students, etc.);
6. Training requirements for third party testers and examiners;
7. Percentage of total tests sites to be administered by third party testers;
8. Estimate of percentage of total tests to be administered by third party testers;
9. Clear and concise procedures for:
(a) Monitoring third party testers;
(b) Ensuring safe and secure shipment, receipt and storage of the tests;
(c) Conducting comprehensive background checks on potential third party knowledge testers for any violations which might compromise the administration of the CDL knowledge test;
(d) Verifying identity of test applicants;
(e) Imposing penalties on third party testers and examiners who breach test security;
(f) Monitoring pass/fail rates;
(g) Collecting evaluation data.

States participating in the pilot project must agree to participate during the entire period of the project. In addition, the States must submit quarterly progress reports and a final evaluation report based on the FHWA's evaluation criteria.

Security Measures

As a condition of the proposal, the State must agree to the following minimum security measures:
1. Prohibit use of fax machines, computers or cellular and non-cellular telephones in the transmission of knowledge tests and/or answer keys;
2. Prohibit test applicants from retaining a copy of the test questions or their completed knowledge tests;
3. Limit test applicant computer access only to programs which relate to the actual knowledge tests and test instructions or to information relating to the identity of the test applicant.

Quarterly and Final Reports

Quarterly reports must be submitted within two weeks after the end of each quarter. These reports must include the following information for the quarter:
1. Number of third party testers administering the knowledge test;
2. For each third party tester:
(a) Number of examiners being used;
(b) Number of test sites being used;
(c) Number of knowledge tests administered by type (e.g. general, passenger endorsement, tank vehicle endorsement, etc.);
(d) Pass/fail rates for knowledge tests administered by type.
(e) Breaches of security, including, but not limited to, testing materials being lost, stolen, or improperly secured;
(f) Incidences of cheating;
(g) Incidences of examiners found to be undermining the security of the written, oral, or automated tests;
(h) Increases/decreases in the pass/fail rate with an explanation for any changes;
(i) Other problems identified and proposed solutions.

The final report must be submitted to the FHWA within two months after completion of the pilot. This report will be based on the FHWA's evaluation criteria. The FHWA will review and evaluate the project results in the submitted reports and make a determination as to whether or not to proceed with the rulemaking process to allow all States the choice to contract with third party testers to administer the CDL knowledge tests.

Evaluation Criteria

The FHWA will evaluate the pilot project based on the following criteria:
1. Data collected in quarterly reports;
2. Uniformity of training/education preparation of test candidates;
3. Standardized test administration procedures;
4. Monitoring of third party testing by the State;
5. Increases/decreases in pass/fail rates;
6. Security procedures and practices used by the third party testers, focusing on the following elements:
(a) Monitoring the administration of the knowledge tests at the testing site at all times during the test;
(b) Ensuring the physical and procedural safeguards, for the shipment, receipt, and storage of test materials;
(c) Verifying the identity of test applicants before allowing them to begin the testing process;
(d) Reporting number of candidates found cheating;
(e) Reporting to the State those examiners who undermine the security of written, oral and/or automated knowledge tests;
(f) Comparative data for State administered knowledge tests for items a–e;
7. Cost/benefit analysis of using third party testers.

Request for Public Comment

The FHWA requests comments on the proposed third party CDL knowledge testing pilot project. The FHWA would also be interested in having the following six questions addressed:
1. Is 18-months sufficient time to conduct and evaluate such a pilot?
2. Should the FHWA consider additional criteria for selection of pilot project participants?
3. Should there be additional evaluation criteria?
4. Should there be additional security measures?
5. Should there be any other restrictions on who is authorized to be a third party tester and/or examiner?
6. Should there be a limit on the number of third parties conducting CDL knowledge testing within a State during the pilot?

Based on the comments received on this proposed pilot project, the FHWA will develop a solicitation for State proposals to participate in the pilot project.

Authority: 49 U.S.C. 31305; 23 U.S.C. 315; and 49 CFR 1.48.

Issued on: April 1, 1998.

Gloria J. Jeff,

Deputy Administrator, Federal Highway Administration.

[FR Doc.98–9689 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Sixteenth Meeting of the Motor Vehicle Safety Research Advisory Committee

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

ACTION: Meeting announcement.

SUMMARY: This notice announces the sixteenth meeting of the Motor Vehicle Safety Research Advisory Committee (MVSRAC) and a tentative agenda. The Committee was established in accordance with the provisions of the Federal Advisory Committee Act to obtain independent advice on motor vehicle safety research. Discussions at this meeting will include specific topics in NHTSA's Crashworthiness, Crash Avoidance and Behavioral research programs.

DATE AND TIME: The meeting is scheduled from 9:00 a.m.to 4:00 p.m. on April 29, 1998.

ADDRESSES: The meeting will be held in Room 6244–48 of the U.S. Department

of Transportation Building, which is located at 400 Seventh Street, S.W., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for motor vehicle safety research. The MVSRAC will provide information, advice and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

Tentative Agenda for April 29, 1998 MVSRAC Meeting

Research and Development Program Status

International Harmonized Research Activities

—Status and Plans

Subcommittee Reports

Crash Avoidance Subcommittee:

—Light Vehicle Antilock Brake Systems Working Group

Crashworthiness Subcommittee:

—Vehicle Aggressivity and Fleet Compatibility Working Group

—Advanced Air Bag Technology Working Group

—Biomechanics Working Group (Establishment)

Event Data Recorder Program

Intelligent Vehicle Initiative and Intelligent Transportation Systems Programs

Discussion of Future MVSRAC Activities and Membership

The meeting is open to the public, but attendance may be limited due to space availability. Participation by the public will be determined by the Committee Chairperson.

A public reference file (Number 88–01) has been established to contain the products of the Committee and will be open to the public during the hours of 9:30 a.m. to 4:00 p.m. at the National Highway Traffic Safety Administration's Technical Information Services office in Room 5110 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Coleman, Office of Research and Development, 400 Seventh Street, SW., Room 6206, Washington, DC 20590, telephone: (202) 366–1537.

Issued on: April 6, 1998.

Raymond P. Owings,

Acting Chairperson, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 98–9485 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Airline Service Quality Performance

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need for and usefulness of BTS collecting data on the timeliness of scheduled domestic passenger flights and the incidence of lost or damaged baggage. The 10 largest domestic passenger carriers report this data on a monthly basis.

Commenters should address whether BTS accurately estimated the reporting burden and if there are other ways to enhance the quality, utility and clarity of the information collected.

DATES: Written comments should be submitted by June 12, 1998.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

Comments: Comments should identify the OMB # 2138–0041 and submit a duplicate copy to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0041. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No: 2138–0041.

Title: Airline Service Quality Performance.

Type of Review: Extension of a currently approved collection.

Respondents: Large domestic passenger air carriers—Alaska Airlines, America West Airlines, American Airlines, Continental Air Lines, Delta Air Lines, Northwest Airlines, Southwest Airlines, Trans World Airlines, United Air Lines, US Airways.

Number of Respondents: 10.

Estimated Time Per Response: 19 hours.

Total Annual Burden: 2,280 hours.

Needs and Uses

Consumer Information

Since Part 234 has been effective, carriers' quality of service has improved, resulting in a decrease in the number of consumer complaints. The Department discloses the carriers' on-time performances and mishandled baggage information to the public. Airline passengers are now more informed to make carrier selections based on the quality of service provided.

Reducing Air Traffic Delays

Aircraft tail number, wheels-up and wheels-down time gives the FAA valuable data for pinpointing and analyzing air traffic delays. Wheels-up and wheels-down time are used in conjunction with departure and arrival times to show the extent of ground delays. Elapsed flight time (computed from the wheels-up time and the wheels-down time) reveals delays experienced in the air. The reporting of the aircraft tail number allows the FAA to track an aircraft through the air network, which enables the FAA to study the ripple effects of delays at hub airports. Data by aircraft type allows the FAA to calculate the capacity impacted by air traffic congestion. The data can be analyzed for airport design changes, new equipment purchases, the planning of new runways or airports based on current and projected airport delays, and traffic levels.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 98–9610 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

AGENCY: Advisory Committee to the National Center for State, Local, and International Law Enforcement Training.

ACTION: Notice of Meeting.

SUMMARY: The agenda for this meeting includes remarks by the Committee co-chairs, Elizabeth Bresee, Deputy Assistant Secretary (LE), Department of

the Treasury, and Laurie Robinson, Assistant Attorney General, Office of Justice Programs, Department of Justice and presentations regarding the Implementation of Adult Learning Methodologies, Bureau of International Narcotics and Law Enforcement Affairs, and the Office of Antiterrorism Assistance Program.

DATES: May 6, 1998.

ADDRESSES: Diplomatic Security Training Center, Dunn Loring, VA.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State, Local, and International Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524. 1–800–743–5382.

Dated: April 1, 1998.

Hobart M. Henson,

Director, National Center for State, Local, and International Law Enforcement Training.

[FR Doc. 98–9468 Filed 4–10–98; 8:45 am]

BILLING CODE 4810–32–M

UNITED STATES INFORMATION AGENCY

Proposed Collection; Comment Request

AGENCY: United States Information Agency.

ACTION: Proposed Collection; comment request.

SUMMARY: The United States Information Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection requirement concerning the public use form entitled ''USIA-Sponsored Educational and Cultural Exchange Activities, USIA Program Participant Survey Questionnaire''. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

USIA is requesting OMB approval for a three-year reinstatement and revision to the currently approved collection under OMB Number 3116–0199 which is scheduled to expire on July 31, 1998. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256.

