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OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1303

RIN 0348–AB42

Freedom of Information Act

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final rule.

SUMMARY: The Office of Management and Budget (OMB) is issuing a final rule revising its regulations implementing 5 U.S.C. 552, the Freedom of Information Act (FOIA). This final rule simplifies and streamlines OMB's FOIA regulations, and also implements the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231).

DATES: The final rule will be effective May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Darrell A. Johnson, FOIA Officer, Office of Management and Budget, at (202) 395–5715.

SUPPLEMENTARY INFORMATION: On October 9, 1997, (62 FR 52668), OMB requested public comment on proposed revisions to its regulations at 5 CFR 1303 implementing the Freedom of Information Act. This revision is necessary to: implement the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231 (E–FOIA); update OMB's regulations to reflect current practice; and streamline OMB's regulations to eliminate redundant or otherwise unnecessary materials.

OMB received one set of comments regarding the proposed revisions to OMB's FOIA regulations. The commenter raised several issues regarding the proposal, generally seeking clarification of provisions implementing E–FOIA. We will address each of these issues.

The commenter raised three issues regarding § 1303.10(d), which provides for expedited processing of FOIA requests. The commenter requested additional clarification (such as through examples) in § 1303.10(d)(1) for how OMB interprets the second, third, and fourth criteria for responding to a FOIA request on an expedited basis. OMB believes that, while further clarification on these criteria may be appropriate in the future, it is preferable at this point to review requests for expedited treatment under the proposed regulatory criteria; experience in reviewing such requests should indicate what type of clarification is needed. The commenter also asked whether OMB intends to provide expedited treatment only in response to an expedition request by the FOIA requester, or whether OMB would expedite a request on its own initiative or in response to an expedition request by a third party. While OMB expects that it would typically expedite its response to a FOIA request in response to an expedition request by the FOIA requester, there may be cases in which OMB would decide to expedite its response even if the FOIA requester has not asked for expedited treatment. In this regard, we should note that, as explained in the proposed rule (62 FR 52668), OMB does not have a centralized FOIA process in which requests are handled on a consecutive basis; thus, the processing of one request generally does not delay OMB's ability to respond to other requests. Finally, the commenter asked what constitutes ''certification'' under § 1303.10(d), which implements 5 U.S.C. 552(a)(6)(E)(vi). Under the provision, a requester may self-certify that the information provided, to demonstrate a compelling need for an expedited response, is—in the words of the E–FOIA requirement—''true and correct to the best of [the requester's] knowledge and belief.''

The commenter asked OMB to reconsider the 30-day limit in § 1303.10(e) for a FOIA requester to file an administrative appeal, and instead suggested a six-month time limit. Having considered the matter again, OMB continues to believe that 30 days is a reasonable period in which a requester can decide whether to file an administrative appeal of OMB's response to a FOIA request. It has been our experience that the vast majority of appeals are filed within a few weeks of OMB's response. In addition to providing the requester with sufficient time, a 30-day limit will also discourage the filing of ''stale'' appeals that could require OMB to duplicate much of the work done in response to the original request.

Regarding § 1303.10(g), the commenter suggested that OMB delete (or provide additional explanation regarding) the second sentence, which concerns the statutory consequences of a requester refusing to reasonably modify a request or arrange an alternative time frame for an agency response. OMB has retained the sentence, which is intended simply to alert requesters to the statutory consequences of refusing to reasonably modify a request or arrange an alternative response period (which is the subject of the first sentence in that paragraph).

Regarding § 1303.20, the commenter suggested that the regulations elaborate further on the procedures for gaining access to OMB's offices, in order to inspect or copy records. We believe that additional detail is not needed regarding the access procedures. As explained in the proposed rule (62 FR 52668), one of OMB's aims in revising its FOIA regulations has been to streamline them. Persons seeking to inspect or copy requested materials may write or phone the FOIA Officer, at the listed address and phone number.

Finally, the commenter asked for clarification regarding the statement in § 1303.60(c) that OMB would consider ''the time period over which the requests have occurred'' in determining whether it is reasonable to believe that multiple requests in fact constitute a single request. While further clarification might be appropriate in the future, we believe it is preferable at this point to review FOIA requests under the general standard and to see whether any specific clarification would be necessary or desirable.

One additional change has been made in the final rule. References to the ''Deputy Assistant Director for Administration'' have been changed to the ''FOIA Officer.''

Accordingly, OMB is revising its FOIA regulations by adopting the revisions as proposed.

Regulatory Flexibility Act, Unfunded Mandates Reform Act, and Executive Orders 12866 and 12875

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the final rule will not have a significant economic effect on a substantial number of small entities; the rule addresses the procedures to be followed when responding to requests for information under the Freedom of Information Act. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Orders No. 12866 and 12875, the rule would not significantly or uniquely affect small governments, and would not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more. Finally, the final rule is not a ''major rule'' under 5 U.S.C. chapter 8; the rule will not have any of the effects set forth in 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1303

Freedom of Information Act.

Franklin D. Raines,

Director.

For the reasons set forth in the preamble, OMB amends 5 CFR Part 1303 as follows:

PART 1303—[AMENDED]

1. The authority citation for part 1303 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. Section 1303.2 is revised to read as follows:

§ 1303.2 Authority and functions.

The general functions of the Office of Management and Budget, as provided by statute and executive order, are to develop and execute the budget, oversee implementation of Administration policies and programs, advise and assist the President, and develop and implement management policies for the government.

3. Section 1303.3 is revised to read as follows:

§ 1303.3 Organization.

(a) The brief description of the central organization of the Office of Management and Budget follows:

(1) The Director's Office includes the Director, the Deputy Director, the Deputy Director for Management, and the Executive Associate Director.

(2) Staff Offices include General Counsel, Legislative Affairs, Communications, Administration, and Economic Policy.

(3) Offices that provide OMB-wide support include the Legislative Reference and Budget Review Divisions.

(4) Resource Management Offices. These offices develop and support the President's management and budget agenda in the areas of Natural Resources, Energy and Science, National Security and International Affairs, Health and Personnel, Human Resources, and General Government and Finance.

(5) Statutory offices include the Office of Federal Financial Management, Office of Federal Procurement Policy, and the Office of Information and Regulatory Affairs.

(b) The Office of Management and Budget is located in Washington, DC, and has no field offices. Staff are housed in either the Old Executive Office Building, 17th Street and Pennsylvania Ave, NW., or the New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Persons desiring to visit offices or employees of the Office of Management and Budget, in either building, must write or telephone ahead to make an appointment. Security in both buildings prevents visitors from entering the building without an appointment.

5. Section 1303.10 is revised to read as follows:

§ 1303.10 Access to information.

(a) The Office of Management and Budget makes available information pertaining to matters issued, adopted, or promulgated by OMB, that are within the scope of 5 U.S.C. 552(a)(2). A public reading area is located in the Executive Office of the President Library, Room G–102, New Executive Office Building, 725 17th Street NW., Washington, DC 20503, phone (202) 395–5715. Some of these materials are also available from the Executive Office of the President's Publications Office, Room 2200 New Executive Office Building, 725 17th Street NW., Washington, DC 20503, phone (202) 395–7332. OMB issuances are also available via fax-on-demand at (202) 395–9068, and are available electronically from the OMB homepage at http:/www.whitehouse.gov/WH/EOP/omb. In addition, OMB maintains the Office of Information and Regulatory Affairs (OIRA) Docket Library, Room 10102, New Executive Office Building, 725 17th Street NW., Washington, DC 20503, phone (202) 395–6880. The Docket Library contains records related to information collections sponsored by the Federal government and reviewed by OIRA under the Paperwork Reduction Act of 1995. The Docket Library also maintains records related to proposed Federal agency regulatory actions reviewed by OIRA under Executive Order 12866 ''Regulatory Planning and Review''. Telephone logs and materials from meetings with the public attended by the OIRA Administrator are also available in the Docket Library.

(b) The FOIA Officer is responsible for acting on all initial requests. Individuals wishing to file a request under the Freedom of Information Act (FOIA) should address their request in writing to the FOIA Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Phone (202) 395–5715. Requests for information shall be as specific as possible.

(c) Upon receipt of any request for information or records, the FOIA Officer will determine within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such request whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request shall include the names of the individuals who participated in the determination, the reasons for the denial, and a notice that an appeal may be lodged within the Office of Management and Budget. (Receipt of a request as used herein means the date the request is received in the office of the FOIA Officer.)

(d) Expedited processing. (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which effect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information

dissemination, though it need not be his or her sole occupation. A requester within the category (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten days of its receipt of a request for expedited processing, OMB will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(e) Appeals shall be set forth in writing within 30 days of receipt of a denial and addressed to the FOIA Officer at the address specified in paragraph (b) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Deputy Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal public holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(f) In unusual circumstances, the time limits prescribed in paragraphs (c) and (e) of this section may be extended for not more than 10 days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the FOIA Officer. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected.

(g) With respect to a request for which a written notice under paragraph (f) of this section extends the time limits prescribed under paragraph (c) of this section, the agency shall notify the person making the request if the request cannot be processed within the time limit specified in paragraph (f) of this section and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of 5 U.S.C. 552 (a)(6)(C). When OMB reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, OMB may aggregate those requests for purposes of this paragraph. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(h) As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term ''unusual circumstances'' means:

(1) The need to search for and collect the requested records from establishments that are separated from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency which have a substantial subject matter interest therein.

6. Section 1303.20 is revised to read as follows:

§ 1303.20 Inspection and copying.

When a request for information has been approved pursuant to § 1303.10, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the FOIA Officer at the address or telephone number listed in § 1303.10(b). Such materials may be copied and reasonable facilities will be made available for that purpose. Copies of individual pages of such materials will be made available at the price per page specified in § 1303.40(d); however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner when copies also are offered for sale by the Superintendent of Documents.

7. Section 1303.30 (d) and (e) are revised to read as follows:

§ 1303.30 Definitions.

* * * * *

(d) The term *search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. OMB employees should ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. For example, employees should not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. Search should be distinguished, moreover, from review of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section).

(e) The term *duplication* means the making of a copy of a document, or of the information contained in it, necessary to respond to a FOIA request. Such copies can take the form of paper, microform, audio-visual materials, or electronic records (e.g., magnetic tape or disk), among others. The requester's specified preference of form or format of disclosure will be honored if the record is readily reproducible in that format.

* * * * *

8. In § 1303.40, paragraph (f) is revised to read as follows:

§ 1303.40 Fees to be charged—general.

* * * * *

(f) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed to the FOIA Officer, Office of Management and Budget, Washington, DC 20503.

* * * * *

9. In § 1303.60, paragraph (c) is revised and the concluding text of paragraph (d) is designated as paragraph (d)(3) and revised to read as follows:

§ 1303.60 Miscellaneous fee provisions.

* * * * *

(c) Aggregating requests. A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When OMB reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, OMB may aggregate those requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is

the time period over which the requests have occurred.

(d) Advance payments. * * *

(1) * * *

(2) * * *

(3) When OMB acts under paragraph (d)(1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (i.e., 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits), will begin only after OMB has received fee payments described in paragraphs (d)(1) and (2) of this section.

* * * * *

[FR Doc. 98–10967 Filed 4–24–98; 8:45 am]

BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation

AGENCY: Office of the Secretary, USDA.

ACTION: Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 1998 Tariff-Rate Quota Year.

SUMMARY: This document announces the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Richard P. Warsack, Licensing Authority, Import Policies and Programs Division, STOP 1029, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250–1029 or telephone at (202) 720–9439.

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service (FAS), under a delegation of authority from the Secretary of Agriculture, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.36 which provides for the issuance of licenses to import certain dairy articles which are subject to tariff-rate quotas at the low-tier tariff (TRQs) set forth in the Harmonized Tariff Schedule of the United States. These dairy articles may only be entered into the United States by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses for the quota year are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of licenses by the license holder to import dairy articles at the low-tier tariff is monitored by the Dairy Import Program Group, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, and the U.S. Customs Service.

The regulation at 7 CFR 6.34(a) states that whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of 6.23, is permanently surrendered or is revoked by the Licensing Authority, the amount of such license will be transferred to Appendix 2. Section 6.34(b) provides that the cumulative annual transfers will be published in the **Federal Register**. Accordingly, this document sets out revised Appendices for the 1998 tariff-rate quota year.

Issued at Washington, D.C. the 22nd day of April, 1998.

Richard P. Warsack,

Licensing Authority.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 6 is amended as follows:

1. The authority citation for Part 6, Subpart—Dairy Tariff-Rate Import Quota Licensing continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing are revised to read as follows:

BILLING CODE 3410–10–M

Appendices 1, 2 and 3 to Subpart--Dairy Tariff-Rate Import Quota Licensing

Articles Subject to: Appendix 1, Historical Licenses; Appendix 2, Nonhistorical Licenses; and Appendix 3, Designated Importer Licenses for Quota Year 1988

Article by Additional U.S. Note Number and Country of Origin NON-CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Butter (Note 6)	4,845,389	931,611		
EU-15	84,437	11,724		
New Zealand	134,195	16,398		
Other Countries	65,257	8,678		
Any Country	4,561,500	894,811		
Dried Skim Milk (Note 7)	600,076	3,060,924		
Australia	600,076			
Canada		219,565		
Any Country		2,841,359		
Dried Whole Milk (Note 8)	3,175	2,138,125		
New Zealand	3,175			
Any Country		2,138,125		
Dried Buttermilk/Whey (Note 12)	224,981			
Canada	161,161			
New Zealand	63,820			
Butter Substitutes containing over 45 percent of butterfat and/or butteroil (Note 14)		5,040,500		
Any Country		5,040,500		
TOTAL: NON-CHEESE ARTICLES	5,673,621	11,171,160		

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Cheese and substitutes for cheese (except cheese not containing cow's milk and soft ripened cow's milk cheese, cheese (except cottage cheese) containing 0.5 percent or less by weight of butterfat and articles within the scope of other import quotas provided for in this subchapter) (Note 16)	24,617,062	6,629,978	9,884,819	5,964,000
Argentina	7,690		92,310	
Australia	535,628	5,542	758,830	1,000,000
Canada	1,031,946	109,054		
Costa Rica				1,550,000
Czech Republic				200,000
EU-15	16,342,782	5,765,959	1,356,259	1,564,000
Of which Portugal is:	127,536	1,773	223,691	
Israel	79,696		593,304	
Iceland	294,000		29,000	
New Zealand	4,534,333	281,139	6,506,528	
Norway	133,854	16,146		
Poland	917,497	18,727		300,000
Slovak Republic				600,000
Switzerland	609,001	62,411	548,588	333,333
Uruguay				250,000
Other Countries	130,635	71,000		
Any Country		300,000		
Blue-mold cheese (except Stilton produced in the United Kingdom) and cheese and substitutes for cheese containing, or processed from, Blue-mold cheese (Note 17)	2,348,967	132,034		303,333
Argentina	2,000			
EU-15	2,346,966	132,034		200,000
Chile				53,333
Czech Republic				50,000
Other Countries	1			

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Cheddar Cheese, and cheese and substitutes for cheese containing, or processed from, Cheddar cheese (Note 18)	3,692,043	591,813	519,033	5,096,667
Australia	942,397	42,102	215,501	833,333
Chile				146,667
Czech Republic				50,000
EU-15	61,932	201,068		666,667
New Zealand	2,561,840	234,628	303,532	3,400,000
Other Countries	125,874	14,015		
Any Country		100,000		
American-type cheese, including Colby, washed curd and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing or processed from such American-type cheese (Note 19)	2,888,050	177,503	357,003	66,667
Australia	843,993	37,005	119,002	
EU-15	190,758	63,242		66,667
New Zealand	1,689,434	72,565	238,001	
Other Countries	163,865	4,691		
Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from, Edam and Gouda cheese (Note 20)	5,442,859	163,543		876,667
Argentina	123,538	1,462		110,000
Czech Republic				100,000
EU-15	5,176,341	112,659		666,667
Norway	117,579	49,421		
Other Countries	25,401	1		
Italian-type cheeses, made from cow's milk, (Romano made from cow's milk, Reggiano, Parmesan, Provolone, Provoletti, Sbrinz, and Goya-not in original loaves) and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21)	6,593,606	926,941	795,517	4,765,000
Argentina	4,011,489	113,994	367,517	1,890,000
EU-15	2,569,117	812,883		466,667
Poland				1,325,000
Romania				333,333
Uruguay			428,000	750,000
Other Countries	13,000	64		

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Swiss or Emmenthaler cheese other than with eye formation, Gruyere-process cheese and cheese and substitutes for cheese containing, or processed from, such cheeses (Note 22)	5,924,644	726,670	823,519	253,333
EU-15	4,488,387	663,607	393,006	253,333
Switzerland	1,361,497	57,990	430,513	
Other Countries	74,760	5,073		
Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat (except articles within the scope of other tariff-rate quotas provided for in this subchapter), and margarine cheese (Note 23)	3,933,284	366,308	1,175,316	
EU-15	3,758,376	366,308	125,316	
Israel			50,000	
New Zealand			1,000,000	
Poland	174,907			
Other Countries	1			
Swiss or Emmenthaler cheese with eye formation (Note 25)	18,866,277	3,431,054	9,557,945	2,246,667
Argentina	9,115		70,885	
Australia	209,698		290,302	
Canada			70,000	
Czech Republic				400,000
Hungary				800,000
EU-15	13,393,925	3,082,903	4,003,172	913,334
Iceland	149,999		150,001	
Israel	27,000			
Norway	3,396,673	258,637	3,227,690	
Switzerland	1,594,592	89,513	1,745,895	133,333
Other Countries	85,275	1		
TOTAL: CHEESE ARTICLES	74,306,792	13,145,844	23,113,152	19,572,334

[FR Doc. 98–11031 Filed 4–24–98; 8:45 am]
BILLING CODE 3410–10–C

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–98–301]

Cantaloups; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule will revise the United States Standards for Grades of Cantaloups. The standards are issued under the Agricultural Marketing Act of 1946, and are voluntary. This rule will revise the definition of decay in the definitions section of the standards. The change will provide that dry type decays will not be scored against the decay tolerance unless penetrating the rind and extending into the edible flesh of the melon. The regulation of cantaloups under the Marketing Order for Melons Grown in South Texas that is issued under the Agricultural Marketing Agreement Act of 1937 also will be affected by this change. This revision will result in a benefit to handlers and producers of cantaloups by allowing a more accurate scoring of dry type decays.

DATES: This rule is effective April 28, 1998. Comments must be received by June 26, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2065 South Building, Washington, D.C. 20090–6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720–2185.

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

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

The Agricultural Marketing Service (AMS) recently received a request from the Texas Produce Association (Association) to eliminate the definition of decay from the cantaloup standards in 7 CFR 51.490. The definition of decay in the present standards is as follows: ''Decay means breakdown, disintegration or fermentation of the flesh or rind of the cantaloup caused by bacteria or fungi.'' The current tolerances are one-half of one percent at shipping point for cantaloups affected by decay or mold and two percent en route or at destination for cantaloups affected by decay. Under Section 979.304 of the regulations (7 CFR 979.304) issued under Marketing Order No. 979, shipping point tolerances are applied. The Association is particularly concerned with the decay tolerances as they relate to Fusarium Rot, which may occur either as a soft or dry type decay. Currently, the restrictive decay tolerances are applied to both types of Fusarium Rot.

The Association contends that dry type decays, dry type Fusarium Rot specifically, affecting the rind of the melon when marketed under normal conditions, progress at a very slow rate and has not caused significant marketing problems. They do not suggest that dry type Fusarium Rot be ignored as it is recognized that, under certain circumstances, this disorder has the potential to become a significant marketing factor. However, in their opinion, this disorder, when found in the initial stages not penetrating into the edible flesh of the cantaloup, should not be covered under the same restrictive scoring guidelines as more destructive decays. This would permit shipments of additional marketable melons. Under the current definition of decay, a melon affected by Fusarium Rot is scored against the restrictive decay tolerance in all instances. The Association feels that scoring melons as decayed when Fusarium has not, and quite possibly may never affect the edible portion of the melon before it is consumed, is extremely harsh and accounts for unjustified rejections and adjustments.

According to the Agricultural Research Service of the USDA, as long as the dry rot lesion does not penetrate into the orange flesh and the epidermis is not split, the melon should hold, provided it is maintained at the recommended temperature and consumed within about 14 days.

The 1997 crop of Texas cantaloups was heavily infected with dry type Fusarium Rot. A major portion of the crop, when graded in accordance with the standard, failed a basic grade requirement under the current definition of decay and caused significant economic losses to Texas growers and handlers as a result. The Department seeks to promote a more accurate procedure to grade cantaloups so that melons which are affected by dry type decays are scored differently than those infected with more destructive types.

In reviewing the Association's request for removal of the definition of decay from the standards, AMS has concluded that a change to the definition is more appropriate and practicable and will accomplish the result requested by the Association.

Therefore, based on the request made by the Association, and to keep the grade standards current with marketing trends and commodity characteristics, this interim final rule will revise the definition of decay in the U.S. Standards for Grades of Cantaloups, § 51.490.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The United States standards issued pursuant to the Agricultural Marketing Act of 1946, and issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have compatibility.

There are approximately 450 cantaloup handlers and producers in the United States. Of these 450 handlers and producers, approximately 70 are from the State of Texas and produce/handle approximately 5 percent of the total crop. Approximately 16 handlers are regulated under the Marketing Order for Melons Grown in South Texas and there are approximately 33 producers in the production area. Approximately 320 growers and handlers are from the State of California and produce/handle approximately 60 percent of the crop, and, approximately 31 handlers and producers from the State of Arizona produce/handle 15 percent of the total crop. The remaining commercial

production of cantaloups is distributed throughout other various growing regions of the United States. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000 and small agricultural producers are defined as those having annual receipts of less than $500,000.

The cantaloup industry is characterized by producers and handlers whose farming operations involve more than one commodity, and whose income from farming operations is not exclusively dependent on cantaloup production. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the cantaloup production season is complete. Typical cantaloup producers and handlers either produce multiple crops or alternate crops within a single year. Therefore, it is difficult to obtain an exact number of cantaloup producers and handlers that can be classified as small entities based on the SBA's definition. However, it is estimated that the majority of handlers and producers of cantaloups may be classified as small entities.

This rule will revise the U.S. Standards for Grades of Cantaloups that was issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). In addition, the regulations under Marketing Order No. 979 (7 CFR Part 979), as issued under the Agricultural Marketing Act of 1937 (7 U.S.C. 601–674) references the U.S. Standards for Grades of Cantaloups, including the term ''decay'' and accordingly, the regulation of cantaloups grown in South Texas is affected. In the standards, the definition of decay applies to all four grades; U.S. Fancy, U.S. No. 1, U.S. Commercial and U.S. No. 2. This action changes the definition of decay to provide that dry type decays will not be scored against the decay tolerance unless penetrating the rind and extending into the edible flesh of the melon. This revision will be a benefit to producers and handlers by allowing a more accurate scoring of dry type decays. As a result, more melons are expected to be marketed that would otherwise be graded as defective.

It is estimated that total commercial cantaloup production in the U.S. was approximately 67 million cartons with an estimated value of $401 million. Cantaloup production covered under the Marketing Order for Melons Grown in South Texas comprises approximately 5 percent of the domestic market share.

AMS has determined that this action would not impose an additional reporting or recordkeeping requirement on either small or large cantaloup growers and handlers.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule, except that the regulation of cantaloups grown in South Texas under 7 CFR Part 979 would be affected by this action.

With regard to alternatives to this action, if no action were taken by the Agency, this could result in continued scoring of marketable melons with possible revenue loss by growers, shippers or handlers of these melons.

Accordingly, this action will make the standards more consistent and uniform with marketing trends and commodity characteristics.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule 30 days after publication in the **Federal Register** because: (1) Harvesting of the year's crop will begin in late April; (2) this revision should be made as soon as possible to make the standards more consistent and uniform with marketing trends and commodity characteristics; (3) cantaloup production is increasing on a yearly basis and further delaying the standards revision would result in the increased loss of marketable melons and subsequent revenue loss by growers and handlers; and, (4) this interim final rule provides a 60 day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR Part 51 is amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In part 51, § 51.490 is revised to read as follows:

§ 51.490 Decay.

Decay means breakdown, disintegration or fermentation of the flesh or rind of the cantaloup caused by bacteria or fungi; except that *dry type* decays will only be scored when penetrating the rind and extending into the edible flesh of the melon.

Dated: April 20, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–11040 Filed 4–24–98; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV97–930–6 FR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1997–98 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes final free and restricted percentages for the 1997–98 crop year. The percentages are 55 percent free and 45 percent restricted. These percentages establish the proportion of cherries from the 1997 crop which may be handled in normal commercial outlets and are intended to stabilize supplies and prices, and strengthen market conditions. The percentages were recommended by the Cherry Industry Administrative Board (Board), the body which locally administers the marketing order. The marketing order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

EFFECTIVE DATE: April 28, 1998 through June 30, 1998, and applies to all tart cherries handled from the beginning of the 1997–98 crop year.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing

agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This rule establishes final free and restricted percentages for tart cherries for the 1997–98 crop year, beginning July 1, 1997, through June 30, 1998. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. The regulations apply to all handlers of tart cherries that are in the regulated districts. Tart cherries in the free percentage category may be shipped to any market, while restricted percentage tart cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with section 930.59 or used for exempt purposes under section 930.62. The regulated Districts for this season are: District one—Northern Michigan; District two—Central Michigan; District four—New York; and District seven—Utah. Districts three, five, six, eight and nine (Southwest Michigan, Oregon, Pennsylvania, Washington, and Wisconsin, respectively) are not regulated for the 1997–98 season.

The order prescribes under section 930.52 that upon adoption of the order, those districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. Handlers not meeting the 15 million pound requirement shall not be regulated in such crop year. Therefore, for this season, handlers in the districts of Oregon, Pennsylvania, Washington, and Wisconsin are not subject to volume regulation. In addition, Southwest Michigan handlers are not subject to volume regulation this season because the estimated production fell below 50 percent of the average annual processed production in that district in the previous five years. Southwest Michigan's tart cherry production was subjected to a freeze during early bud development that reduced its crop yield for the 1997–1998 crop year.

Section 930.50(a) describes procedures for computing an optimum supply for each crop year. The Board must meet on or about July 1 of each crop year, to review sales data, inventory data, current crop forecasts and market conditions. The optimum supply volume is calculated as 100 percent of the average sales of the prior three years to which is added a desirable carryout inventory not to exceed 20 million pounds. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year.

The order also provides that on or about July 1 of each crop year, the Board is required to establish preliminary free and restricted percentages. These percentages are computed by deducting the carryin inventory from the optimum supply figure (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) and dividing that figure by the current year's USDA crop forecast. The carryin inventory figure reflects the amount of cherries that handlers actually have in inventory. If the resulting quotient is 100 percent or more, the Board should establish a preliminary free market tonnage percentage of 100 percent. If the quotient is less than 100 percent, the Board should establish a preliminary free market tonnage percentage equivalent to the quotient, rounded to the nearest whole percent, with the complement being the preliminary restricted percentage.