DATES: Comments are due on or before June 12, 1998.

COPIES: Copies of the Request for Clearance (OMB–83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/AOL, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–4408, internet address: JGiovett@USIA.GOV; and OMB review: Ms. Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0199) is estimated to average forty five (45) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are voluntary and respondents will be required to respond only one time.

Comments are requested on the proposed information collection concerning (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency'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. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503.

Current Actions: USIA is requesting OMB approval for a revision to the total annual burden and the reinstatement of this collection for a three-year period.

Title: USIA-Sponsored Educational and Cultural Exchange Activities, USIA Program Participant Survey Questionnaire.

Form Numbers: N/A.

Abstract: In the interest of sound program management, USIA undertakes the collection of information about program effectiveness necessary to the management and evaluation of USIA funded educational and cultural exchange programs. USIA seeks clearance from OMB for these information collection activities among grantees and alumni/ae of these programs.

Proposed Frequency of Responses

No. of Respondents: 5,600.
Recordkeeping Hours: .45.
Total Annual Burden: 4,200.

Dated: April 8, 1998.

Rose Royal,

Federal Register Liaison.

[FR Doc. 98–9680 Filed 4–10–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Monday
April 13, 1998

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108

Unescorted Access Privilege: Address Change; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 29193; Amendment No. 107–11; 108–16]

Unescorted Access Privileges: Address Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In October 1995, the FAA published a final rule requiring employment history checks for individuals authorized access to a security identification display area (SIDA) of a U.S. airport. This final rule changes the Federal Aviation Administration address to which fingerprint cards required for certain employment checks must be forwarded. This final rule announces an administrative decision internal to the FAA and does not affect the substance of the October 1995 final rule.

EFFECTIVE DATE: May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Valencia, Office of Civil Aviation Security Policy and Planning, Policy and Standards Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3413.

SUPPLEMENTARY INFORMATION

Availability of Final Rules

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 800–FAA–ARAC).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future Notices of Proposed Rulemaking and Final Rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Amendments 107–7 and 108–12 required airport operators and air carriers to conduct employment investigations and disqualify individuals convicted of certain enumerated crimes from having, or being able to authorize others to have, unescorted access privileges to a security identification display area (SIDA) of a U.S. airport. (60 FR 51854; October 3, 1995.) This rulemaking was promulgated to enhance the effectiveness of the U.S. civil aviation security system by ensuring that individuals applying for unescorted access privileges do not constitute an unreasonable risk to the security of the aviation system.

One of the requirements of the final rule is that airport operators, under part 107, and air carriers, under part 108, submit the fingerprint cards required for certain employment investigation checks to the FAA at its 800 Independence Ave., NW., Washington, DC address. However, for administrative reasons, the Office of Civil Aviation Security has determined that the cards could be more efficiently processed at the FAA field office in St. Louis, Missouri. Therefore, the FAA is amending the rules to indicate this change of address. The newly designated office to receive the fingerprint cards is: Federal Aviation Administration, Room 4597E, 9700 Page Avenue, St. Louis, MO 63132.

Readers will observe that this address does not appear in the amended regulatory language. The reason for not putting a specific address in the rule language is that, for every change to this address, the FAA must amend the regulations, a process that expends resources unnecessarily. However, the FAA also realizes that, in the future, if a change in address occurs, airport operators and air carriers must, as a practical matter, have such information quickly. Therefore, the FAA had determined that it will disclose any changes via the respective security programs to ensure that airport operators and air carriers are notified of any change of address in an expeditious manner.

This change of address is effective in 30 days. The FAA believes that this constitutes sufficient notice for affected persons to effect the change.

Regulatory Process Matters

Because this is an administrative change with no substantive effect on any regulation and because the change of address constitutes no costs to regulated parties, the FAA has determined that prior notice and comment is unnecessary. The FAA also certifies that this administrative change will not impose a significant impact on small entities. In addition, it has also been determined that this final rule change is not a ''significant regulatory action'' under Executive Order 12866 nor is it a significant action under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979).

Paperwork Reduction Act

Information collection requirements found in § 107.31 and 108.33 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0564. There are no new requirements for information collection associated with this amendment.

List of Subjects in 14 CFR Parts 107 and 108

Air carriers, Air transportation, Airlines, Airplanes operator security, Aviation safety, Security matters, Transportation, Weapons.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 107 and 108 of Title 14, Code of Federal Regulations as follows:

PART 107—AIRPORT SECURITY

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701, 44702, 44706, 44901–44905, 44907, 44913–44914, 44932, 44935–44936, 46105.

2. Amend § 107.31 to revise paragraph (i)(4) to read as follows:

§ 107.31 Access investigation.

* * * * *

(i) * * *

(4) The fingerprint card must be forwarded to the Federal Aviation Administration at the location specified by the Administrator.

* * * * *

PART 108—AIRPLANE OPERATOR SECURITY

3. The authority citation for part 108 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40102, 40113, 40119, 44701–44713, 44901–44915, 44931–44937, 46105.

4. Amend § 108.33 to revise paragraph (e)(4) to read as follows:

§ 108.33 Access investigation.

* * * * *

(e) * * *

(4) The fingerprint card must be forwarded to the Federal Aviation Administration at the location specified by the Administrator.

* * * * *

Issued in Washington, DC on April 7, 1998.

Jane F. Garvey,

Administrator.

[FR Doc. 98–9643 Filed 4–10–98; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
April 13, 1998

Part III

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51882; FRL–5771–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from November 1, 1997 to November 7, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51882]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51882]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51882]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 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.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 32 Premanufacture Notices Received From: 11/01/97 to 11/07/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0111	11/03/97	02/01/98	Union Carbide Corporation	(S) Chemical intermediate	(S) 3-cyclohexene-1-carboxylic acid, methyl ester
P–98–0112	11/04/97	02/02/98	CBI	(S) Raw material used in the manufacture of photoresist	(G) Phenolic novolak resin
P–98–0113	11/04/97	02/02/98	The Goodyear Tire & Rubber Company	(S) Polymerization catalyst	(G) Cobalt based ziegler-natta catalyst
P–98–0114	11/04/97	02/02/98	Dow Corning	(S) Silicones sealant component	(G) Alkoxysily-functional polydimethylsiloxane
P–98–0115	11/04/97	02/02/98	CBI	(G) Open, non dispersive use	(G) Acrylic copolymer
P–98–0116	11/04/97	02/02/98	CBI	(G) Lubricant additive	(G) Ester copolymer
P–98–0117	11/03/97	02/01/98	CBI	(S) A dispersive dye for ink jet printer	(G) Polysulfonyl, copper phthalocyanine salts
P–98–0118	11/04/97	02/02/98	CBI	(G) Organic synthesis	(G) Morpholine, 4-(substituted-5-methoxyphenyl)sulfonyl]
P–98–0119	11/04/97	02/02/98	Dow Corning	(S) Silicone sealant component	(G) Alkoxysilyl-functional polydimethylsiloxane
P–98–0120	11/05/97	02/03/98	Ciba specialty chemicals corporation - textile dyes	(S) Dye for cellulosic fibers	(G) 2-nathalenesulfonic acid, 7-amino-4-hydroxy-, coupled with diazotized amino-[[[[-[[4-amino-sulfo-1-naphthalenyl]azo]phenyl]amino]-sulfophenyl]azo-2-naphthalenesulfonic acid and hydroxy-(phenylamino)-2-naphthalenesulfonic acid, sodium salts
P–98–0121	11/06/97	02/04/98	The Dow Chemical Company	(G) Prepolymer for isocyanate polyurethane	(G) Polyurethane prepolymer
P–98–0122	11/06/97	02/04/98	The Dow Chemical Company	(G) Polymer for bonding textiles and/or fibers	(G) Water dispersable polyurethane prepolymer
P–98–0123	11/05/97	02/03/98	CBI	(G) Dispersing agent	(G) Ammonium benzophenonecarboxylate
P–98–0124	11/06/97	02/04/98	Cytec Industries	(G) For use in the preparation of latex polymers	(G) Ureido maleates and fumarates
P–98–0125	11/06/97	02/04/98	Alox Corporation	(S) Rust preventive; corrosion inhibitor; lubricant; hydrotrope; cleaner	(G) Aliphatic amine salts of aliphatic acids
P–98–0126	11/06/97	02/04/98	Alox Corporation	(S) Rust preventive; corrosion inhibitor; lubricant; hydrotrope; cleaner	(G) Aliphatic amine salts of aliphatic acids
P–98–0127	11/06/97	02/04/98	Ciba Specialty Chemicals Corporation	(S) Basic dye for dyeing acrylic fibers	(G) Methine blue dye
P–98–0128	11/06/97	02/04/98	Ciba Specialty Chemicals Corporation	(S) Basic dye for dyeing acrylic fibers	(G) Methine blue dye
P–98–0129	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use.	(G) Styrene acrylate
P–98–0130	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use.	(G) Styrene acrylate
P–98–0131	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use	(G) Styrene acrylate
P–98–0132	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use.	(G) Styrene acrylate
P–98–0133	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use.	(G) Styrene acrylate
P–98–0134	11/06/97	02/04/98	SC Johnson Polymer	(G) Open, non-dispersive use.	(G) Styrene acrylate
P–98–0135	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Acrylic /aromatic copolymer
P–98–0136	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Ammonium salt of acrylic / aromatic copolymer
P–98–0137	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Monoethanolamine salt of acrylic/aromatic copolymer
P–98–0138	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Dimethylamino ethanol salt of acrylic/aromatic copolymer
P–98–0139	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Morpholine salt of acrylic/aromatic copolymer
P–98–0140	11/06/97	02/04/98	CBI	(G) Polymeric component of an ink or coating	(G) Sodium salt of acrylic/aromatic copolymer
P–98–0141	11/07/97	02/05/98	CBI	(G) A metal extractant	(G) Phosphoric acid ester

I. 32 Premanufacture Notices Received From: 11/01/97 to 11/07/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0142	11/07/97	02/05/98	CBI	(G) A metal extractant	(G) Phosphoric acid ester

II. 15 Notices of Commencement Received From: 11/01/97 to 11/07/97

Case No.	Received Date	Commencement/Import Date	Chemical
P–93–0058	11/07/97	10/07/97	(G) Alkyl methacrylates, cycloalkyl methacrylate, aminoalkyl methacrylate copolymer, alkylammonium salt
P–95–1131	11/07/97	10/27/97	(G) Acryl resin
P–95–1945	11/07/97	10/26/97	(G) Methacrylated polyolefin, capped with isocyanate
P–96–0758	11/06/97	11/03/97	(G) Dichloro, hydroxy, hydrazino-carbomonocycle-monohydrochloride
P–96–0936	11/07/97	10/21/97	(G) 2 Naphthalenol,1-[[phenyl azo] phenyl azo]-,alkyl derivatives.
P–96–1014	11/07/97	10/20/97	(G) Polydimethylsiloxane polymethylmethaxrylate graft copolymer
P–96–1217	11/07/97	10/07/97	(G) Polyethyleneimine derivative
P–96–1283	11/03/97	07/30/97	(G) Aliphatic polyol, polymer with aromatic polycarboxylic acid, ester with aliphatic alcohol
P–96–1425	11/04/97	10/09/97	(G) Salt of a modified tallow alkylenediamine
P–96–1426	11/04/97	10/10/97	(G) Salt of a fatty alkylenediamine derivative
P–96–1565	11/03/97	10/15/97	(G) Alkyl poly(oxyethylene) sulfuric acid ester, substituted amine salt
P–97–0618	11/03/97	09/25/97	(G) Isophthalic acid polymer with akanolamine, benzoic acid and modifier
P–97–0642	11/03/97	10/28/97	(S) Polyurethane polymer (complex polymer)
P–97–0822	11/03/97	10/23/97	(G) Modified polybutadiene
P–97–0880	11/03/97	10/27/97	(G) Alkylphenylpolyetheralkanolamine

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 4, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9674 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part IV

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51883; FRL–5771–9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from November 10, 1997 to November 14, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51883]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51883]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51883]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 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.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 24 Premanufacture Notices Received From: 11/10/97 to 11/14/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0143	02/10/98	CBI	(G) Coating resin, open, non-dispersive use	(G) Polyester polyurethane acrylic copolymer	
P–98–0144	11/12/97	02/10/98	CBI	(G) Dispersive use	(G) Poly carboxylic acid, sodium salt
P–98–0145	11/12/97	02/10/98	CBI	(G) Dispersive use	(G) Poly carboxylic, sodium salt
P–98–0146	11/13/97	02/11/98	CBI	(S) Organic synthesis intermediate	(G) Amino benzohetermonocycle
P–98–0147	11/12/97	02/10/98	CBI	(G) Open, non-dispersive	(G) Modified diphenylmethyane diisocyanate
P–98–0148	11/12/97	02/10/98	Eastman Kodak Company	(G) Contained use in an article	(G) Hexanoic acid, trisubstituted methylphenyl ester
P–98–0149	11/12/97	02/10/98	CBI	(S) Printing inks; wood coating	(G) Epoxy acrylate
P–98–0150	11/12/97	02/10/98	CBI	(S) Formulation component for uv curable inks; formulation component for UV or peroxide cured adhesives; UV curable coatings	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-
P–98–0151	11/12/97	02/10/98	CBI	(G) Open, non-dispersive (chelating agent)	(G) Amino carboxylate salt
P–98–0152	11/13/97	02/11/98	CBI	(G) Reactant in manufacturing of thermosetting adhesive polymer	(G) Disubstitution benzene ether
P–98–0153	11/13/97	02/11/98	Mona Industries, Inc.	(S) Paper conditioning; fabric, textile softening	(S) *B*-alanine, *n,n*-bis(2-aminoethyl)-*n,n*-disoya acyl derivative
P–98–0154	11/13/97	02/11/98	Air Products and Chemicals, Inc.	(S) Chemical vapor deposition	(S) Bis (tertiary butyl amino) silane
P–98–0155	11/13/97	02/11/98	CBI	(G) Reactant in manufacture of thermosetting adhesive polymer	(G) Disubstitution benzene ether, polymer with substituted phenol
P–98–0156	11/13/97	02/11/98	CBI	(G) Thermosetting adhesive polymer	(G) Phenolic polymer-modified silicone
P–98–0157	11/13/97	02/11/98	CBI	(G) Thermosetting adhesive polymer	(G) Phenolic polymer-modified silicone
P–98–0158	11/13/97	02/11/98	CBI	(G) Thermosetting adhesive polymer	(G) Phenolic polymer-modified silicone
P–98–0162	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(S) Butanedioic acid, bis[4-(ethenyloxy)butyl] ester
P–98–0163	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(S) Hexanedioic acid, bis[4-(ethenyloxy)butyl] ester
P–98–0164	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(G) Vinyl ether terminated polyester polymer
P–98–0165	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(G) Vinyl ether terminated polyester polymer
P–98–0166	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(S) 1-Butanol, 4-(ethenyloxy)-, benzoate
P–98–0167	11/14/97	02/12/98	Allied Signal Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesives (radiation curable)	(S) Cyclohexanemethanol, 4-[(ethenyloxy)methyl]-, benzoate
P–98–0177	11/13/97	02/11/98	Dow Corning	(S) Emulsifier	(G) Silicone glycol
P–98–0178	11/14/97	02/12/98	CBI	(G) Raw material for coil coatings	(G) Thermosetting polyacrylic resin, acrylamide type

II. 4 Notices of Commencement Received From: 11/10/97 to 11/14/97

Case No.	Received Date	Commencement/Import	Chemical
P–97–0542	11/12/97	10/10/97	(G) Heteromonocycle, 4-methyl-4-substituted-, methylsulfate
P–97–0543	11/12/97	10/10/97	(G) Heteromonocycle, 4-methyl-4-substituted-, methylsulfate
P–97–0719	11/13/97	10/23/97	(G) 3,6-Dihydroxy-4-(1,1-dimethylethyl)benzo-carbopolycycle

II. 4 Notices of Commencement Received From: 11/10/97 to 11/14/97—Continued

Case No.	Received Date	Commencement/Import	Chemical
P–97–0878	11/14/97	10/17/97	(G) Hydroxylamine

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 3, 1998.

Oscar Morales

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9673 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part V

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51884; FRL–5772–1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from November 17, 1997 to November 21, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51884]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51884]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51884]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 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.

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

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In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the stformat of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 27 Premanufacture Notices Received From: 11/17/97 to 11/21/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0159	11/18/97	02/16/98	CBI	(S) Curing agent for expoxy coating systems	(G) Polyamine adduct
P–98–0160	11/17/97	02/15/98	CBI	(S) Screen inks; flexo inks; plastic coatings	(G) Urethane acrylate
P–98–0161	11/17/97	02/15/98	Bush Boake Allen Inc.	(S) Fragrance for air freshers; fragrance for liquid detergent; fragrance for liquid surface cleaners; fragrance for soaps; fragrance for shampoo/ shower gel; fragrance for household products	(S) Propanoic acid, 2-methyl-1,7,7-trimethylbicyclo [2.2.1] hept-yl ester, Text
P–98–0168	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0169	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0170	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0171	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0172	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0173	11/17/97	02/15/98	CBI	(S) A crosslinking agent for epoxy-type coatings for metal substances	(G) Blocked aromatic polyisocyanate
P–98–0174	11/17/97	02/15/98	CBI	(G) Petroleum additive	(G) Phenyl azo acetate ester
P–98–0175	11/17/97	02/15/98	CBI	(G) Petroleum additive	(G) Phenyl azo acetate ester
P–98–0176	11/17/97	02/15/98	CBI	(G) Petroleum additive	(G) Phenyl azo acetate ester
P–98–0179	11/18/97	02/16/98	CBI	(G) Open, non-dispersive (coating material)	(G) Silane aspartate
P–98–0180	11/20/97	02/18/98	3M Company	(G) Resin	(G) Copolymer of aromatic diesters and alkyl polyols
P–98–0181	11/19/97	02/17/98	CBI	(G) Coating component	(G) Non-volatile emulsion acrylic polymer
P–98–0182	11/18/97	02/16/98	CBI	(G) Component of coating with open use	(G) Cationic aqueous resin disperion
P–98–0183	11/18/97	02/16/98	CBI	(G) Component of coating with open use	(G) Cationic aqueous resin dispersion
P–98–0184	11/21/97		CBI	(G) Open non-dispersive	(G) Benzene sulfonic acid 4-[[1-[[(-2-(*r*) phenyl) amino carbonyl] -2 oxopropyl] azo] -3 nitro
P–98–0185	11/20/97	02/18/98	CBI	(G) Pesticide inert	(S) Ethanol, 2,2′,2″-nitrilotris-, compound with alpha-[2,4,6-tris (1-phenylethyl)phenyl]-omega-hydroxypoly (oxy-1,2-ethanediyl)phosphate
P–98–0186	11/18/97	02/16/98	CBI	(G) Dye for printing material	(G) Magenta azo sulphonic acid, sodium
P–98–0187	11/20/97	02/18/98	UOP	(G) Catalyst precursor	(G) Ligand
P–98–0188	11/20/97	02/18/98	UOP	(G) Catalyst precursor	(G) Ligand
P–98–0189	11/20/97	02/18/98	UOP	(G) Catalyst precursor	(G) Ligand
P–98–0190	11/20/97	02/18/98	UOP	(G) Catalyst precursor	(G) Ligand
P–98–0191	11/20/97	02/18/98	UOP	(G) Contained use, isolated intermediate for chemical manufacturing process	(G) Aromatic sulfonic, alkali metal salt
P–98–0192	11/20/97	02/18/98	Reichhold Chemicals Inc.	(S) Binder in uv curable inks & coatings	(G) Epoxy acrylate ester
P–98–0195	11/21/97	02/19/98	CBI	(G) Highly dispersive use	(G) Trisubstituted aliphatic aldehyde