The Board met on June 26–27, 1997, and computed, for the 1997–98 crop year, an optimum supply of 247 million pounds. This number was calculated by using 270 million pounds for the average three year sales figure and subtracting 23 million pounds for exports that could have received diversion credit. The Board recommended that the carryout figure be zero pounds. Also at the June 26–27 meeting, the Board established preliminary free and restricted percentages. The Board calculated the preliminary free and restricted percentages as follows: The USDA estimate of the crop was 242 million pounds; a 70 million pound carryin added to that equaled a total available supply of 312 million pounds. The optimum supply was subtracted from the total estimated available supply resulting in a surplus of 65 million pounds of tart cherries. The surplus was divided by the production in the regulated districts and resulted in 66 percent free and 34 percent restricted for the 1997–98 season. The Board recommended these percentages by a 17 to 1 vote. No reason was provided for the one dissenting vote. No rulemaking was necessary at that time. The Board recommended the percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information for the 1997–98 crop year:

		Millions of pounds
Optimum supply formula:		
(1) Average sales of the prior three years		270
(2) Plus carryout		0
(3) Less amount for exports that would have received diversion credit		23
(4) Optimum Supply calculated by the Board at the June meeting		247

		Millions of pounds
Preliminary percentages:		
(5) Less carryin as of July 1, 1997		70
(6) Tonnage requirement for current crop year		177
(7) USDA crop estimate		242
(8) Estimated restricted percentage tonnage (item 7 minus item 6)		65
(9) USDA crop estimate for regulated districts		192
Percentages	Free	Restricted
(10) Preliminary percentages (item 8 divided by item 9) × 100	66	34

The Board may adjust the estimated crop production as the actual pack is realized and interim percentages may be announced between July 1 and September 15 of the crop year.

Section 930.50(d) of the order requires the Board to meet no later than September 15 to recommend final free and restricted percentages to the Secretary for approval. The Board met on September 11–12, 1997, and recommended final free and restricted percentages of 55 and 45, respectively. The Board recommended that the interim percentages and final percentages be the same percentages. At that time, the Board had available actual production amounts to review and made the necessary adjustments to the percentages.

The Secretary establishes final free and restricted percentages through an informal rulemaking process. These percentages would make available the tart cherries necessary to achieve the optimum supply figure calculated earlier by the industry. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent is the final restricted percentage.

The Board used a revised optimum supply figure of 270 million pounds for its final percentage calculations because it was determined that exports of 23 million pounds should not have been deducted from the average sales figure. At its March 1997 meeting, the Board had recommended that the Department modify the average sales under the optimum supply formula by deducting exports from the figure. The Department did not proceed with that recommendation since the promulgation record shows that average sales, as defined in the order, includes sales to all markets, including exports.

The optimum supply, therefore was 270 million pounds. The actual production recorded by the Board was 284 million pounds, a 42 million pound increase from the USDA crop estimate. The increase in the crop is due to very favorable growing conditions in portions of the State of Michigan this season.

A 70 million pound carryin was subtracted from the optimum supply, which yields a tonnage requirement for the current crop year of 200 million pounds. Subtracted from the actual production of 284 million pounds reported by the Board is the tonnage required for the current crop year (200 million pounds) which results in an 84 million pound surplus. An adjustment for changed economic conditions of 23 million pounds was added to the surplus, pursuant to section 930.50(f). This adjustment is discussed later in this document. This yielded a total surplus of 107 million pounds of tart cherries. The free and restricted percentages would only apply to those handlers in regulated districts. Therefore, the percentages would be calculated by dividing the restricted tonnage volume by the regulated districts' production. The total surplus of 107 million pounds is divided by the 239 million pound volume of tart cherries produced in the regulated districts. This results in a 45 percent restricted percentage and a corresponding 55 percent free percentage for the regulated districts.

Section 930.51(d) of the order provides that handlers should have a grace period of up to 30 days to establish their inventory reserves after final percentages have been established. Therefore, handlers have 30 days after the effective date of this rule to comply with the 45 percent restricted obligation requirement.

The final percentages are based on the Board's reported production figures and the following supply and demand information for the 1997–98 crop year:

		Millions of pounds
Optimum supply formula:		
(1) Average sales of the prior three years		270
(2) Plus carryout		0
(3) Optimum Supply calculated by the Board at the September meeting		270
Final percentages:		
(4) Less carryin as of July 1, 1997		70
(5) Tonnage required current crop year		200
(6) Board reported production		284
(7) Surplus (item 6 minus item 5)		84
(8) Economic adjustment to surplus		23
(9) Adjusted surplus (item 7 plus item 8)		107
(10) Production in regulated districts		239
Percentages	Free	Restricted
(11) Final Percentages (item 9 divided by item 10)×100	55	45

As previously mentioned, the Board had made an earlier recommendation to modify the optimum supply formula by defining average sales to not include exports that were granted diversion credit. It was determined that exports

should not have been excluded. Thus, the Board was unable to make the 23 million pound adjustment this season in the optimum supply. The Board thus recommended at its September meeting that the marketing policy be modified due to changes in economic conditions as specified under section 930.50(e)(5) and (7) and (f). Specifically, the Board recommended that the proviso in § 930.59(b) of the order be suspended for the 1997–98 year only and that diversion credit for exports of juice and juice concentrate be allowed for the 1997–98 crop year.

Also, at its meeting in March 1997, the Board recommended that handler exports of cherry products, including juice and juice concentrate, to countries other than Canada, Mexico, and Japan, receive diversion credit. During the production and processing of the crop, handlers have exported, or have contracted to export, tart cherry products, including juice or juice concentrate, and were operating under the impression that they could apply for and receive, diversion credit for such sales. Many of these exports were for the purpose of expanding existing markets or developing new markets. This issue was further addressed in a separate rulemaking action (see 63 FR 399, January 6, 1998).

By recommending the marketing policy modification, the Board believed that it would provide stability to the marketplace and the industry would be in a better situation for future years since new markets will have been developed. Board members discussed at that meeting that, if this adjustment is not made, growers could be paid less than their production costs, because handlers could suffer financial losses that would be passed on to growers. Handlers would have to meet their reserve obligations by other means. In addition, the value of cherries already in inventory could be depressed by 20 to 50 percent due to the abundant supply of available cherries, a result inconsistent with the intent of the order and the Act.

The changes in economic conditions that justified the recommended marketing policy modification are as follows: (1) The determination that export sales could not be removed from the optimum supply formula calculation was made late in the season; (2) handlers had made marketing plans, sales and sales commitments (including exports) based on the Board's recommendations made in March and June; and (3) prices received for tart cherries and tart cherry products could be severely impacted by an additional large volume of cherries being made available to the market when there is already an abundant supply of cherries.

The Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal is met by the establishment of a final percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under section 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board recommended that such release shall be made available to handlers the first week of December and the first week of May. Handlers can decide how much of the 10 percent release they would like to receive during the December and May release dates. Once released, such cherries are released for free use by such handler. Approximately 27 million pounds will be made available to handlers this season in accordance with Department Guidelines. This release would be made available to every handler and released to such handler in proportion to its percentage of the total regulated crop handled. If such handler does not take such handler's proportionate amount, such amount shall remain in the inventory reserve.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this final regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 1,220 producers of tart cherries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Board and subcommittee meetings are publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations usually represent the interests of both small and large business entities in the industry.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced and pureed. During the period 1993/94 through 1996/97, approximately 94 percent of the U.S. tart cherry crop, or 285.7 million pounds, was processed annually. Of the 285.7 million pounds of tart cherries processed, 63 percent was frozen, 32 percent canned and 3 percent utilized for juice. The remaining 2 percent was dried or assembled into juice packs.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward since the 1991/92 season. In the ten-year period, 1986/87 through 1996/97, tart cherry area decreased from 48,180 acres, to less than 42,000 acres. Approximately 78 percent of domestic tart cherry acreage is located in four States: Michigan, New York, Utah and Wisconsin. Michigan leads the nation in tart cherry acreage with 65 percent of the total. Michigan produces about 72 percent of the U.S. tart cherry crop each year. In 1996/97, tart cherry acreage in Michigan was down 2,700 acres, to 27,300.

In crop years 1986 through 1993, tart cherry production ranged from a high of 359 million pounds in 1987 to a low of 189.9 million pounds in 1991. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of

wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Growers testified during the order promulgation process that the average prices of 12 to 17 cents per pound which they received during this period did not come close to covering the costs of production for the vast majority of tart cherry growers. They also testified that production costs for most growers range between 20 and 22 cents per pound, which is well above average prices received.

As previously stated, this is the first year of operation for this marketing order. The industry demonstrated a need for such order during the promulgation process because large variations in annual tart cherry supplies tend to lead to disorderly marketing. As a result of these fluctuations in supply and price, growers receive less income for their tart cherries. The industry, therefore, chose a volume control marketing order to even out these wide variations in supply and improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers have been going out of business over most of the last eight years due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

In discussing the possibility of marketing percentages for the 1997–98 crop year, the Board considered: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in July 1997 of preliminary free and restricted percentages, and subsequent recommendation of interim and final percentages at its September meeting.

The Board recognized that the demand for tart cherries is inelastic at high and low levels of production. At the extremes, different factors become operational. The promulgation record states that in very short crops there is limited but sufficient exclusive demand for cherries that can cause processor prices to double and grower prices to triple. In the event of large crops, there seems to be no price low enough to expand tart cherry sales in the marketplace sufficient to market the crops.

The Board discussed alternatives to this recommendation. The Board discussed the feasibility of not having volume regulation this season. However, it was the Board's overall feeling that no volume regulation would be detrimental to the tart cherry industry. Returns to growers would probably not cover their production costs for this season.

The Board also discussed not granting exemptions, and diversion credit for such exemptions, for exports to eligible countries (including juice and juice concentrate), other exempt uses, and charitable donations. However, the Board felt this would not be in the best interest of the industry or the public. The Board expressed that not allowing the export and other exemptions would have a detrimental effect on the market this season if free and restricted percentages are imposed. Without such exemptions and diversion credits for export sales, new market development and other specified uses, about 50 million pounds of cherries would not be removed from the domestic market this season, depressing grower returns for all cherries. The marketing order was designed to increase grower returns by stabilizing supplies with demand as well as stabilizing prices and creating a more orderly and predictable marketing environment. Expanding markets and developing new products is key to meeting this marketing order's goals.

Not granting exemptions and diversion credit for exports to countries other than Canada, Mexico, and Japan was also discussed at Board meetings. However, the Board expressed that this recommendation is very important to creating stable conditions in the export marketplace this season and would encourage future market growth. The Board further stated that such action will improve returns to growers because of the tremendous growth in the export market this season. Exemptions and diversion credit have been addressed in other rulemaking actions.

As mentioned earlier, the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements have been previously approved by OMB and assigned OMB Number 0581–0177.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements.

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

A proposed rule concerning this action was published in the **Federal Register** on Wednesday, January 21, 1998 (63 FR 3048). Copies of the rule were also mailed or sent via facsimile to

all Board members and cherry handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register.

A 15-day comment period was provided to allow interested persons to respond to the proposal. Fifteen days was deemed appropriate because a rule finalizing the action would need to be in place as soon as possible since handlers are currently marketing 1997–98 crop cherries.

One comment was received during the comment period in response to the proposal. The comment addressed the proposed rule published in the **Federal Register** on January 21, 1998, concerning final free and restricted percentages which are being finalized in this rulemaking. The commenter represents a tart cherry association in the State of Oregon. The comment also responded to a request for comments made in the interim final rule published in the **Federal Register** on January 6, 1998 (63 FR 399). That document established regulations for handler diversion and included a temporary suspension of order provisions. To the extent that the comment addressed issues relating to the January 6, 1998, publication, that portion of the comment will be discussed, as appropriate, in the final action concerning that document which will be published separately from this action.

With respect to the proposed rule which preceded this action, the commenter disagreed with a statement contained in the initial regulatory flexibility analysis and that also appears in the final regulatory flexibility analysis in this action. The statement indicated that Board meetings are widely publicized in advance and are held in a location central to the production area. The commenter stated that to date meetings have been central only to those producers and handlers in the Michigan districts. No fewer than five Board members and their alternates spend almost a full day commuting to Board meetings. Secondly, the commenter commented that access to the meetings is limited to those who have the resources of money and time to make such a commitment. Most of those present represent large growers and handlers. The commenter believes that Board recommendations usually represent the interests of primarily large business entities. The commenter also stated that the Board does a poor job of publicizing Board and subcommittee meetings. To the commenter's knowledge, meetings are announced among participants and in no way are published in agricultural or business trade journals or newspapers in the production districts. According to the commenter, growers and handlers are not receiving a notice of all meetings. Finally, the commenter urged the Department to rule on the identity and nature of CherrCo, Inc., a new entity in the tart cherry industry, as it relates to the Federal tart cherry marketing order.

In regard to the commenter's first issue of meetings being held in a location central to the production, the Board also has to consider the cost of travel for all Board members since the Board pays travel expenses for all of its members. The first meetings held in December of 1996 and throughout 1997 were attended by all members and their alternates. A Board recommendation was passed that the start-up meetings be attended by the alternates so they would be involved and aware of Board activities. It would have resulted in considerable expense to the Board to hold the meetings outside of Michigan since 16 members and alternates are from the State of Michigan. The Board realizes the time spent in travel could be inconvenient for some of the other Board members and has made a commitment to hold the June marketing policy meeting in Michigan and the September marketing policy meeting in a district outside of Michigan. The Board is also committed to holding meetings outside the Michigan districts to allow producers and handlers to attend the meetings and cut down on travel time for those not located in Michigan.

In regard to the second issue raised by the commenter concerning access to the meetings being limited to those who have money and time to commit, the meetings held in Michigan were held frequently to do the groundwork needed to implement the many marketing order authorities. It was more cost effective to the industry to have such meetings in Michigan. As previously mentioned, the Board pays all travel costs for its members and 16 Board members and alternates are from Michigan. Growers and handlers are welcome to attend these meetings. The Board has made the commitment to rotate meeting sites throughout the production area to allow growers and handlers from other districts to participate. Recommendations are not made by the Board for only the benefit of large growers and handlers. The Board, which is comprised of small entities, discusses the impacts of such recommendations on small and large growers and handlers. The Board has been given the responsibility to make recommendations that benefit the industry as a whole.

In regard to the commenter's contention that the Board does a poor job of publicizing Board and subcommittee meetings, we disagree. The Board has and will continue to take appropriate action to provide the widest possible notice of upcoming meetings to all handlers and Board members and alternate Board members. The Board sends meeting notices to all Board members and several tart cherry industry organizations. In fact, the Board is currently developing a newsletter which will be distributed to all growers and handlers of record to further publicize upcoming Board meetings.

Finally, in regard to the CherrCo issue, the Department is continuing to work with the Board on this issue. This issue will be addressed separately.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are currently marketing 1997–98 tart cherries. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Tart cherries, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 930 is amended to read as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new subpart—Supplementary Regulations and a new section 930.250 are added to read as follows:

§ 930.250 Final free and restricted percentages for the 1997–98 crop year.

The final percentages for tart cherries handled by handlers in volume

regulated districts during the crop year beginning on July 1, 1997, which shall be free and restricted, respectively, are designated as follows: Free percentage, 55 percent and restricted percentage, 45 percent.

Dated: April 20, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–11023 Filed 4–24–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–124–AD; Amendment 39–10391; AD 98–06–13]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, and 228–201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of Airworthiness Directive (AD) 98–06–13 which applies to Models 228–100, 228–101, 228–200, and 228–201 airplanes equipped with certain main landing gear (MLG). AD 98–06–13 requires replacing the MLG axle assembly with an MLG axle assembly of improved design. This AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified in this AD are intended to prevent main landing gear failure, which, if not corrected, could result in loss of control of the airplane during landing operations.

DATES: Effective June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Karl M. Schletzbaum, Aerospace Engineer, 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: The FAA published this direct final rule with request for comments in the **Federal Register** on March 16, 1998 (63 FR 12605). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 15, 1998. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, Missouri, on April 17, 1998.

James A. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11010 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–6]

Amendment to Class D and Class E Airspace; St. Joseph, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class D and Class E airspace areas at Rosecrans Memorial Airport, St. Joseph, MO. A review of the Class E airspace for Rosecrans Memorial Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace area has been enlarged to conform to the criteria of FAA Order 7400.2D. A revision to the Airport Reference Point (ARP) coordinates is included in this document. The intended effect of this rule is to revise the ARP coordinates, comply with the criteria of FAA Order 7400.2D, and provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

DATES: *Effective date:* 0901 UTC, August 13, 1998.

Comment date: Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–6, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class D and Class E airspace at St. Joseph, MO. A review of the Class E airspace for Rosecrans Memorial Airport, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace area has been enlarged to conform to the criteria in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The Class D and Class E areas are amended to indicate the new ARP coordinates. The amendment at Rosecrans Memorial Airport will meet the criteria of FAA Order 7400.2D, revise the ARP coordinates, provide additional controlled airspace at the above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The areas will be depicted on appropriate aeronautical charts. Class D airspace areas are published in paragraph 5000, Class E airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004, and Class E airspace areas extending upward 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 D and Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all

flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 action 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 No. 98–ACE–6''. The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, 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; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 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 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 5000 Class D airspace

* * * * *

ACE MO D St. Joseph, MO [Revised]

Rosecrans Memorial Airport, MO
(lat. 39°46′19″ N., long. 94°54′35″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.2-mile radius of the Rosecrans Memorial Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area

* * * * *

ACE MO E4 St. Joseph, MO [Revised]

Rosecrans Memorial Airport, MO
(lat. 39°46′19″ N., long. 94°54′35″ W.)
St. Joseph VORTAC
(lat. 39°57′38″ N., long. 94°55′31″ W.)
TARIO LOM
(lat. 39°40′33″ N., long. 94°54′25″ W.)
Rosecrans Memorial Airport ILS
(lat. 39°47′16″ N., long. 94°54′25″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the St. Joseph ILS localizer south course extending from the 4.2-mile radius of Rosecrans Memorial Airport to the TARIO LOM and within 1.8 miles each side of the St. Joseph VORTAC 175° radial extending from the 4.2-mile radius of the airport to 5.8 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE MO E5 St. Joseph, MO [Revised]

Rosecrans Memorial Airport, MO
(lat. 39°46′19″ N., long. 94°54′35″ W.)
St. Joseph VORTAC
(lat. 39°57′38″ N., long. 94°55′31″ W.)
TARIO LOM
(lat. 39°40′33″ N., long. 94°54′25″ W.)
Rosecrans Memorial Airport ILS
(lat. 39°47′16″ N., long. 94°54′25″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Rosecrans Memorial Airport and within 2.0 miles each side of the 175° radial of the St. Joseph VORTAC and within 4 miles east and 6 miles west of the St. Joseph ILS localizer south course, extending from the 6.8-mile radius to 10.5 miles south of the TARIO LOM.

* * * * *

Issued in Kansas City, MO, on April 2, 1998.

Christopher R. Blum

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–11130 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–4]

Amendment to Class D and Class E Airspace; Joplin, MO; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class D and Class E airspace at Joplin Regional Airport, MO, and corrects the Airport Reference Point, as published in the direct final rule.

DATES: The direct final rule published at 63 FR 8093 is effective on 0901 UTC, June 18, 1998. This correction is effective on June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: On February 18, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which modified the Class D and Class E airspace at Joplin Regional Airport, MO (FR Document 98–3964, 63 FR 8093, Airspace Docket No. 98–ACE–4). An error was subsequently discovered in the Airport Reference Point for Class D and Class E airspace designations. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest required adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 18, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–3964 published in the **Federal Register** on February 18, 1998, 63 FR 8093, make the following correction to the Joplin Regional Airport, MO, Class D and Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

ACE MO D Joplin, MO [Corrected]

On page 8095, in the first column, under Joplin Regional Airport, MO, change (lat. 37°09′05″ N., long. 94°29′54″ W.) to read (lat. 37°09′07″ N., long. 94°29′54″ W.)

ACE MO E2 Joplin, MO [Corrected]

On page 8095, in the first column, under Joplin Regional Airport, MO, change (lat. 37°09′05″ N., long. 94°29′54″ W.) to read (lat. 37°09′07″ N., long. 94°29′54″ W.)

ACE MO E5 Joplin, MO [Corrected]

On page 8095, in the first column, under Joplin Regional Airport, MO, change (lat. 37°09′05″ N., long. 94°29′54″ W.) to read (lat. 37°09′07″ N., long. 94°29′54″ W.)

Issued in Kansas City, MO on March 31, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–11127 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–3]

Amendment to Class E Airspace; Columbia, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Columbia, MO.

DATES: The direct final rule published at 63 FR 8097 is effective on 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 18, 1998 (63 FR 8097). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 18, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 31, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–11128 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 98N–0168]

Medical Devices; 30–Day Notices and 135–Day PMA Supplement Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations governing the submission and review of premarket approval application (PMA) supplements to allow for the submission of a 30-day notice for modifications to manufacturing procedures or methods of manufacture. Amendments are being made to implement revisions to the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). FDA is publishing these amendments in accordance with its direct final rule procedures. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule under FDA's usual procedures for notice and comment to provide a procedural framework to finalize the rule in the event the agency receives any significant adverse

comment and withdraws the direct final rule.

DATES: The direct final rule is effective September 9, 1998. Submit written comments on or before July 13, 1998. Submit written comments on the information collection requirements on or before June 26, 1998. If FDA receives no significant adverse comment within the specified comment period, the agency intends to publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends.

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

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background.

On November 21, 1997, the President signed FDAMA (Pub. L. 105–115) into law. As one of its provisions, FDAMA added section 515(d)(6) to the act (21 U.S.C. 360e(d)(6)). This new section provides that PMA supplements are required for all changes that affect safety and effectiveness unless such changes involve modifications to manufacturing procedures or method of manufacture. Those types of manufacturing changes will require a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement. Examples of changes that potentially qualify for a 30-day notice are those intended by the PMA holder to reduce manufacturing and/or labor cost, reduce manufacturing time, reduce waste, or compensate for a change in suppliers of raw material or components.

Manufacturers who believe that the change they intend to make qualifies for this review will be required to submit a 30-day notice to FDA that describes in detail the change the manufacturer intends to make, summarizes the data or information supporting the change, and states that the change has been made in accordance with the requirements of part 820 (21 CFR part 820). The manufacturer may distribute the device 30 days after FDA receives the notice, unless FDA notifies the applicant within that 30-day period that the notice is not adequate. If the notice is not adequate, FDA will inform the applicant in writing that a 135-day supplement is needed and will describe what further action or information is required for FDA to approve the change. The time FDA uses to review the 30-day notice will be deducted from the 135-day supplement review period if the notice contains the appropriate information that is required for review of PMA supplements.

This rule incorporates the provisions for a 30-day notice and 135-day PMA supplements into FDA's regulations at § 814.39 (21 CFR 814.39).

The agency has developed guidance on this issue, entitled ''CDRH Guidance for 30–Day notices and 135–Day PMA Supplements for Manufacturing Method or Process Changes for Use by OC, ODE, and Industry,'' and it has announced the availability of the guidance in the **Federal Register** of February 25, 1998 (63 FR 9570).

II. Rulemaking Action

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described when and how it will employ direct final rulemaking. FDA believes that this rule is appropriate for direct final rulemaking because FDA views this rule as making noncontroversial amendments to an existing rule, incorporating amendments to section 515 of the act made by FDAMA. FDA anticipates no significant adverse comment on this rule. Consistent with FDA's procedures on direct final rulemaking, FDA is publishing elsewhere in this issue of the **Federal Register** a companion proposed rule to amend 21 CFR part 814. This direct final rule is substantively identical to the companion proposed rule. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of a significant adverse comment. The comment period for the direct final rule runs concurrently with that for the companion proposed rule. Any comments received on the companion proposed rule will be treated as comments on the direct final rule.

FDA is providing a comment period on the direct final rule of 75 days after April 27, 1998. If the agency receives a significant adverse comment, FDA intends to withdraw this final rule by publication of a notice in the **Federal Register** within 30 days after the comment period ends. A significant comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. For example, a comment recommending an additional change to the rule may be considered a significant adverse comment if the comment demonstrates why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure.

If FDA withdraws the direct final rule, all comments received will be applied to the proposed rule and will be considered in developing a final rule using the agency's usual notice and comment procedures. If FDA receives no significant adverse comment during the specified comment period, FDA intends to publish a confirmation notice within 30 days after the comment period ends confirming that the direct final rule will go into effect on September 9, 1998.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulatory action is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this direct final rule is not a significant regulatory action as defined by the Executive Order and so is not

subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule merely codifies applicable statutory requirements imposed by the FDAMA. The Commissioner of Food and Drugs certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This direct final rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

V. Paperwork Reduction Act of 1995

This direct final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below along with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Supplements to Premarket Approval Applications for Medical Devices

Description: FDAMA added section 515(d)(6) to the act, modifying FDA's statutory authority regarding premarket approval of medical devices. This new section provides for an alternate form of notice to the agency for certain types of changes to a device for which the manufacturer has an approved PMA. Under this section, PMA supplements are required for all changes that affect safety and effectiveness unless such changes involve modifications to manufacturing procedures or the method of manufacture. For those types of manufacturing changes, the manufacturer may submit to the agency an alternate form of notice in the form of a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement. The 30-day notice must describe the change the manufacturer intends to make, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of part 820.

The manufacturer may distribute the device 30 days after FDA receives the notice, unless FDA notifies the applicant, within that 30-day period, that the notice is inadequate. If the notice is not adequate, FDA will inform the manufacturer that a 135-day supplement is required and will describe what additional information or action is necessary for FDA to approve the change.

This rule incorporates the provisions for a 30-day notice and 135-day supplements into FDA's regulations at § 814.39 to reflect the changes made by FDAMA.

Description of Respondents: Businesses or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.39	493	1	493	66.15	32,612

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA believes that the amendments to § 814.39 permitting the submission of 30-day notices in lieu of PMA supplements will result in approximately a 10- percent reduction in the total number of hours needed to comply as compared to § 814.39. As a result, FDA estimates that the new total number of hours needed to comply information collection requirements in § 814.39 is 32,612, for a reduction of 3,451 hours.

As provided in 5 CFR 1320.5(c)(1), collections of information in a direct final rule are subject to the procedures set forth in 5 CFR 1320.10. Interested persons and organizations may submit comments on the information collection requirements of this direct final rule by June 26, 1998 to the Dockets Management Branch (address above). At the close of the 60-day comment period, FDA will review the comments received, revise the information collection provisions as necessary, and submit these provisions to OMB for review. FDA will publish a notice in the **Federal Register** when the information collection provisions are submitted to OMB, and an opportunity for public comment to OMB will be provided at that time. Prior to the effective date of the direct final rule, FDA will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VI. Comments

Interested persons may by July 13, 1998, submit to the Dockets Management Branch (address above) written comments regarding this rule. This comment period runs concurrently with the comment period for the companion proposed rule. 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 the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered comments regarding the proposed rule and this direct final rule. In the event the direct final rule is withdrawn, all comments received regarding the

companion proposed rule and the direct final rule will be considered comments on the proposed rule.

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

2. Section 814.39 is amended by revising the introductory text of paragraph (a) and paragraph (a)(4) and by adding paragraph (f) to read as follows:

§ 814.39 PMA supplements.