II. 19 Notices of Commencement Received From: 11/17/97 to 11/21/97

Case No.	Received Date	Commencement/Import Date	Chemical
P–92–0403	11/18/97	11/07/97	(G) Azou coupling a substitution hydroxy naphthalene carbanilene sulfonic acid a substituted
P–95–1288	11/18/97	11/11/97	(S) 2-Naphthalenol, octyl
P–97–0408	11/18/97	11/07/97	(G) Fatty acids, ester
P–97–570	11/20/97	1/18/97	(G) Carbamony-4–(3-substituted-phenyl-5-phenylazollan
P–97–0646	11/21/97	10/29/97	(G) Polymer from methylene diphenyl diisocyanate and polymer from hexanedioic acid 1,4, butane diol and 2,2 (dimethyl-1,3-propane diol)
P–97–0647	11/21/97	10/29/97	(G) Polymer from methylene diphenyl diisocyanate and polymer from hexanedioic acid 1,4, butane diol and 2,2 (dimethyl-1,3-propane diol)
P–97–0673	11/19/97	11/17/97	(G) Acrylate functional polyester
P–97–0680	11/21/97	11/12/97	(G) Poly(oxymethyl-1,2 ethanedily alpha, hydro-omega hydro, polymer with diisocyanate methyl benzene
P–97–0681	11/21/97	11/12/97	(G) Reaction product of 2-oxepaneone,2,2 oxybis ethanol and dicyclohexane-4,4-diisocycanate and hexanedioic
P–97–0682	11/21/97	11/12/97	(G) Reaction product of 2-oxepaneone,2,2 oxybis ethanol and dicyclohexane-4,4-diisocycanate and hexanedioic
P–97–0754	11/18/97	10/26/97	(G) Blocked isocyanate
P–97–0848	11/20/97	10/29/97	(G) 2-Propenone acid, polyester with vinyl monomers, salt disodium, disodium disulfide initated
P–97–0865	11/18/97	10/29/97	(G) Non-volante acrylic copolymer
P–97–0875	11/19/97	10/28/97	(G) Methacrylic acid ester
P–97–0876	11/19/97	10/28/97	(G) Methacrylic acid ester
P–97–0877	11/19/97	10/28/97	(G) Methacrylic acid ester
P–97–0885	11/19/97	10/28/97	(G) Methacrylic acid ester
P–97–0929	11/18/97	11/06/97	(G) Disubstituted acetonitrile
P–97–0960	11/19/97	10/28/97	(G) Epoxy resin

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 1, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9672 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part VI

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51885; FRL–5772–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from November 24, 1997 to November 28, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51885]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51885]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51885]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

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Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 16 Premanufacture Notices Received From: 11/24/97 to 11/28/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0193	11/24/97	02/22/98	CBI	(G) Binder resin for lithographic printing inks	(G) Tall oil fractions, unsaturated hydrocarbons resins, dieneophile modified polymer with pentaerythritol and polyalkyiene oxide.
P–98–0194	11/24/97	02/22/98	Zeon America Inc.	(S) Optical parts substrates (lens, prism, etc.)	(G) Cycloolefin polymer
P–98–0196	11/25/97	02/23/98	UOP	(G) Contained use catalyst precursor for petrochemical (hydrocarbon) process	(G) Transition metal salt
P–98–0197	11/28/97	02/27/98	CBI	(G) Open, non-dispersive use	(G) Hydroxy oligomer
P–98–0198	11/25/97	02/23/98	CBI	(G) Destructive use	(S) Phenol, 5-amino-2,4-dichloro-, hydrochloride
P–98–0199	11/25/97	02/23/98	Dupont	(G) Protective coatings and surfaces	(G) Polyvinyl fluoride copolymer
P–98–0200	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0201	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0202	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0203	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0204	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0205	11/28/97	02/26/98	CBI	(G) Protective coating additive	(G) Fatty acid modified phenolic polymer
P–98–0206	11/28/97	02/26/98	CBI	(G) Intermediate	(G) Perfluoroalkyl chlorosilane
P–98–0209	11/28/97	02/26/98	CBI	(G) Dampeneing fluids	(G) Bis-perfluoroalkyl disiloxane
P–98–0212	11/24/97	02/22/98	CBI	(G) Open, non-dispersive use	(G) Substituted phenyl bis (substituted aminophenyl) methylium salt
P–98–0213	11/28/97	02/26/98	CBI	(G) Open, non-dispesive use	(G) Acrylic resin

II. 4 Notices of Commencement Received From: 11/24/97 to 11/28/97

Case No.	Received Date	Commencement/Importer	Chemical
P–97–0504	11/25/97	11/06/97	(G) Haloaromatic aldehyde
P–97–0578	11/28/97	11/14/97	(G) 3-carbomoyl-4-[3-substituted-phenylazo]-1-phenyl-5-pyrazolone
P–97–0812	11/24/97	11/19/97	(S) Naphthalenesulfonic acid, methylenebis-, compound with 2,22-nitrilotris (ethanol) (1:2)
P–97–0883	11/24/97	11/11/97	(S) Polymer of: poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:1); cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 1, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9671 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part VII

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51886; FRL–5772–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from December 1, 1997 to December 6, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51886]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51886]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51886]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 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.

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

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In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

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EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 22 Premanufacture Notices Received From: 12/01/97 to 12/06/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0207	12/02/97	03/02/98	H. B. Fuller Company	(S) Epoxide curative	(G) Polyether amine
P–98–0208	12/02/97	03/02/98	H. B. Fuller Company	(S) Epoxide curative	(G) Polyether amine
P–98–0210	12/02/97	03/02/98	CBI	(S) Component of an industrial coating that cures under exposure to ultraviolet light or electron beam	(S) Oxirane, methyl-, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and oxirane, 2-hydroxyethyl acrylate-blocked
P–98–0211	12/02/97	03/02/98	CBI	(S) Component of an industrial coating that cures under exposure to ultraviolet light or electron beam	(S) Poly(oxy-1,2-ethanediyl), alpha, alpha prime-[(1-methylethylidene)di-4,1-phenylene]bis[omega-hydroxy-, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate-blocked
P–98–0214	12/02/97	03/02/98	CBI	(G) Detergent additive	(G) Ethoxylated polyamine
P–98–0215	12/02/97	03/02/98	Witco Chemical Corporation	(S) Textile auxiliaries; paper debonders	(S) Poly(oxy-1,2-ethanediyl), alpha-[2-[methylbis[2-[(1-oxoisooctadecyl)amino]ethyl]ammonio]ethyl]-omega- hydroxy-, methyl sulfate (salt)
P–98–0216	12/02/97	03/02/98	Ifs Industries, Inc.	(S) Adhesive for plastic to wood lamination; adhesive for fire door assembly	(S) Resin acids and rosin acids, esters with pentaerythrito, polymers with adipic acid, 1,4-butanediol, diethylene glycol, 1,6-hexanediol, 1,1 ′-methylenebis[4-isocyanatobenzene], 2-oxepanone, phthalic anhydride and polypropylene glycol
P–98–0217	12/03/97	03/03/98	H. B. Fuller Company	(S) Adhesive for film-laminating a variety of substrates	(G) Amine salt of polyurethane polymer
P–98–0218	12/03/97	03/03/98	H. B. Fuller Company	(S) Adhesive for film-laminating a variety of substrates	(G) Amine salt of polyurethane polymer
P–98–0219	12/02/97	03/02/98	CBI	(G) Chemical intermediate	(G) Polyoxyalkylated alcohol
P–98–0220	12/04/97	03/04/98	Westvaco Corporation	(S) Hydrocarbon resin for lithographic inks.	(G) Rosin modified fatty acids, tall-oil, polymer with glycerol petroleum naptha, maleic anhydride and petroleum distillates
P–98–0221	12/04/97	03/04/98	Westvaco Corporation	(S) Hydrocarbon resin for lithographic inks.	(G) Rosin modified fatty acids, tall-oil, polymer with glycerol petroleum naptha, maleic anhydride and petroleum distillates
P–98–0222	12/03/97	03/03/98	CBI	(G) Open, non-dispersive use*	(G) Styrene acrylate copolymer
P–98–0223	12/05/97	03/05/98	CBI	(S) Chemical intermediate for lubricant additives; chemical intermediate for fuel additives	(G) Tertiary alkyl primary amines
P–98–0224	12/05/97	01/03/98	CBI	(G) Ingredient for use in consumer products; highly dispersive use	(G) Aromatic ketone
P–98–0225	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Propoxylated phenolic polymer
P–98–0226	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Ethoxylated phenolic polymer
P–98–0227	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Propoxylated phenolic polymer
P–98–0228	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Ethoxylated phenolic polymer
P–98–0229	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Propoxylated phenolic polymer
P–98–0230	12/05/97	03/05/98	CBI	(G) Protective coating	(G) Ethoxylated phenolic polymer
P–98–0237	12/05/97	03/05/98	Accorder Products Company, LTD.	(S) Acid dye for nylon fibers	(G) 2-anthracenesulfonic acid, 1-amino-4[[3-(substituted)-2,4,6-trimethylphenyl]amino]-9,10-dihydro-9,10-dioxo-, monosodium salt