(a) After FDA's approval of a PMA, an applicant shall submit a PMA supplement for review and approval by FDA before making a change affecting the safety or effectiveness of the device for which the applicant has an approved PMA, unless the change is of a type for which FDA, under paragraph (e) of this section, has advised that an alternate submission is permitted or is of a type which, under section 515(d)(6)(A) of the act and paragraph (f) of this section, does not require a PMA supplement under this paragraph. While the burden for determining whether a supplement is required is primarily on the PMA holder, changes for which an applicant shall submit a PMA supplement include, but are not limited to, the following types of changes if they affect the safety or effectiveness of the device:

* * * * *

(4) Changes in manufacturing facilities, methods, or quality control procedures that do not meet the requirements for a submission under paragraph (e) or (f) of this section.

* * * * *

(f) Under section 515(d) of the act, modifications to manufacturing procedures or methods of manufacture that affect the safety and effectiveness of a device subject to an approved PMA do not require submission of a PMA supplement under paragraph (a) of this section and are eligible to be the subject of a 30-day notice. A 30-day notice shall describe in detail the change, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of 21 CFR part 820. The manufacturer may distribute the device 30 days after the date on which FDA receives the 30-day notice, unless FDA notifies the applicant within 30 days from receipt of the notice that the notice is not adequate. If the notice is not adequate, FDA shall inform the applicant in writing that a 135-day PMA supplement is needed and shall describe what further information or action is required for acceptance of such change. The number of days under review as a 30-day notice shall be deducted from the 135-day PMA supplement review period if the notice meets appropriate content requirements for a PMA supplement.

Dated: March 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–11086 Filed 4–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 2147–98]

Delegation of Power of the Attorney General Respecting Transfer of Offenders To or From Foreign Countries

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 0.64–2 of Title 28, Code of Federal Regulations, delegates to the Assistant Attorney General in charge of the Criminal Division all of the powers conferred on the Attorney General under 18 U.S.C. 4102 that have not been delegated to the Director of the Bureau of Prisons, including the authority to find appropriate or inappropriate the transfer of offenders to or from a foreign country under a treaty as referred to in Pub. L. 95–144. The section also authorizes the Assistant Attorney General in charge of the Criminal Division to redelegate this authority to the Deputy Assistant Attorneys General of the Criminal Division, the Senior Associate Director of the Office of Enforcement Operations in the Criminal Division, and, in the Senior Associate Director's absence, to the Director of the Office of Enforcement Operations. This final rule amends 28 CFR 0.64–2 by authorizing the Assistant Attorney General in charge of the Criminal Division to additionally redelegate this authority to the Director of the Office of Enforcement Operations and the Associate Directors of the Office of Enforcement Operations, and eliminating the requirement that the Senior Associate Director of the Office of Enforcement Operations be absent for this further redelegation to be effective. This rule is intended to provide greater flexibility within the Office of Enforcement Operations with respect to the management of the prisoner transfer program, reflecting an increase in both the number and complexity of our treaty relationships, and the related workload handled by the Office of Enforcement Operations.

EFFECTIVE DATE: April 15, 1998.

FOR FURTHER INFORMATION CONTACT: Frederick D. Hess, Director, Office of Enforcement Operations, Criminal Division, Department of Justice, Washington, DC 20530; 202–514–6809.

SUPPLEMENTARY INFORMATION: The Assistant Attorney General currently is authorized under 28 CFR 0.65–02 to redelegate his authority to find appropriate or inappropriate the transfer of offenders to or from a foreign country under certain treaties to his Deputy Assistant Attorneys General, the Senior Associate Director, Office of Enforcement Operations, and, in the absence of the Senior Associate Director, the Director of the Office of Enforcement Operations. This final rule permits redelegation of this authority to the Director and Associate Directors of the Office of Enforcement Operations, regardless of whether the Senior Associate Director is absent.

This rule is a matter of internal Department management.

It has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. It has been determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, this rule has not been reviewed by the Office of Management and Budget, and no regulatory impact analysis has been prepared.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612; specifically at section 605(b)), the Attorney General has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

This rule will not have a substantial direct impact upon 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Prisoners, Whistleblowing.

For the reasons stated in the preamble, Title 28, Part 0, Subpart K of the Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Section 0.64–2 is amended as follows:

a. The phrase ''Public Law 95–44'' is removed and the phrase ''Public Law 95–144'' is inserted in its place;

b. The final sentence is revised to read as follows:

§ 0.64–2 Delegation respecting transfer of offenders to or from foreign countries.

* * * The Assistant Attorney General in charge of the Criminal Division is authorized to redelegate this authority to his Deputy Assistant Attorneys General, the Director of the Office of Enforcement Operations, and the Senior Associate Director and Associate Directors of the Office of Enforcement Operations.

Dated: April 15, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–10832 Filed 4–24–98; 8:45 am]

BILLING CODE 4410–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket 96–128; DA 98–481]

Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and waivers.

SUMMARY: The Common Carrier Bureau adopted a Memorandum Opinion and Order, which clarifies the requirements for the provision of payphone-specific coding digits by local exchange carriers (LECs) and payphone service providers (PSPs) to interexchange carriers (IXCs). The order also clarifies that automatic number identification indicators (''ANI ii'') and flexible automatic numbering identification (''FLEX ANI''), are the methods to provide payphone-specific coding digits that comply with the requirements of the *Payphone Orders*. In addition, the order clarifies the tariff requirements that LECs must file pursuant to the *Payphone Orders*. The order also grants a waiver of part 69 of the Commission's rules so that LECs can establish rate elements to recover the costs of implementing FLEX ANI to provide payphone-specific coding digits for per-call compensation. Additionally, this order provides limited waivers to LECs, PSPs, and IXCs, when appropriate, to facilitate the implementation of per call compensation.

DATES: Effective March 9, 1998.

FOR FURTHER INFORMATION CONTACT: Rose Crellin, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Memorandum Opinion and Order in CC Docket No. 96–128 [DA 98–481], adopted on March 9, 1998, and released on March 9, 1998. The full text of the Memorandum Opinion and Order (''Order'') is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036.

Paperwork Reduction Act

The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collections contained in the Order pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

OMB Control Number: 3060–0823.

Expiration Date: 09/30/98.

Title: Pay Telephone Reclassification Memorandum Opinion and Order, CC Docket No. 96–128.

Form No.: N/A.

Respondents: Business or other for-profit entities.

Information collection requirement	No. of respondents (approximately)	Est. time per response (hours)	Total annual burden
a. LEC Tariff To Provide FLEX ANI to IXCs	400	35	14,000
b. LEC Tariff To Recover Costs	400	35	14,000
c. LECS Must Provide IXCs on Payphones that Provide Payphone specific Coding Digits	400	24	9,600
d. LECs must Provide IXCs and PSPs Information on where FLEX ANI is Available Now and When it is to be Scheduled in the Future	400	16	6,400
e. Waiver; LECs to Provide Cost Analysis Upon Request	20	35	700

Total Annual Burden: 44,700 Hours.

Estimated Annual Reporting and Recordkeeping cost Burden: $0.

Needs and Uses: In the MO&O, the Bureau clarifies and provides waivers of requirements established in the Payphone Orders for the provision of payphone-specific coding digits by LECs and PSPs, to IXCs, beginning October 7, 1997. The information disclosure rules and policies governing the payphone industry to implement Section 276 of the Act will ensure the payment per-call

compensation by implementing a method for LECs to provide information to IXCs to identify calls, for each and every call made from a payphone. The Bureau has reviewed several methods of identifying payphone calls and has determined that among them, FLEX ANI is the most flexible and has the added capability of providing a number of additional coding digits, in real-time, that can uniquely identify a call as coming from a payphone. Obligation to respond: Required. Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Summary of Memorandum Opinion and Order

1. In the *order*, the Bureau clarifies and waives certain requirements established in the *Payphone Orders* [1] regarding payphone-specific coding digits [2] to facilitate the transition for local exchange carriers (''LECs''), payphone service providers (''PSPs'') and interexchange carriers (''IXCs'') [3] to provide and receive payphone-specific coding digits to identify calls from payphones to pay payphone compensation for subscriber 800 and access code calls. In doing so, the Bureau concludes that the waivers granted therein to ensure the orderly transition for the requirements established in the *Payphone Orders* to implement Section 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (''1996 Act''), are in the public interest. The Bureau finds that the waivers granted therein reflect the transitional ''default per-call rate'' period established by the Commission in the *Payphone Orders* and extended in the *Second Report and Order*. In the *Order*, the Bureau notes that almost 80% of payphones are expected to provide payphone-specific coding digits by March 9, 1998, and the number of payphone digits for which payphone-specific coding digits are available will continue to increase over the next few months as technical problems are overcome by LECs.

2. In the *Order*, the Bureau clarifies requirements established in the *Payphone Orders* for the provision of payphone-specific coding digits by LECs and PSPs, to IXCs beginning October 7, 1997. Specifically, the *Order* explains that automatic number information indicators (''ANI ii'') and flexible automatic numbering identification (''FLEX ANI'') [4] are the methods that LECs can use to provide payphone-specific coding digits that comply with the requirements of the *Payphone Orders*. [5] The *Order* concludes that all LECs must implement FLEX ANI to comply with the requirements of the *Payphone Orders* subject to the limited waivers granted in the *Order*. (i) In concluding that hardcoding ANI ii payphone-specific coding digits and FLEX ANI, not line information database (LIDB), are the only approaches that comply with the requirements of the *Payphone Orders* for the provision of payphone-specific coding digits, the Bureau, in the *Order*, rejects the claim that LIDB also complies with those requirements because the implementation of FLEX ANI is too costly for LECs. In the *Order*, the Bureau explains that the mechanisms established by the Commission in the *Payphone Orders* and the *Second Report and Order*, as well as the waivers granted therein respond to those concerns.

3. The *Order* also clarifies the requirement to transmit payphone-specific coding digits applies only to payphone service provided by LECs to dumb, smart, and inmate payphones. It does not apply to any other LEC provided service such as business lines, PBX, or Centrex lines to which a payphone may be connected.

4. In the *Bureau Waiver Order*, the Bureau stated that payphones appearing on the LEC-provided lists of payphones (LEC ANI lists) will be eligible for per-call compensation even if they do not transmit payphone-specific coding digits. Although payphones on the LEC ANI lists are eligible for per-call compensation during the waiver period of the *Bureau Waiver Order*, and this *Order*, to ensure an orderly transition to the provision of FLEX ANI for all payphones on LEC payphone service lines, not just any LEC service line, PSP payphones must be on LEC payphones lines within 30 days of the release of this order to continue to be eligible for per-call compensation, even if the PSP payphones are on the LEC ANI lists.

5. In response to the concerns raised by LECs, PSPs, and IXCs, the *Order* further clarifies the tariffing requirements for the provision of payphone-specific coding digits established in the *Payphone Orders*. The *Order on Reconsideration* required that LECs ''must make available to PSPs, on a tariffed basis, such coding digits as

[1] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96–128, Report and Order, 61 FR 52307 (Oct. 7, 1996), 11 FCC Rcd 20,541 (1996) (''*Report and Order*''); Order on Reconsideration, 61 FR 65341 (Dec. 12, 1996), 11 FCC Rcd 21,233 (1996) (''*Order on Reconsideration*'') (together the ''*Payphone Orders*''). The *Payphone Orders* were affirmed in part and vacated in part. See *Illinois Public Telecomm. Ass'n* v. *FCC*, 117 F.3d 555 (D.C. Cir. 1997) (''*Illinois Public Telecomm.*''). See also Second Report and Order, 62 FR 58659 (Oct. 30, 1997), CC Docket No. 96–128, FCC 97–371 (rel. Oct. 9, 1997) (''*Second Report and Order*''), *pets. for recon. pending, review pending, MCI Telecomm. Corp.* v. *FCC*, D.C. Circuit No. 97–1675 (filed Nov. 7, 1997); *Sprint Corp.* v. *FCC*, D.C. Circuit No. 97–1685 (filed Nov. 13, 1997); *Personal Communications Industry Association* v. *FCC*, D.C. Circuit No. 97–1709 (filed Dec. 1, 1997); *Illinois Public Telecommunications Association* v. *FCC*, D.C. Circuit No. 97–1713 (filed Dec. 3, 1997). In the *Payphone Orders*, the Commission adopted new rules and policies governing the payphone industry to implement Section 276 of the Communications Act of 1934, as amended, (''the Act'').

[2] Payphone-specific coding digits provide a method for LECs to transmit, with the automatic number identification (ANI), information (coding number or digits) identifying a call as having been placed specifically from a payphone. See Order on Reconsideration, 61 FR 65341 (Dec. 12, 1996), 11 FCC Rcd at 21,265–66, para. 64.

[3] For purposes of paying compensation for compensable calls and other associated obligations, such as tracking calls, we note that the term ''IXC'' includes a LEC when it provides interstate, intraLATA toll service. See Report and Order, 61 FR 52307 (Oct. 7, 1996), 11 FCC Rcd at 20,584, para. 83 n.293.

[4] FLEX ANI permits the association of additional digits with specific calling party classes of service (e.g. coin phone, hotel/motel, and prison service). FLEX ANI information digits provide information along with the calling party's directory number, which is useful for billing and paying compensation. FLEX ANI coding digits are transmitted as part of the ANI signaling sequence and are used by the receiving switch to identify the type of originating line or the type of call being made. ''Open Network Architecture User's Guide,'' June 1996 at 92.