II. 26 Notices of Commencement Received From: 12/01/97 to 12/06/97

Case No.	Received Date	Commencement/Import Date	Chemical
P–91–0931	12/05/97	11/25/97	(G) Polyurethane
P–95–1141	12/05/97	11/07/97	(G) Diketeonic aluminium chelate

II. 26 Notices of Commencement Received From: 12/01/97 to 12/06/97—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–1144	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1145	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1146	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1147	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1150	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1153	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1159	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1161	12/05/97	11/07/97	(G) Functional aluminium hydroxide
P–95–1169	12/05/97	11/07/97	(G) Functional clay
P–95–1170	12/05/97	11/07/97	(G) Functional clay
P–95–1171	12/05/97	11/07/97	(G) Functional clay
P–95–1173	12/05/97	11/07/97	(G) Functional clay
P–95–1186	12/05/97	11/07/97	(G) Functional clay
P–95–1187	12/05/97	11/07/97	(G) Functional clay
P–95–1189	12/05/97	11/07/97	(G) Functional clay
P–97–0077	12/02/97	11/07/97	(G) Vinyl ether urethane
P–97–0285	12/01/97	11/06/97	(G) Purge for hot melt polyurethane adhesives
P–97–0588	12/05/97	11/24/97	(G) Butanoic acid, 2,2′-bis(hydroxy methyl
P–97–0707	12/01/97	11/18/97	(G) Dicyanato butadiene
P–97–0823	12/04/97	10/23/97	(G) Tetraalkyl ammonium salt
P–97–0849	12/04/97	10/23/97	(G) Polyurethane based on 1,1′-disocyanate
P–97–0900	12/04/97	11/12/97	(G) Copolymer of aromatic diesters and alkyl polyol
P–97–0931	12/05/97	11/25/97	(G) Ether ester polymer
P–97–1008	12/05/97	11/19/97	(G) Polyurethane adhesive

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 1, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9670 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part VIII

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51887; FRL–5774–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from December 8, 1997 to December 12, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51887]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: 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 in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51887]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51887]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

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In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 17 Premanufacture Notices Received From: 12/08/97 to 12/12/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–0231	12/08/97	03/08/98	Westvaco Corporation	(S) Coupler/ carrier for corrosion inhibitors for oil well applications	(G) Rosin modified fatty acids, tall-oil, polymer with glycerol, petroleum naphtha, maleic anhydride and petroleum distillates, distillation lights
P–98–0232	12/08/97	03/08/98	Westvaco Corporation	(S) Coupler/ carrier for corrosion inhibitors for oil well applications	(G) Rosin modified fatty acids, tall-oil, polymer with glycerol, petroleum naphtha, maleic anhydride and petroleum distillates, distillation lights
P–98–0233	12/08/97	03/08/98	Westvaco Corporation	(S) Coupler/ carrier for corrosion inhibitors for oil well applications	(G) Rosin modified fatty acids, tall-oil, polymer with glycerol, petroleum naphtha, maleic anhydride and petroleum distillates, distillation lights
P–98–0234	12/09/97	03/09/98	3M Company	(S) Chemical intermediate	(G) Alkyl polyester resin
P–98–0235	12/09/97	03/09/98	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported vanadium catalyst
P–98–0236	12/09/97	03/09/98	CBI	(G) Raw material of resins	(S) 2-propenoic acid, [4-(hydroxymethyl)cyclohexyl]methyl ester
P–98–0238	12/09/97	03/09/98	Olin Corporation	(S) Film-former	(G) Methacrylate derivative copolymer
P–98–0239	12/11/97	03/11/98	AKZO Nobel Resins	(S) Resin used to manufacture industrial coatings	(S) 2-propenoic acid, 2-methyl-, 2-(1-oxa-4-azaspiro[4.5]dec-4-yl)ethyl ester, polymer with butyl 2-propenoate and 1,2-propanediol mono-2-propenoate, 2-hydroxy-3-[(1-oxoneodecyl)oxy]propyl ester, 2,2′-azobis[2-methylbutanenitrile]-initiated
P–98–0240	12/10/97	03/10/98	CBI	(G) Open, non-dispesive use	(G) Acrylic resin
P–98–0241	12/10/97	03/10/98	CBI	(G) Open, non-dispersive (catalyst)	(G) Aliphatic nitrogen heterocycle
P–98–0242	12/10/97	03/10/98	CBI	(G) Destructive use	(G) Styrene acrylic copolymer
P–98–0243	12/10/97	03/10/98	CBI	(S) Industrial coating	(G) Waterborne polyurethane dispersion based on a polyester polyol and 1,1′ methylenebis (4-isocyanatocyclohexane)
P–98–0245	12/12/97	03/12/98	CBI	(G) Resin for coating	(G) Modified acrylic resin
P–98–0246	12/12/97	03/12/98	CBI	(G) Resin for coating	(G) Modified acrylic resin
P–98–0247	12/12/97	03/12/98	Henkel Corporation	(G) Polyurethane intermediate	(G) Polyether aromatic urethane
P–98–0248	12/12/97	03/12/98	Henkel Corporation	(S) Rhenology modifier for: latex paints and latex adhesives	(G) Urethane polymer
P–98–0249	12/12/97	03/12/98	H.B. Fuller Company	(S) Fabric adhesive	(G) Polyester isocyanate prepolymer

II. 22 Notices of Commencement/Import Received Date 12/08/97 to 12/12/97

Case No.	Received date	Commencement/ Import	Chemical
P–95–1970	12/09/97	11/25/97	(G) Benzotrizole derivative
P–95–2079	12/11/97	12/02/97	(S) 4,8,13,17-tetraazaeicosane-1,20-diamine, 4,17-bis(3-aminopropyl)-8,13-bis[3-[bis(3-aminopropyl)amino]propyl]
P–96–0300	12/10/97	11/18/97	(S) Ethanol, 2-amino-, compounds with polyethylene glycol hydrogen sulfate C_{12-15}-alkyl ethers
P–97–0284	12/09/97	12/03/97	(G) Wild pepper
P–97–0310	12/09/97	11/21/97	(G) Carbarnate functional polyester
P–97–0385	12/08/97	11/10/97	(G) Polycarboxylate polymer
P–97–0413	12/09/97	11/20/97	(G) Hydrogen functional siloxane
P–97–0414	12/09/97	11/20/97	(G) Hydrogen functional siloxane
P–97–0460	12/10/97	11/07/97	(G) Organo silane ester
P–97–0534	12/11/97	12/07/97	(S) Hydrofluoric acid, reaction products with 4-methylmorpholine
P–97–0624	12/09/97	11/25/97	(G) Isocyanate-terminate polyester polyether polymer
P–97–0625	12/09/97	12/03/97	(G) Isocyanate-terminate polyester polyether polymer
P–97–0733	12/12/97	11/18/97	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine and a fatty alcohol.
P–97–0776	12/12/97	09/17/97	(G) Dimethyl poly siloxane mono (6-hydroxy-4-oxahexyl terminated), polymer with polyisocyanate

II. 22 Notices of Commencement/Import Received Date 12/08/97 to 12/12/97—Continued

Case No.	Received date	Commencement/ Import	Chemical
P–97–0862	12/09/97	11/11/97	(G) Alkyl methacrylate, copolymer with methacrylic acid ester of ethoxylated tridecyl alcohol
P–97–0890	12/12/97	11/19/97	(G) Acrylate copolymer with acrylonitrile
P–97–0933	12/11/97	11/10/97	(G) Carbonate-amine adduct
P–97–0968	12/11/97	11/15/97	(G) Epoxy resin
P–97–0969	12/11/97	11/14/97	(G) Urethane oligomer
P–97–0970	12/11/97	11/15/97	(G) Epoxy-amine adduct
P–97–0971	12/11/97	11/11/97	(G) Epoxy-amine adduct
P–97–0972	12/11/97	11/13/97	(G) Epoxy resin

List of Subjects

Environmental protection, Premanufacture notices.

Dated: April 1, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–9669 Filed 4–10–98; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
April 13, 1998

Part IX

Department of Transportation

Federal Aviation Administration

Explosives Detection Systems; Notices

Department of Transportation

Federal Aviation Administration

[Docket No. 28671]

RIN 2120–AF95

Explosives Detection Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final criteria for certification of explosives detection systems.

SUMMARY: The FAA is issuing the final Criteria for Certification of Explosives Detection Systems (EDS's) (hereafter referred to as ''Criteria''). The Criteria introduces minimum performance standards for EDS equipment designed to identify detonators. The prior EDS Criteria issued September 10, 1993, established minimum performance standards only for EDS equipment designed to identify main/bulk explosive charges. The current Criteria allows the FAA to certify EDS equipment that meets or exceeds either the minimum performance standards for explosive material categorized as main/bulk explosive charges, or the minimum performance standards for explosive material categorized as detonators. This action is responsive to 49 U.S.C. 44913 (formerly section 108 of the Aviation Security Improvement Act of 1990, Public Law 101–604), which requires the Administrator to certify, prior to mandating its deployment, that EDS equipment ''can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.''

EFFECTIVE DATE: May 13, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Armen A. Sahagian, Senior Engineer (ACP–400), Office of Civil Aviation Security Policy and Planning, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C., 20591, telephone (202) 267–7076.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the docket number of this notice.

Release of National Security and Sensitive Information

The Associate Administrator for Civil Aviation Security has determined that certain portions of the Criteria are of national security concern and require safeguarding from unauthorized disclosure pursuant to Executive Order 12356 (National Security Information). Further, pursuant to 14 CFR part 191 (Protection of Sensitive Security Information), certain unclassified information has been determined to be sensitive security information. Upon request, the complete Criteria will be provided to prospective manufacturers of explosives detection equipment, and other interested parties with a bona fide need to have the complete Criteria, provided such persons have appropriate authorization for access to U.S. Government national security information and/or sensitive security information.

Availability of Criteria

Persons requesting access to, or a copy of, the complete text (including all classified and sensitive security information) of the Criteria may write to the Federal Aviation Administration, Office of Civil Aviation Security Operations, Attention: FAA Security Control Point (ACO–400), Docket No. 28671, 800 Independence Avenue, SW., Washington, D.C. 20591.

Individuals requesting the classified portion of the Criteria must include information regarding authorizations and security clearances for access to U.S. Government national security information, and sufficient explanatory information supporting the request to demonstrate a bona fide need to know the information contained in the Criteria.

Background

The Criteria are responsive to the statutory mandate for testing and certifying EDS. The FAA has had a long-standing research and development (R&D) effort to counter the threat of explosive materials to civil aviation. Along with other technologies, the FAA invested in detonator detection R&D beginning in 1985. However, based upon early research, the FAA focused its R&D resources primarily on the detection of main/bulk explosive charges, because it appeared to be the most technologically feasible approach. The effort resulted in the September 10, 1993, Criteria (58 FR 47804), which established minimum performance standards for main/bulk explosive charges detection equipment; however, recent technological advances suggest that equipment capable of detecting the different types of detonators used to initiate or detonate an explosive may also be effective means of screening checked baggage. On August 30, 1996, the FAA published a Proposed Amendment to Criteria for Certification of Explosive Detection Systems (61 FR 46011) with a request for public comments by October 29, 1996, which was later extended to January 6, 1997 (61 FR 57511; Nov. 6, 1996). After considering the comments received, the FAA now considers it appropriate to adopt amendments to the minimum performance standards for the detection of detonators.

Detection of Main/Bulk Explosive Charges

During the past two decades, the FAA has been working on the development of explosive detection equipment, with the initial explosive detection research and development (R&D) efforts beginning in 1977. As part of these R&D efforts, in 1983 the FAA established a formal, internal statement of detection and false alarm performance goals for explosive detection equipment designed to identify main/bulk explosive charges in checked baggage, air cargo, carry-on baggage and on passengers. Based upon additional information and further evaluation, these FAA explosives detection goals were revised and upgraded in 1986 to reflect the changing terrorist threat to civil aviation. Portions of these performance requirements were further revised in August 1989 in anticipation of using explosives detection equipment for screening international checked baggage. In October 1991, the FAA completed an internal review of all previous studies, reviews, analyses and other materials associated with explosive detection. The review was the most extensive examination yet conducted of previous classified and unclassified technical reviews and available information on the amounts, types, and configurations of explosives used in attempted or successful acts of sabotage against civil aviation. This review culminated with the issuance of the Criteria (58 FR 47804; Sept. 10, 1993) which established minimum performance standards only for main/bulk explosive charges detection equipment.

Detection of Detonators

In October 1995, the FAA completed its compilation and analyses of detonator technical designs obtained during visits to 38 detonator manufacturers located in the United States and 20 other countries. These analyses were the most extensive

examinations on the types, materials, and configurations of detonators. As a result, the FAA developed a comprehensive database on detonators manufactured worldwide, as well as global detonator production and consumption profiles. The types of detonators specified in the Criteria were based, in part, upon reports which identified the types of detonators used in terrorists acts, as well as those likely to be used in future attempts to destroy or sabotage civil aviation, other modes of transportation, and physical structures. This analysis was conducted by the FAA with advice and consultation from U.S. and international explosive materials experts, and agencies of the United States and other governments.

Development of the Amended Criteria

The primary change to the September 10, 1993, EDS Criteria is the introduction of minimum performance standards for the detection of detonators. These standards are included in the portion of the document not published in the **Federal Register** because they involve national security and sensitive information. The principal purpose of the Criteria is to state that it is possible to obtain certification of an EDS to automatically detect explosive materials in two distinct ways, either by identifying bulk/main explosive charges, or by identifying detonators.

The changes to the September 10, 1993, EDS Criteria, which are published here, include a definition for the term ''explosive material.'' The definition distinguishes between two principal components of explosive material: bulk/main explosive charges and detonators.

Management Plan for Certification Testing

To facilitate testing of EDS candidate equipment under either of the two methods of explosives material detection, the Criteria references separate management test plans. The FAA previously developed a management test plan for EDS certification of bulk/main explosive charges detection equipment. A notice of availability of the draft management test plan was published in the **Federal Register** on June 22, 1993, for public comment (58 FR 33967). That management test plan, entitled FAA Management Plan for EDS Certification Testing, was based upon the National Academy of Science's General Testing Protocol for Bulk Explosive Detection Systems. A separate management test plan for EDS certification of detonator detection equipment is currently being developed. The FAA expects to issue a notice of availability of a draft management test plan for EDS certification of detonator detection equipment in the near future.

Discussion of Comments

The FAA received only one comment, from the Air Line Pilots Association (ALPA), to the unclassified sections of the Notice of Proposed Amendment to Criteria for Certification of Explosives Detection Systems, and five responses from commenters addressing sections that contain national security and sensitive information.

The Air Line Pilots Association opposes formal certification of detonator detection equipment as EDS on several grounds. First, ALPA states that it will be too difficult to detect detonators in cluttered bags, a problem ALPA believes will increase as terrorists become more sophisticated. The FAA agrees that the development of equipment to detect detonators in baggage, whether cluttered or not, is a difficult task. However, the FAA, in concert with foreign governments, has conducted extensive research that indicates detection of detonators is possible in cluttered baggage. The Criteria are designed to assure that only equipment that can reliably detect detonators, even in cluttered baggage, will be certified.

Second, ALPA opposes certification of detonator detection equipment because it would not detect bulk explosive material, even though that undetected explosive material is not part of a device designed to explode, i.e., there is no detonator present to initiate an explosion. The Air Line Pilots Association believes that the inability to detect such bulk explosive material poses some risk of catastrophic damage because of the instability of some explosive material. The FAA acknowledges that detonator detection equipment is not designed to detect bulk explosive material; however, EDS designed to detect bulk explosive material will not identify detonators. Both detonators and bulk explosive material could be transported aboard aircraft in violation of the hazardous materials regulations, and both would pose some risk. However, neither by itself is ''likely to be used to cause catastrophic damage to an aircraft.'' The FAA vigorously enforces the hazardous materials regulations and would take aggressive action in any instance where either a detonator or bulk explosive material is transported in violation of those regulations.

The Air Line Pilots Association also opposes certification of detonator detection equipment because it does not believe that a detonator is an ''explosive material'' as that term is used in the statutory provision on certification of EDS. The Air Line Pilots Association views certification of detonator detection equipment as weakening the existing Criteria. The FAA shares ALPA's commitment to ensuring that equipment is certified as an EDS only when it meets the rigorous standard of the statute, but does not agree with ALPA's analysis. A detonator is designed to explode, and contains explosives to achieve that purpose. More important, a detonator is a critical part of an explosive device. A narrow reading misses the real purpose of the statutory provision, which is to foster the development and certification of EDS equipment that reliably detect explosive devices that can cause catastrophic damage to aircraft. The FAA is committed to that goal, and will encourage all technologies that demonstrate the potential to reliably detect such explosive devices. The standards for certification of detonator detection equipment are very high and are not weaker than the standards for certification of bulk explosive detection equipment.

The FAA also fully considered the five comments to sections of the Proposed Amendment to Criteria that contain national security and sensitive information. The FAA's analysis and response to those comments has been placed in the non-public docket. The comments resulted in the addition of another detonator to the list of detonators and in minor revisions to the language of both the unclassified and confidential portions of the proposed amendment. The comments determined to contain sensitive security information, and the FAA's response to them, are available, upon written request to the FAA, to prospective manufacturers of explosives detection equipment and other interested parties with a bona fide need, provided such persons have appropriate authorization for access to U.S. Government national security information.

Revisions to the Proposed Amendment

Based upon comments it received, the FAA added one detonator to the list prescribed in the sensitive portion of the original proposal. Additionally, in the ''Component Testing'' section, FAA has deleted reference to detonator detection equipment in the discussion of explosives detection devices (EDS's).