[5] ANI ii as currently deployed by the LECs does not provide all the payphone-specific coding digits necessary to identify payphones for payphone compensation. Pursuant to the waivers provided in the *Bureau Waiver Order* and this order, ANI ii can be used to provide the ''27'' payphone-specific coding digit until either additional ANI ii codes are hardcoded or FLEX ANI is implemented in a switch. Based on the record before us regarding the additional costs and time it would require to hardcode additional ANI ii digits to provide all of the payphone-specific coding digits necessary for per-call compensation, we clarify in this order that the transmission of payphone-specific coding digits by LECs through FLEX ANI is required unless a LEC hardcodes into all of its switches all the payphone-specific coding digits discussed herein as necessary for identifying payphones calls for per-call compensation. Accordingly, we do not require the hardcoding of these additional ANI ii digits by LECs, although this is an approach that might be used by some LECs, in lieu of FLEX ANI, to transmit payphone-specific coding digits to satisfy their transmission obligations under the *Payphone Orders*. See *Order* paras. 23–25. Where a LEC chooses to employ hardcoding to provide payphone-specific coding digits and to recover the incremental costs from PSPs, as provided in this order, we assume that LEC would file an appropriate tariff as provided in other parts of this order.

part of the ANI for each payphone.'' [12] In the *Second Report and Order,* the Commission included the estimated cost of providing coding digits in the per-call default compensation rate to be paid by IXCs to PSPs for subscriber 800 and access code calls. To comply with the requirements of the *Payphone Orders,* LECs must provide FLEX ANI to IXCs through their interstate tariffs, so that IXCs can identify which calls come from payphones. The LEC Coalition, Bell South, and Bell Atlantic have proposed that LECs modify their interstate access tariffs to provide that IXCs may request FLEX ANI without charge if it is for the purpose of complying with the per-call compensation requirements of the *Payphone Orders.* The LEC Coalition also proposes that LECs recover the costs of providing FLEX ANI to IXCs for payphone compensation from PSPs through a new federal rate element to be applied to all payphone lines on a nondiscriminatory basis. That proposed rate is to be charged monthly on a per-line basis until the costs for implementation of FLEX ANI for payphone compensation are recovered. The *Order* concludes that this approach is consistent with the tariff requirements of the *Payphone Orders.*

6. PSPs will pay the costs incurred by LECs to implement FLEX ANI for payphone compensation through the rate applied to all payphones by the LECs. LECs must provide FLEX ANI to IXCs and the IXCs are charged for this service through the per-call payphone compensation rate which IXCs pay to PSPs. Thus, IXCs will not be charged directly for this service by the LECs. LEC FLEX ANI tariff revisions to provide FLEX ANI to IXCs must be filed no later than March 31, 1998, with a scheduled effective date of April 15, 1998, if a LEC is able to provide FLEX ANI to 25% or more of the smart payphones in its service area. Thereafter, within the waiver period granted in this order, a LEC must file its FLEX ANI tariff to provide FLEX ANI to IXCs no later than when it is able to provide FLEX ANI to 25% or more of the smart payphones in its service area. After filing the FLEX ANI tariff, LECs will continue to make FLEX ANI available as each end office becomes FLEX ANI capable.

7. Beginning March 27, 1998, until a LEC has implemented FLEX ANI for all payphones it serves, it must provide monthly to IXCs and PSPs, upon request, information on: (1) End offices where FLEX ANI is available; and (2) proposed dates for the availability of FLEX ANI by end office for all areas where it is not yet available. Beginning March 27, 1998, all LECs must provide on a monthly basis to IXCs, upon request: (1) The number of smart and the number of dumb payphones that are owned by the LEC PSP and independent PSPs in the LEC service area; and (2) the ANI for smart payphones and the ANI for dumb payphones owned by the LEC and independent PSPs that are providing payphone-specific coding digits and those that are not providing payphone specific coding digits in the LEC service area. Because many LECs have reported technical problems in transmitting payphone-specific coding digits even when FLEX ANI is available for a payphone, we require that in these two reports required herein, that LECs indicate which end offices and payphone ANI's are ''coding-digit-capable.'' A payphone is ''coding-digit-capable'' when it is able to transmit payphone-specific coding digits that are capable of reaching an IXC point of presence (POP) for subscriber 800 and access code calls from payphones using 10XXX and 101XXXX. LECs may provide these reports earlier and LECs do not have to provide this information to an IXC that indicates that it does not require this information to pay per-call compensation.

8. The Bureau required in the *Bureau Waiver Order,* and the *Order* requires therein, that LECs and PSPs must transmit payphone-specific coding digits as soon as they are technically capable, and no later than the waivers they have been granted. The *Order* notes, however, that IXCs must request, test, and coordinate with LECs to obtain this service under carrier to carrier procedures to ensure that there are no problems in providing and receiving the FLEX ANI digits for a particular IXC or LEC. The Bureau notes, however, that LECs will reduce the burden on IXCs of requesting FLEX ANI by simplifying the service request process. While PSPs are obligated, pursuant to the *Payphone Orders,* to compensate LECs for coding of the PSPs payphone lines for the transmission from the PSPs payphones of payphone-specific coding digits through LEC tariffed payphone services, PSPs are not required to request the LEC payphone-specific coding digits transmission service to IXCs.

9. LEC tariffs to recover the costs of implementing FLEX ANI from PSPs must be filed no later than 30 days after full implementation of FLEX ANI. The costs of implementing FLEX ANI can include, for example, generic upgrades excluding the costs of other software features, loading the software, paying a fee for usage of the software, translations and conditioning the trunks for each end office. These costs will be distributed over a reasonable period and be paid by all PSPs. Under § 69.4(g) of the Commission's Rules, 47 CFR 69.4(g), a LEC subject to price cap regulation may establish a switched access rate element for a new interstate service upon approval of a petition demonstrating that establishment of the new rate element would be in the public interest. Because Part 69 authorizes only a limited number of rate elements, a non-price cap LEC must still obtain a waiver of that Part to establish any rate element for a new interstate service. The *Order* grants a blanket waiver of Part 69.4(b) and (c) of the Commission's rules to enable those LECs to establish an appropriate new rate element in their interstate tariffs that reflects the incremental costs directly attributable to the implementation of FLEX ANI to transmit payphone-specific coding digits for the purposes of payphone compensation as described elsewhere in the *Order* and to file the necessary revisions to their interstate tariffs. Second, the *Order* grants to those price cap LECs that must secure it, blanket permission under Part 69.4(g) of the Commission's rules to establish a new rate element in their interstate tariffs that reflects those same incremental costs and to file the necessary revisions to their tariffs.

10. The Bureau also affirms its grant in the *Bureau Waiver Order,*[13] on its own motion, of a limited waiver of five months, until March 9, 1998, to those LECs and PSPs who assert that they cannot provide payphone-specific coding digits as required by the *Payphone Orders.*

11. The Bureau also grants in part the requests of USTA, TDS, and the LEC Coalition. USTA requested that LECs with digital, equal-access switches be given an additional nine months to provide the technology required to supply and accommodate the coding digits; that LECs with non-equal-access switches be exempt from providing payphone identification information until their switches are replaced or upgraded for equal-access; and that LECs be permitted to use whatever technology they select for digital, equal-access switches to provide information that will permit IXCs to track payphone calls in order to compensate PSPs. The

[12] The *Bureau Waiver Order* extended that period for LECs that were unable to provide coding digits until March 9, 1998. 62 FR 58659 (October 30, 1997), 12 FCC Rcd at 16,387, para. 1.

[13] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* 62 FR 60034 (November 6, 1997), CC Docket No. 96–128, Order, 12 FCC Rcd 16,387 (Common Carrier Bureau 1997) (*Bureau Waiver Order*).

LEC Coalition requested that the Commission waive the October 7, 1997 deadline, stating that LECs would be unable to supply forty percent of payphone lines with the requisite coding digits by that date. The LEC Coalition requests a waiver of the payphone-specific coding digit requirements until the Commission clarifies the coding digit requirement. The LEC Coalition states that implementation of FLEX ANI requires loading of the software in switches that do not have it, provisioning, translations, and trunk conditioning. The LEC Coalition also indicates that LECs must test FLEX ANI with IXCs that wish to receive it and ensure proper functioning so that calls are not dropped. TDS, an owner of local exchange carriers, petitioned the Commission to extend the deadline for payphone-specific coding digits from October 7, 1997, until July 1, 1998 and to use LIDB. TDS states that it needs additional time to arrange agreements with database suppliers, and to complete transmission tests to IXCs selected by its subsidiaries.

12. All of the BOCs have indicated problems in implementing FLEX ANI, because of problems, for example, with software upgrades, certain switch types, and network configurations that required heavy vendor software development and network reconfiguration, and therefore, argue that they need additional time to implement FLEX ANI. The *Order* concludes that the LEC Coalition has shown that limited waivers are justified to allow for additional time to implement FLEX ANI. In the *Order*, the Bureau grants Bell Atlantic, SBC, Ameritech, and BellSouth no more than a 90 day waiver to resolve technical and other implementation problems with specific switch types and some call types. In addition, the *Order* grants US West a waiver to provide payphone-specific coding digits until June 30, 1998, to be able to provide FLEX ANI for 90 percent of the smart payphones in its service area and until December 31, 1998, to complete FLEX ANI implementation. With regard to all other LECs that may require additional time to implement FLEX ANI, including GTE and SNET, the *Order* grants each LEC a waiver until no later than September 30, 1998, to be able to provide FLEX ANI for 75 percent of the smart payphones in its service area and until December 31, 1998, to complete FLEX ANI implementation to be able to provide payphone-specific coding digits, subject to any additional waivers for which they may qualify as discussed in the *Order*. Those LECs and PSPs that are able to transmit the required coding digits by March 9, 1998, remain obligated to do so. Similarly, all LECs and PSPs are obligated to transmit the required coding digits as soon as they are technically capable, but in any event no later than the end of the waiver period for which they are eligible pursuant to this order.

13. The *Order* requires that LECs that have been granted a waiver for additional time beyond March 9, 1998, to implement FLEX ANI, must implement FLEX ANI first in locations where there are larger numbers of payphones owned by independent PSPs for which payphone-specific coding digits are not available.

14. The *Order* grants small and midsize LECs an extension to implement FLEX ANI until September 30, 1998, to be able to provide payphone-specific coding digits through FLEX ANI to 75 percent of the smart payphones in its service area and until no later than December 31, 1998, to complete FLEX ANI implementation. The *Order* grants a limited waiver to midsize and small LECs where a LEC is unable to recover its costs, through a monthly charge for no longer than a 10 year period, from all payphones in its serving area.[14] This waiver is specifically granted for small and midsize LECs for which the cost of implementing FLEX ANI would be unreasonably burdensome, despite provisions in the *Order* for cost recovery. The LEC is required to use the analysis set forth in the *Order* to determine whether it qualifies for the waiver. The LEC must perform the analysis on an annual basis. The LEC may assume that the payphone rate element established to recover the cost over a period not greater than 10 years would not be greater than 20% of the national average payphone line cost of $38.90,[15] or $7.78 per line per month. LECs must make this evaluation and qualify for this waiver individually and not as part of a holding company. LECs must make this evaluation within 30 days of the release of this order, and notify IXCs, upon request, that they will not be implementing FLEX ANI pursuant to this waiver. The *Order* required that a LEC delaying the implementation of FLEX ANI pursuant to this waiver provision, must be prepared to submit its analysis of cost recovery for implementing FLEX ANI, if the Bureau requests the analysis. The Bureau may at such time determine whether there continues to be a justification to grant a waiver to that LEC because it is unable to recover its cost of implementing FLEX ANI.

15. The *Order* grants LECs a waiver of the payphone-specific coding digit requirement through FLEX ANI for non-equal access switches until such switches are either upgraded to equal access or replaced.[16] In the *Order*, the Bureau concludes that USTA has shown special circumstances with regard to non-equal access switches and switches with Bell I signalling, because LECs are not able to implement FLEX ANI in those switches at reasonable costs. The Bureau concludes that it would not be in the public interest to require the replacement of these switches with the expenditure of substantial investment solely for the provision of payphone-specific coding digits. When LECs replace or upgrade these switches, however, the *Order* requires that FLEX ANI be implemented within 60 days unless they qualify for another waiver discussed herein. LECs with non-equal access switches must provide information as required above regarding payphones in their service areas.

16. In the *Order*, the bureau denies TDS's request that it be allowed to implement LIDB to comply with the payphone-specific coding digits requirement. TDS is eligible, however, for one or more of the waivers described above.

17. Some LECs indicate that it would be costly to implement FLEX ANI now for switches that they plan to replace in the near future. The *Order* concludes that it is not cost effective to require LECs to implement FLEX ANI in switches that are going to be replaced before October 6, 1999, the end of the default compensation period. Accordingly, the *Order* grants LECs that plan to replace switches before October 6, 1999, a waiver until that date to

[14] In making this evaluation, LECs should not include costs for switch replacements. Below, we grant a waiver for non-equal access switches until they are upgraded to equal access or replaced. If a switch is replaced, however, the costs incurred in implementing FLEX ANI can be included. This limited waiver for small and midsize LECs that are not able to recover their costs of implementing FLEX ANI over up to a 10 year period is not available to price cap, CLASS A, and Tier 1 LECs. In 1996, the Class A LECs included all price cap LECs. .

[15] In the *Second Report and Order* the Commission concluded that the average per line cost was 7 cents per call times an average of 542 calls resulting in an average per line rate of $38.90. *Id.* at para. 102. We conclude that up to a ten year recovery period to implement FLEX ANI would not be unreasonable for this limited waiver for small and midsize LECs to recover their costs.

[16] This waiver for non-equal access switches also covers switches that employ Bell I signaling. Bell I signaling must be used with non-equal access switches and uses a single information digit to identify classes of service. This type of signaling is not compatible with ANI ii coding digits.

provide FLEX ANI through those switches.

18. SBC, BellSouth, Ameritech, SNET, and Bell Atlantic have requested additional time to implement FLEX ANI to resolve specific problems with certain switches and call types, and request waivers because there are technical limitations in passing FLEX ANI payphone-specific coding digits on certain types of calls and switches, and the modifications cannot be completed by March 9, 1998.