Regulatory Evaluation

The FAA has considered the impact of the Criteria as required under Executive Order 12866 and under the Department of Transportation's

regulatory policies and procedures. The FAA has determined that this action is not significant under either of these directives. In addition, the FAA has determined that no cost-benefit analysis is needed for the Criteria and related matters such as the Management Test Plans. Any final EDS deployment decision will be subject to further review, according to the requirements of Executive Order 12866. In this regard, the Department determined that the rule authorizing deployment of an EDS for screening international flights was a major rule as defined in the Executive Order. Based upon circumstances and information available at the final rule stage in 1989, the FAA determined that the EDS available at that time, the Thermal Neutron Analysis (TNA) device, would be cost-beneficial. The FAA has not required, nor will it require the deployment of TNA or any other EDS until such equipment meets the prescribed requirements of 49 U.S.C. 44913. The FAA's deployment strategy requires deployment of effective EDS equipment in a cost-effective manner.

Information relevant to deployment decisions was developed in the 1989 final rule (54 FR 36946) in terms of the development, installation, and annual operating costs of a TNA device. However, as the EDS certification process proceeds and policies affecting EDS deployment are developed, all relevant issues influencing the ultimate decision on the timing and scope of deployment will be reviewed. The FAA will analyze the information submitted by manufacturers during the certification testing process to determine its effect on the scope and timing of deployment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to consider the impact of rules on small entities, that is, small businesses, non-profit organizations, and local governments. If there is a significant impact on a substantial number of small entities, the agency must prepare a Regulatory Flexibility Analysis.

The small entities that could be potentially affected by the implementation of this action are small business enterprises that are or might seek to become manufacturers of EDS equipment. The number of small business enterprises that are in, or that might seek to enter, this market cannot be determined.

The Criteria imposes minimal costs on those small business enterprises. These costs are primarily for obtaining access to or copies of the classified and sensitive security information portions of the Criteria. Because the incremental cost imposed by this proposed action is expected to be small, the FAA finds that this proposed action would not have a significant economic impact on a substantial number of small entities.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to comply with ICAO Standards and Recommended Practices and the Joint Aviation Regulations to the maximum extent practicable. The FAA is not aware of any differences that the Criteria would present.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with the Criteria.

The Amended Criteria (Excluding Sensitive Portions)

The following sets forth the entire text of the Criteria except those portions of the document that contain either national security information that requires safeguarding pursuant to Executive Order 12356, or sensitive security information that requires safeguarding pursuant to 14 CFR part 191. (Note: Paragraph markings (U) indicate that the content of the paragraph is unclassified consistent with standard procedures for paragraph markings in the original classified document.)

Criteria for Certification of Explosives Detection Systems

Introduction

(U) Prior to any requirement for the deployment or purchase of explosives detection equipment under 14 CFR, 49 U.S.C. 44913 (formerly section 108 of the Aviation Security Improvement Act of 1990, Public Law 101–604) requires the FAA to certify that, based upon the results of tests conducted pursuant to protocols developed in consultation with experts from outside the FAA, such equipment can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive materials likely to be used in attacks against commercial aircraft.

(U) The criteria establish the minimum acceptable performance requirements for an Explosives Detection System (EDS) to meet the mandate of 49 U.S.C. 44913 for certification by the FAA, and supersede previous EDS performance requirements established by the FAA.

Explosive Materials Definition

(U) For purposes of these Criteria for Certification of Explosives Detection Systems: ''Explosive materials'' consist of bulk/main explosive charges and detonators; a ''bulk/main explosive charge'' is an explosive which may be detonated or initiated by a detonator; and a ''detonator'' is a device, containing an initiating or primary explosive, used for initiating detonation if the bulk/main explosive charge.

Explosives Detection System (EDS) Definition

(U) An EDS is an automated device or combination of devices, which has the ability to detect, in passenger checked baggage, the amounts, types, and configurations of explosive materials as specified by the FAA. The term ''automated'' means that the ability of the system to detect explosive materials, prior to the initial automated system alarm, does not depend on human skill, vigilance, or judgment.

(Sensitive Portion of Document Deleted): In the full text of the classified Criteria document, this portion addresses alarm resolution requirements subsequent to the initial automated alarm.)

General Operational Requirements

(U) The EDS must detect and differentiate explosive materials from among all other materials found in checked baggage.

(U) The detection must not be dependent on the shape, position, orientation, or configuration of the explosive materials.

(U) The EDS must not pose a health hazard to system operators or the public (as detailed in 10 CFR part 20—Standards for Protection Against Radiation and 10 CFR part 51—Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and 21 CFR part 1020—Performance Standards for Ionizing Radiation Emitting Products).

(U) The EDS must not cause damage or significant residual alteration of the luggage or its contents, other than highly sensitive materials such as photographic film.

Detection Requirements

(U) The detection of explosive materials in checked baggage is affected by the type, quantity, and configuration of the bulk/main explosive charges or detonators, as well as the bag and its

contents. Depending on the type of detection equipment used, the EDS must reliably detect a mix of types and quantities of explosive materials selected by the FAA when any of these charges or detonators are present in checked baggage.

(U) The term ''checked baggage'' applies to all passenger bags destined for the cargo hold, including originating and transfer baggage, regardless of whether or not the bags accompany a passenger on a particular flight.

(Sensitive Portion of Document Deleted: In the full text of the classified Criteria, this portion contains two tables. The first table identifies the types and quantities of explosive materials (bulk/main explosive charges) that must be detected, the minimum detection rate for each category of bulk/main explosive charges; and the overall detection and maximum false alarm rates. The first table also specifies the requirement to detect the minimum quantity and larger quantities of each listed bulk/main explosive charge. The second table lists the makes, models, and U.N. classification numbers of detonators that must be detected, and the overall detection and maximum false alarm rates. The throughput requirement that appears in both the main/bulk explosive charges and detonator tables, is quoted under ''Overall Performance Requirements'' below, because it is the only item that is not sensitive security information.)

Overall Performance Requirements

(U) All the criteria pertaining to detection rate, false alarm rate, and throughput are based exclusively on the fully automated component(s) or element(s) of the system.

(Sensitive Portion of Document Deleted: In the full text of the classified Criteria document, this portion includes information regarding requirements for no human intervention, detection rate, and false alarm rate.)

(U) The cumulative minimum automated system throughput processing rate during the certification tests must be at least 450 bags/hour (not including alarm resolution).

Other Operational Issues

(U) In addition to the mandatory criteria discussed above, there are a number of other operational considerations that will influence any future FAA decision to require the purchase, deployment, and use of EDS for screening checked baggage. While these considerations are not mandatory for certification of EDS equipment, they should be factored into development and design decisions made by potential manufacturers and vendors of EDS equipment.

(U) The FAA has not yet established precise EDS parameters which would serve to define what is practical or cost-effective (e.g., precise physical characteristics such as unit weight and size, or precise unit cost). Given the variety of airport and air carrier operating environments, the FAA does not wish to foreclose the development of technologies which may work under some, but not all, operating conditions.

(U) The FAA can, however, provide potential manufacturers and vendors, as well as air carriers and airports with the following guidance. In general, EDS equipment that is less costly, smaller and lighter is more practical for use in a variety of airports than a system that is more expensive, larger, and heavier, especially if such equipment would require separate structures or substantial modifications of existing terminal structures for installation or operation. Also, systems which are easily operated and maintained, and are proven to be reliable, will be more acceptable than systems that require extensive specialized training for operation, calibration, and maintenance.

(U) In addition, systems with throughput rates that substantially exceed the minimum rate established in the certification criteria are operationally more efficient in many applications, and are less likely to cause delays and congestion when large numbers of passenger bags must be screened in short periods of time. Further, systems that can be more easily integrated into existing passenger and baggage processing systems would presumably be more acceptable to potential users.

(U) Trade-offs are often made among these and other operational considerations during the course of system design. For example, reliability, maintainability, and availability can usually be improved, but often at the expense of an increase in purchase price. While such trade-offs may not affect certification, they will be considered during decision making to require deployment of certified EDS.

System Certification

(U) The FAA will certify EDS equipment based upon the mandatory detection criteria and develop a list of certified equipment that would be eligible for use by air carriers. Additional action must be taken by the FAA to require the deployment of certified EDS to screen checked baggage.

(Sensitive Portion of Document Deleted: In the full text of the classified Criteria document, this portion contains information on the Act's requirement to detect likely-to-be-used explosive materials.)

(U) The FAA will not require air carriers to use certified EDS equipment until such time as the FAA determines that such equipment is available in sufficient quantities to satisfy air carrier and airport operational concerns, and is practical for use under realistic air carrier operating conditions (e.g., cost, size, weight, reliability, maintainability, and availability), and cost-effective.

(U) The FAA will only certify complete systems. It will not certify or allow for use, individual component devices. Prior to final certification, the FAA will require manufacturers and vendors to provide full system documentation. This documentation will include, but is not limited to: recommended system installation and calibration procedures; minimum essential test equipment and devices; routine field testing procedures and test objects to be used; routine and emergency operation procedures; field preventative maintenance and repair procedures; and training programs.

Certification Testing

(U) Testing of bulk/main explosive charges detection equipment presented to the FAA for EDS certification, will be performed in accordance with the FAA's Management Plan for EDS Certification Testing, based upon A General Testing Protocol for Bulk Explosives Detection Systems, (National Advisory Board, final report 1993).