19. The *Order* grants BOCs 90 days to resolve technical problems in implementing FLEX ANI. BOCs must provide payphone-specific coding digits earlier than the end of the waiver period for each technical problem, if these problems are resolved earlier than the end of the waiver period granted. BOCs must notify IXCs regarding the call and switch problems the BOCs are having on a monthly basis. With regard to these technical problems, BOCs and other LECs must notify IXCs regarding these problems in implementing FLEX ANI. With regard to problem (2), cited by SBC, FGB service, the *Order* notes that there is currently no standard to provide payphone-specific coding digits and carriers wishing to receive FLEX ANI must take FGD service. Thus, pending the development of standards, the *Order* grants all LECs a waiver and require that carriers taking FGB service pay PSPs per-call compensation using ANI lists or other means they may identify.

20. All LECs and PSPs are obligated to transmit the required coding digits as soon as they are technically capable, but in any event, no later than the end of the waiver period for which they are eligible, pursuant to the *Order*. During the period of the *Bureau Waiver Order* and the waivers granted in the *Orders*, the IXC obligation to pay per-call compensation established in the *Payphone Orders* remains in effect. Neither the *Bureau Waiver Order*, nor the *Order*, waives the per-call compensation requirements of the *Payphone Orders* and the *Second Report and Order*. As required in the *Bureau Waiver Order*, payphones appearing on the LEC-provided lists of payphones are eligible for per-call compensation even if they do not transmit payphone-specific coding digits. As required in the *Payphone Orders* and the *Second Report and Order*, absent a negotiated agreement, IXCs must pay per-call compensation of $0.284, for all calls they receive from payphones not otherwise compensated. Payments must be remitted at least on a quarterly basis. The payment for the October 1997 through December 31, 1997 period must be paid no later than April 1, 1998. LECs that have certified to the IXC that they comply with the requirements of the *Payphone Orders* must receive per-call compensation. The *Order* further states that there likely will be some disputes between IXCs and PSPs about the true number of compensable calls, but that these disputes should not be a basis for delay of payphone compensation payments. The *Order* states that whether a retroactive adjustment (true-up) of payphone compensation may be necessary for the waiver periods granted in the *Bureau Waiver Order* and this order will be addressed in a subsequent order in this proceeding if necessary. The *Order* also does not address AT&T's request, in response to the *Bureau Waiver Order*, that it and similarly situated IXCs receive a waiver to pay per-phone rather than per-call compensation for payphones that do not provide payphone-specific coding digits. Nonetheless, IXCs must still pay compensation on April 1, 1998.

21. The waivers granted in the *Order* are effective immediately in order to ensure that all PSPs continue to receive per-call compensation, as required by the *Payphone Orders*. Without these waivers, many PSPs would not receive per-call compensation, because the LECs servicing them are not yet able to provide the required payphone-specific coding digits.

22. In the *Order*, the Bureau rejects the argument that IXCs should not be required to compensate PSPs for the costs they incur in paying LECs to implement FLEX ANI for payphone compensation. The Commission concluded in the *Payphone Orders* that IXCs are the primary beneficiaries of dial-around calls and they should perform per-call tracking and pay per-call compensation. In addition, the Commission concluded in the *Second Report and Order* that the costs of providing coding digits to IXCs is a cost of doing business of PSPs for which IXCs must provide compensation as part of the per-call rate. In the *Order*, the Bureau also denies USTA's request that the Commission must authorize full cost recovery and additional time for LECs that implemented LIDB for CC Docket No. 91–35 stating that it is unclear what additional costs would have been incurred to implement LIDB to comply with the payphone-specific coding digit requirement of the *Payphone Orders*, separate from those incurred for CC Docket No. 91–35 and that there is insufficient information on the record to grant the request.

23. The *Order* concludes as did the *Bureau Waiver Order*, that it is in the public interest for IXCs to pay payphone compensation beginning October 7, 1997, despite the limited waivers of the requirement to provide payphone-specific coding digits provided in the *Bureau Waiver Order* and this order, because of the clear mandate of Section 276 that PSPs be paid compensation for each and every call. The *Second Report and Order* established a default per-call compensation rate and extended the period of its applicability to address the problem presented by the LECs, IXCs, and PSPs in these waiver requests. Pursuant to the waivers granted in the *Order*, if a payphone does not provide payphone-specific coding digits, the default per-call rate established in the *Second Report and Order* for the first two years of per-call compensation, $0.284 per-call, will continue to be the per-call default rate for that payphone until that payphone provides payphone-specific coding digits.

24. The *Order* also concludes that a continuing waiver of the rule requiring the provision of payphone-specific digits as a prerequisite to payphone compensation in the circumstances identified in the payphone proceeding will serve the public interest, because it will allow us to move forward in implementing the statutory requirement that PSPs receive fair compensation for calls placed from their phones while continuing to progress to a market-based structure for payphone compensation. The Bureau stated in the *Bureau Waiver Order* that the unavailability of the payphone-specific coding digits will not preclude IXCs from identifying payphone calls for the purpose of determining the number of calls for which compensation is owed. Nor will the waiver interfere with the payphones that currently are able to transmit payphone-specific coding digits.

25. The waivers the Bureau grants in the *Order* to LECs and PSPs are effective March 9, 1998, to ensure that all PSPs continue to receive per-call compensation after the expiration of the waiver granted in the *Bureau Waiver Order*. The immediate implementation of these waivers is crucial to the Commission's efforts to ensure fair compensation for all PSPs, encourage the deployment of payphones, and enhance competition among PSPs, as mandated by Section 276 of the Act. In the *Order* the Bureau grants these waivers to all similarly situated LECs and PSPs to avoid a significant administrative impact and further delay of the payment of payphone compensation as required by Section 276.

26. In the *Order*, the Bureau declines to waive the obligation of IXCs to pay per-call compensation during the waiver

period of the *Bureau Waiver Order* and the additional waivers granted within the *Order*. The *Payphone Orders* concluded that the primary economic beneficiaries of a subscriber 800 and access code call are the carriers that carry the call. The *Bureau Waiver Order* required that IXCs pay per-call compensation during the coding digit waiver period as required by the *Payphone Orders*. During that period, IXCs and their customers continued to use payphones to make calls that must be compensated pursuant to the *Payphone Orders* and the *Second Report and Order*. Moreover, IXCs already have implemented surcharges for per-call compensation and they would be benefiting unreasonably if the Bureau were to grant them a waiver of the payphone compensation obligations so that they do not have to pay per-call compensation when payphone-specific coding digits are not available.

27. In the *Order*, the Bureau denies ITA's petition for reconsideration of the obligation to pay compensation during the waiver period, and AirTouch's petition for waiver seeking similar relief, both of which were filed in response to the *Bureau Waiver Order*. The Bureau also denies the requests of ITA and AirTouch that they be granted relief from the payment obligations of the *Payphone Order and the Second Report and Order* until they can block calls. In denying AirTouch's petition, the Bureau notes that AirTouch has not shown special circumstances or that a waiver is in the public interest. The Bureau also declined to reconsider, in response to ITA's Petition, its decision in the *Bureau Waiver Order* to waive payphone-specific coding digit requirements while maintaining, and not waiving, the per-call compensation requirements during the waiver period.

28. Accordingly, pursuant to authority contained in Sections 1, 4, 201–205, 218, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 218, 226, and 276, that the policies and requirements set forth herein are adopted.

29. It is further ordered that this Order is effective immediately upon release thereof, and that the waivers included in this order are effective March 9, 1998.

30. It is further ordered that pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, each of the LECs, absent a waiver, shall FILE tariff revisions to their interstate access tariffs to reflect the availability of FLEX ANI for IXCs for the purpose of payphone compensation no later than March 31, 1998, with a scheduled effective date of April 15, 1998, if FLEX ANI is available for 25% or more of the smart payphones in its service area. Thereafter, within the waiver period it is granted in this order, a LEC must file its tariff revision to provide FLEX ANI to IXCs no later than when it provides FLEX ANI to 25% or more of the smart payphones in its service area.

31. It is further ordered that pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, each of the LECs providing FLEX ANI shall FILE tariffs to recover the cost of implementing FLEX ANI as required herein no later than 30 days after full implementation of FLEX ANI.

32. It is further ordered that LECs are granted a waiver of Part 69 of the Commission's rules to develop a rate element for recovery of costs incurred to implement FLEX ANI from PSPs for the requirements of this order to provide FLEX ANI to IXCs.

33. It is further ordered that the ITA Petition for Reconsideration and the AirTouch Petition for Waiver of the *Bureau Waiver Order* are denied.

34. It is further ordered that the waiver requests of USTA, the LEC Coalition, and TDS are granted to the extent described herein, and otherwise are denied.

Federal Communications Commission.

A. Richard Metzger, Jr.,

Chief, Common Carrier Bureau.

[FR Doc. 98–11163 Filed 4–24–98; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980415098–8098–01; I.D.031998A]

RIN 0648–AK22

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement three management measures governing the crustacean fisheries in the Exclusive Economic Zone around Hawaii. The first measure allows fishing vessels in the Northwestern Hawaiian Islands (NWHI) lobster fishery with vessel monitoring system (VMS) units to transit the prohibited Crustaceans Permit Area 1 VMS Subarea while returning to port following closure of the fishery. Because these vessels are under surveillance by NMFS, they are allowed to traverse the permit subarea. Lobster vessels without VMS units must be outside the permit area when the closure takes effect and be back in port as specified by the Administrator, Southwest Region, NMFS. The second measure changes the deadline by which NMFS must announce the NWHI lobster harvest guideline for the following fishing season from March 31 to February 28. This action gives fishermen additional lead time to prepare their vessels for the lobster season which opens on July 1. The third measure, which pertains to the main Hawaiian Islands crustacean fishery, adds another month (May) to the existing closed lobster season (June through August), which makes Federal regulations for the lobster closed season consistent with the State of Hawaii's closed season for State waters. This rule also contains a nonsubstantive clarification of the definition of Crustaceans Permit Area 1 VMS Subarea.

DATES: Effective May 27, 1998.

ADDRESSES: Copies of background material pertaining to this action may be obtained from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, or Alvin Katekaru, Resource Management Specialist, Pacific Islands Area Office, Southwest Region, NMFS, 2570 Dole Street, Honolulu, HI 96822,

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru at (808) 973–2985 or Kitty Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: Following the 1997 NWHI lobster season, lobster fishermen reviewed the program and identified two issues that needed to be addressed. First, the requirement that VMS-carrying lobster vessels be outside the Crustaceans Permit Area 1 VMS Subarea when the fishery is closed (50 CFR 660.48), causes these vessels to take an indirect route back to port adding approximately 50 nautical miles to their return trip. Second, fishermen also requested more lead time to prepare (i.e, purchase and outfit lobster traps) for the lobster season and recommended that NMFS announce the next season's harvest guideline no later than 90 days following closure of the previous season.

These issues were initially discussed at the 92nd Council meeting held in April 1997. In August 1997, at its 93rd

meeting, the Council requested that a background document and proposed regulations be prepared for its next meeting. At its 94th meeting (November 1997), the Council heard fishermen reiterate their concern that the existing requirement of no transit through the permit subarea increased the distance traveled on their return to port and, hence, increased fuel costs. The fishermen also stated that only VMS-carrying vessels should be exempt from this requirement, because they are under surveillance by NMFS Enforcement and monitored for any prohibited lobster fishing. With respect to the issue of an early announcement of the harvest guideline, fishermen recommended that the announcement be made no later than 90 days after the end of each season. NMFS scientists indicated that it was not feasible to compile, verify, prepare for electronic data processing, analyze lobster catch data, and develop a harvest guideline within 90 days. However, 180 days appeared to be reasonable. Currently, NMFS is required to publish the harvest guideline in the **Federal Register** by March 31 each year (50 CFR 660.50). The Council believed that a February 28 deadline for the harvest guideline announcement would provide fishermen adequate time to prepare for the coming season and would provide NMFS with adequate time to calculate the guideline.

The Council also discussed the State of Hawaii's administrative rule which currently prohibits lobster fishing in State waters from May through August. Current regulations implementing the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region prohibit lobster fishing in Federal waters off the main Hawaiian islands from June through August (50 CFR 660.45), which is inconsistent with the State's closed season and poses potential enforcement problems for the State. The Hawaii Division of Aquatic Resources requested that the Federal and State closed lobster season off the main Hawaiian Islands be made consistent.

Based on the discussions, the Council voted to request that NMFS initiate final rulemaking under framework procedures to adjust established management measures governing the NWHI lobster VMS requirements, the harvest guideline program, and the main Hawaiian Islands lobster closed season. NMFS has approved the Council's request for the three actions mentioned above. The revision to the definition for Crustacean Permit Area 1 VMS Subarea does not make a substantive change, but merely clarifies the description of the outer boundary of the Subarea.

Classification

The Assistant Administrator, for good cause, finds under 5 U.S.C. 553(b) that prior notice and opportunity for public comment for this rule is unnecessary. There has been substantial opportunity for public comment on this rule, and, opportunity for additional public comment would serve no useful purpose. This action has received review during numerous public meetings under a review process at 50 CFR 660.53(c). It was discussed by the Council at three meetings (April 25, August 19, November 12, 1997); Crustacean Plan Team (July 1997); Scientific and Statistical Committee (August 1997); and by industry at an informal meeting (September 18, 1997).

This final rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act are applicable.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: April 20, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.12, the definition of ''Crustaceans Permit Area 1 VMS Subarea'' is revised to read as follows :

§ 660.12 Definitions.