(U) Testing of detonator detection equipment presented to the FAA for EDS certification, will be performed in accordance with the FAA's Management Plan for EDS Certification Testing of Detonator Detection Equipment, based upon FAA's General Testing Protocol for Detonator Detection Systems.

(U) The FAA Technical Center in Atlantic City, New Jersey will perform certification tests for producers of candidate explosives detection systems. The EDS Certification Test Director in the Office of Aviation Security Research and Development is the point of contact.

(U) As required by both the FAA Management Plan for EDS Certification Testing, and the FAA Management Plan for EDS Certification Testing of Detonator Detection Equipment, manufacturers seeking FAA certification for their candidate EDS must submit complete descriptive data and their test results to the FAA prior to receiving permission to ship their equipment to the FAA Technical Center. The FAA reserves the right to visit manufacturers' facilities for technical quality assurance purposes, require and/or monitor in-

house tests, and review associated data prior to granting permission to ship equipment for certification testing.

(U) There may be extenuating circumstances that make it impractical for the equipment to be accommodated at the FAA Technical Center. Therefore, the FAA will consider requests for an exception that would permit equipment to be tested at a facility other than the FAA Technical Center. The written request must explain in detail why an exception is in the best interest of the U.S. Government and indicate the methods and procedures that will be used to conduct equivalent tests to those conducted at the FAA's facility.

(U) The FAA may recognize, on a reciprocal basis, EDS testing and certification conducted by a foreign government's aviation security organization. Such recognition by the FAA will be considered only if certain conditions are met. These conditions include, but are not limited to, the negotiation of an appropriate security technical exchange agreement which assures compliance with the FAA Criteria for Certification of Explosives Detection Systems using strict quality control procedures that are consistent with FAA testing procedures. The agreement must also provide for full reciprocity for certifications issued by both the foreign government aviation security organization and the FAA.

(U) All direct costs associated with testing and certification (e.g., insurance, shipping, installation, set-up, technical operation, maintenance, calibration, disassembly, and FAA laboratory testing costs) must be borne by the manufacturers or vendors. Both the FAA Management Plan for EDS Certification Testing, and the FAA Management Plan for EDS Certification Testing of Detonator Detection Equipment contain specific information on the incremental costs associated with tests performed at the FAA Technical Center facilities, or other locations.

(Sensitive Portion of Document Deleted: In the full text of the classified Criteria, this portion contains information pertaining to test objects used in EDS certification testing.)

Component Testing

(U) As part of the FAA Security R&D program, the FAA Technical Center evaluates explosives detection devices (EDD's) that do not meet all of the EDS performance standards. An EDD is an automated, uncertified EDS that is capable of meeting the partial detection requirements for bulk/main explosive charges, in the criteria. For instance, some of the devices that the FAA has evaluated have relatively low throughput rates and higher false alarm rates than the maximum acceptable rate. It will be possible under certain circumstances, for example, for a manufacturer of an automated EDD to have the FAA test and evaluate the device, even though it is not expected to fully meet the EDS certification criteria (e.g., false alarm rate or throughput).

(U) Although only complete systems can be certified, the FAA may attest to the performance of, but not certify or approve for use, EDD's or individual components. Attesting to the performance of EDD's is intended to assist manufacturers and vendors who are seeking partners with whom they can create a functioning EDS composed of multiple devices.

(U) Testing of EDD's will only be conducted: (1) on a first-come, first-served basis; (2) if adequate resources and facilities are available at the FAA Technical Center to permit such testing (The FAA will also consider requests to test the equipment at a facility other than the FAA Technical Center; these requests will be given the lowest priority and the testing will be performed only if it does not delay other testing being performed by the FAA Technical Center.); (3) at a lower precedence than EDS certification testing; and (4) if the FAA determines from the manufacturer's test data that there is a substantial likelihood that the device will meet the partial detection criteria.

(**Authority:** 49 U.S.C. 106(g), 5103, 40113, 40119, 44701–44702, 44705, 44901–44905, 44907, 44913–44914, 44932, 44935–44936, 46105)

Issued in Washington, DC, on April 7, 1998.

Jane F. Garvey,

Administrator.

[FR Doc. 98–9642 Filed 4–10–98; 8:45 am]

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federal register

Monday
April 13, 1998

Part X

The President

Proclamation 7079—National Former Prisoner of War Recognition Day, 1998

Federal Register
Vol. 63, No. 70
Monday, April 13, 1998

Presidential Documents

Title 3—

The President

Proclamation 7079 of April 9, 1998

National Former Prisoner of War Recognition Day, 1998

By the President of the United States of America

A Proclamation

Engraved on the Korean War Veterans Memorial in Washington, D.C., are the words ''Freedom Is Not Free.'' Generations of Americans who have served our Nation in uniform know the truth of this inscription. They have paid freedom's price by leaving behind their homes, families, and civilian lives to serve America around the globe. They have paid the price by suffering injuries and even death. And some have paid the price for our freedom by sacrificing their own as prisoners of war.

While in captivity, American prisoners of war have served our Nation with the same valor, pride, honor, and dedication as their comrades on the battlefield. American POWS have struggled for their freedom, armed with courage, wits, and an indomitable spirit. Enduring long months or years of hunger, abuse, torture, isolation, and the dreadful suspense of not knowing when—or if—they would ever be released, they have remained true to themselves and to our country.

This year we commemorate the 25th anniversary of Operation Homecoming, when we finally achieved the release of our prisoners of war from captivity in Southeast Asia. We also mark the anniversary of Operations Big Switch and Little Switch some 45 years ago, when Americans held captive during the Korean War finally came home. As these heroes returned to the open arms of their families and the grateful hearts of their fellow Americans, we saw written on their faces their deep love for our country and the faith, determination, and sense of honor that had sustained them through times of unimaginable suffering. We can never adequately express our gratitude to those who have served our Nation while prisoners of war or to their families who experienced such anguish during years of separation. But on this day, and throughout the year, we can and should pay tribute to these extraordinary American patriots, thank them for their service and their sacrifice, and honor them always in our hearts.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 1998, as National Former Prisoner of War Recognition Day. I call upon all Americans to join me in remembering former American prisoners of war who suffered the hardships of enemy captivity. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

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

William J. Clinton

[FR Doc. 98–9846
Filed 4–10–98; 8:45 am]
Billing code 3195–01–P

federal register

Monday
April 13, 1998

Part XI

The President

Proclamation 7080—National D.A.R.E. Day, 1998

Federal Register
Vol. 63, No. 70
Monday, April 13, 1998

Presidential Documents

Title 3—

The President

Proclamation 7080 of April 9, 1998

National D.A.R.E. Day, 1998

By the President of the United States of America

A Proclamation

Every child is blessed with infinite potential—potential for loving, for learning, and for making life better for others. Yet each year thousands of young people destroy this potential and risk their lives by using illegal substances. That is why the first goal of my 1998 National Drug Control Strategy is to educate America's young people on the dangers of substance abuse and to help them resist the temptations of drugs, alcohol, and tobacco.

Among our greatest allies in this mission are the parents, teachers, students, and police officers participating in Drug Abuse Resistance Education (D.A.R.E.), the largest substance abuse prevention and safety promotion program in America. This year, millions of children across the United States will benefit from the D.A.R.E. curriculum. Under the guidance of specially trained veteran police officers, America's children from kindergarten through 12th grade learn how to resist peer pressure and live productive lives free from violence and substance abuse. The D.A.R.E. program is currently being used in almost 75 percent of our Nation's school districts and in more than 44 countries around the world. And because it is so critical that we reach our young people during their most impressionable years, D.A.R.E. has pledged to expand into every middle school in our Nation by the year 2001.

Every American should reinforce D.A.R.E.'s efforts by accepting responsibility to join the fight against drugs and violence. Parents must set a good example, teach their children right from wrong, and educate them about the dangers of substance abuse. Young people themselves must have the courage to reject violence and drugs. And we must all support our Nation's D.A.R.E. officers in their mission to help our children reject illegal drugs. It is only by working together that we can create a brighter future for our children, our communities, and our Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 1998, as National D.A.R.E. Day. I call upon our youth, parents, and educators and all people of the United States to observe this day with appropriate programs and activities.

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

William J. Clinton

[FR Doc. 98–9932
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S. 758/P.L. 105–166

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600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
***13**	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
*140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
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20 Parts:			
1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
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21 Parts:			
1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
23	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
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26 Parts:			
§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
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§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
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§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
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600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

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29 Parts:			
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1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
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700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
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1–190	(869–032–00114–6)	42.00	July 1, 1997
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33 Parts:			
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200–End	(869–032–00122–7)	31.00	July 1, 1997
34 Parts:			
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36 Parts			
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200–299	(869–032–00128–6)	21.00	July 1, 1997
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52 (52.1019–End)	(869–032–00137–5)	32.00	July 1, 1997
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136–149	(869–032–00146–4)	35.00	July 1, 1997
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41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
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9		13.00	[3] July 1, 1984
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42 Parts:			
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43 Parts:			
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45 Parts:			
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46 Parts:			
1–40	(869–032–00170–7)	26.00	Oct. 1, 1997
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156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
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47 Parts:			
0–19	(869–032–00179–1)	34.00	Oct. 1, 1997
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1 (Parts 52–99)	(869–032–00185–5)	29.00	Oct. 1, 1997
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49 Parts:			
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50 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.