* * * * *

Crustaceans Permit Area 1 VMS Subarea means an area within the EEZ off the NWHI 50 nm from the center geographical positions of the islands and reefs in the NWHI as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long; Garner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The remainder of the VMS subarea is delimited by parallel lines tangent to and connecting the 50–nm areas around the following: from Nihoa Island to Necker Island; from French Frigate Shoals to Gardner Pinnacles; from Gardner Pinnacles to Maro Reef; from Laysan Island to Lisianski Island; and from Lisianski Island to Pearl and Hermes Reef,

* * * * *

3. In § 660.42, paragraphs (a)(9) and (b)(5) are revised to read as follows:

§ 660.42 Prohibitions.

* * * * *

(a) * * *

(9) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 VMS Subarea when fishing for lobsters is prohibited as specified in §§ 660.45(a), 660.50, 660.51, and 660.52, except as allowed under § 660.48(a)(8).

* * * * *

(b) * * *

(5) Possess on a fishing vessel that has a permit for Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is prohibited during the months of May, June, July, and August.

4. In § 660.45, paragraph (b) is revised to read as follows:

§ 660.45 Closed seasons.

* * * * *

(b) Lobster fishing is prohibited in Permit Area 2 during the months of May, June, July, and August.

5. In § 660.48, paragraph (a)(7) is revised, paragraph (a)(8) is redesignated as (a)(9) and new paragraph (a)(8) is added to read as follows:

§ 660.48 Gear restrictions.

(a) * * *

(7) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may enter Crustaceans Permit Area 1 with lobster traps on board on or after June 25, but must remain outside the Crustaceans Permit Area 1 VMS Subarea until the NWHI lobster season opens on July 1.

(8) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may transit the Crustaceans Permit Area 1, including the Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of returning to port following the closure date, as specified in § 660.50, providing the vessel does not stop and is making steady progress back to port as determined by NMFS.

* * * * *

6. In § 660.50, paragraph (b)(2) is revised to read as follows:

§ 660.50 Harvest limitation program.

* * * * *

(b) * * *

(2) NMFS shall publish a document indicating the annual harvest guideline in the **Federal Register** by February 28 of each year and shall use other means to notify permit holders of the harvest guideline for the year.

* * * * *

[FR Doc. 98–11017 Filed 4–24–98; 8:45]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 042198A]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 21, 1998, until 1200 hrs, A.l.t., July 1, 1998.

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

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

The second seasonal apportionment of the prohibited species bycatch mortality allowance of halibut for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 679.21(e)(4)(iv)(B)(*2*), was established as 120 mt by the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998).

In accordance with § 679.21(e)(8)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1998 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance being exceeded and disrupt the FMP's objective of limiting trawl Pacific halibut mortality. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: April 21, 1998.

Bruce Morehead,

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

[FR Doc. 98–11016 Filed 4–21–98; 4:42 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 042098A]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 21, 1998, until 1200 hrs, A.l.t., July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The prohibited species bycatch mortality allowance of Pacific halibut for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) for the second season,

the period April 1, 1998, through June 30, 1998, as 300 mt.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are rockfish, deep-water flatfish, Rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the second seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The second seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught. Further delay would only result in overharvest that would disrupt the FMP's objective of apportioning Pacific halibut bycatch allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: April 20, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–11042 Filed 4–22–98; 1:09 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 80
Monday, April 27, 1998

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–22–AD]

RIN 2120–AA64

Airworthiness Directive; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 97–04–02, which currently requires installing new exterior placards with operating instructions for the airstair door, cargo door, and emergency exits, as applicable, on Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes. The proposed AD would require either modifying the existing exterior placards with door operating instructions installed in accordance with AD 97–04–02; or installing new exterior placards with operating instructions for the airstair door, cargo door, and emergency exists, as applicable. The proposed AD results from reports of the placards (required by AD 97–04–02) covering the atmospheric vents for the cabin door differential pressure lock. The actions specified by the proposed AD are intended to continue to assure that clear and complete operating instructions are visible for opening the airstair door, cargo door, or emergency exits, and to prevent improper operation of the cabin door differential pressure lock caused by the placards blocking the atmospheric vents.

DATES: Comments must be received on or before June 4, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–22–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 the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–22–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. 98–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 97–04–02, Amendment 39–9937 (62 FR 7667, February 20, 1997), currently requires installing new exterior placards with operating instructions for the airstair door, cargo door, and emergency exists, as applicable, on Raytheon Models 1900, 1900C, and 1900D airplanes.

This AD was the result of an accident involving a Raytheon Model 1900C airplane that collided with another airplane while completing its landing roll. The ensuing fire destroyed both airplanes. The emergency crew was not able to open the forward (main cabin entry door) airstair door and all occupants of the airplane died. The airstair door is unlocked and opened from the outside by depressing a release button while simultaneously rotating the door handle downward. The FAA believed that the operating instructions for opening the main boarding door of this airplane were either not visible or not easily understandable.

Actions Since Issuance of Previous Rule

Since issuing AD 97–04–02, the FAA has received reports of the placard decals (required by AD 97–04–02) covering the atmospheric vents for the cabin door differential pressure lock.

This condition, if not corrected in a timely manner, could result in improper operation of the cabin door differential pressure lock with loss of cabin differential pressure.

Relevant Service Information

Raytheon has revised Mandatory Service Bulletin No. 2741 to the Revision 1 level (Revised: May 1997). This service bulletin revision provides procedures for:

–Installing new exterior placards with operating instructions for the airstair door, cargo door, and emergency exits, as applicable; and

–Modifying the existing exterior placards with operating instructions for the airstair door, cargo, door, and emergency exists, as applicable, that were installed in accordance with AD 97–04–02, and Raytheon Mandatory Service Bulletin No. 2741, Issued: February 1997.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) the actions specified in Raytheon Mandatory Service Bulletin No. 2741, Revision 1, Revised: May 1997, should be incorporated into AD 97–04–02; and (2) AD action should be taken to continue to assure that clear and complete operating instructions are visible for opening the airstair door, cargo door, or emergency exits, and to prevent improper operation of the cabin door differential pressure lock caused by the placards blocking the atmospheric vents.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 1900, 1900C, and 1900D airplanes of the same type design, the FAA is proposing an AD to supersede AD 97–04–02. The proposed AD would require either modifying the existing exterior placards with operating instructions installed in accordance with AD 97–04–02; or installing new exterior placards with operating instructions for the airstair door, cargo door, and emergency exits, as applicable.

Accomplishment of the proposed actions would be required in accordance with Raytheon Mandatory Service Bulletin No. 2741, Revision 1, Revised: May 1997.

Cost Impact

The FAA estimates that 524 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. Parts cost approximately $3 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $33,012, or $63 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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 97–04–02, Amendment 39–9937, and by adding a new AD to read as follows:

Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Docket No. 98–CE–22–AD; Supersedes AD 97–04–02, Amendment 39–9937.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
1900	UA–2 and UA–3.
1900C	UB–1 through RB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–268.

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

To continue to assure that clear and complete operating instructions are visible for opening the airstair door, cargo door, or emergency exits, and to prevent improper operation of the cabin door differential pressure lock causes by the placards blocking the atmospheric vents, accomplish the following:

(a) Accomplish one of the following in accordance with ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Mandatory Service Bulletin No. 2741, Revision 1, Revised: May 1997:

(1) Modify the existing exterior placards with operating instructions installed in accordance with AD 97–04–02 (superseded by this AD); or

(2) Remove any existing operating instructions placards and install new exterior placards with operating instructions for the airstair door, cargo door, and emergency exits, as applicable.

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

(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, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through the appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 97–04–02 are not considered approved as alternative methods of compliance for this AD.

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

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Raytheon Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 97–04–02, Amendment 39–9937.

Issued in Kansas City, Missouri, on April 17, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11009 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–31–AD]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–500M Gliders.

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 all Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG–500M gliders. The proposed AD would require inspecting the center of gravity (C.G.) tow release cable pulley for correct positioning, and replacing the C.G. tow release cable pulley with one made of aluminum either immediately or eventually depending on the results of the inspection. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the C.G. tow release cable from coming off the pulley because of incorrect positioning, which could result in the pilot being unable to release from tow operations.

DATES: Comments must be received on or before June 1, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–31–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 DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 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. 98–CE–31–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. 98–CE–31–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on all Glaser-Dirks Model DG–500M gliders. The LBA reports an incident where the center of gravity (C.G.) tow release cable pulley on one of the affected gliders moved in the axial direction as the ball bearing in the pulley came loose.

This condition, if not corrected in a timely manner, could result in the C.G. tow release cable coming off the pulley, and the pilot being unable to release from tow operations.

Relevant Service Information

Glaser-Dirks has issued Technical Note No. 843–9, dated November 21, 1997, which specifies procedures for inspecting the C.G. tow release cable pulley for correct positioning, and replacing the C.G. tow release cable pulley with one made of aluminum, part no. S 30.

The LBA classified this service bulletin as mandatory and issued German AD 1998–023, dated January 15, 1998, in order to assure the continued airworthiness of these gliders in Germany.

The FAA's Determination

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

The FAA has examined the findings of the LBA; 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 Glaser-Dirks Model DG–500M gliders of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the C.G. tow release cable pulley for correct positioning, and replacing the C.G. tow release cable pulley with one made of aluminum, part no. S 30, either immediately or eventually depending on the results of the inspection. Accomplishment of the proposed installation would be required in accordance with Glaser-Dirks Technical Note No. 843–9, dated November 21, 1997.

Compliance Time of the Proposed AD

Although the C.G. tow release cable coming off the pulley would only be an unsafe condition during flight and would only occur after repeated glider operation, the FAA has no basis to determine the approximate number of hours time-in-service (TIS) when the unsafe condition is likely to occur. For example, the unsafe condition referenced in this proposal could occur on a glider with 10 hours TIS, but not occur until 500 hours TIS on another glider. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the

unsafe condition is addressed on all gliders in a reasonable time period.

Cost Impact

The FAA estimates that 5 gliders in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per glider to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $20 per glider. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $700, or $140 per glider.

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:

Glaser-Dirks Flugzeugbau GMBH: Docket No. 98–CE–31–AD.

Applicability: Model DG–500M gliders, all serial numbers, certificated in any category.

Note 1: This AD applies to each glider 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 gliders 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 in the body of this AD, unless already accomplished.

To prevent the center of gravity (C.G.) tow release cable from coming off the pulley because of incorrect positioning, which could result in the pilot being unable to release from tow operations, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, inspect the C.G. tow release cable pulley for correct positioning in accordance with the Instructions section of Glaser-Dirks Technical Note No. 843–9, dated November 21, 1997. If any tow release pulley is found out-of-center during this inspection, prior to further flight, replace the C.G. tow release cable pulley with one made of aluminum, part no. S 30. Accomplish this replacement in accordance with the technical note.

(b) Within the next 6 calendar months after the effective date of this AD, unless already accomplished as required by paragraph (a) of this AD, replace the C.G. tow release cable pulley with one made of aluminum, part no. S 30. Accomplish this replacement in accordance with the Instructions section of Glaser-Dirks Technical Note No. 843–9, dated November 21, 1997.

(c) The replacement required by paragraph (b) of this AD may be accomplished at any time prior to the required time, including in lieu of the inspection required by paragraph (a) of this AD.

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

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 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.

(f) Questions or technical information related to Glaser-Dirks Technical Note No. 843–9, dated November 21, 1997, should be directed to DG Flugzeugbau GmbH, Postfach 4120, D–76625 Bruchsal 4, Germany; telephone: +49 7257–89–0; facsimile: +49 7257–8922. 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 German AD 1998–023, dated January 15, 1998.

Issued in Kansas City, Missouri, on April 17, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11013 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–77–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require repetitive inspections to detect cracking in the pressurized floor pick-up angles on the rear spar of the wing, and replacement of any cracked pick-up angle and its associated diaphragms with improved parts. Such replacement would terminate the repetitive inspections for that angle. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct cracking in the pressurized floor pick-up angles at the rear spar of the wing, which could result in reduced structural integrity of the airframe.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–77–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–77–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–77–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist or develop on certain Airbus Model A320 series airplanes. The DGAC advises that, during fatigue testing, cracking was found on a test article in the pressurized floor pick-up angles at the rear spar of the wing. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airframe.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A320–57–1090, Revision 01, dated June 10, 1997, which describes procedures for repetitive eddy current inspections to detect cracking in the pressurized floor pick-up angles on the rear spar of the wing. The manufacturer also has issued Airbus Service Bulletin A320–57–1025, Revision 05, dated June 26, 1997, which describes procedures for replacing any cracked pick-up angle and its associated diaphragms with improved parts. Accomplishment of the replacement involves removing existing fasteners, diaphragms, and pick-up angles; installing improved pick-up angles, diaphragms, and fasteners; cold expanding certain fastener holes; and performing a rotating probe inspection for cracking of the fastener holes. Such replacement would eliminate the need for the repetitive inspection requirement for that pick-up angle. Accomplishment of the replacement is intended to adequately address the identified unsafe condition.

The DGAC classified Airbus Service Bulletin A320–57–1090 as mandatory and issued French airworthiness directive CN 97–084–097 (B), dated March 12, 1997, in order to assure the airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the inspections specified in Airbus Service Bulletin A320–57–1090, Revision 01, except as discussed below. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect cracking before it represents a hazard to the airplane.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Airbus Service Bulletin A320–57–1090, this proposed AD would not permit further flight if cracks are detected in any pressurized floor pick-up angle. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject pressurized floor pick-up angle that is found to be cracked must be replaced prior to further flight.

Operators also should note that, although Airbus Service Bulletin A320–57–1025 specifies that the manufacturer may be contacted for disposition of certain repair conditions associated with accomplishment of the replacement, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 120 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane (including access and close) to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $57,600, or $480 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional terminating action that would be provided by this proposed AD action, it would take approximately 140 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $10,103 per airplane. Based on these figures, the cost impact of that optional terminating action would be $18,503 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 proposed regulation (1) is not a 'significant regulatory action' under Executive Order 12866; (2) is not a 'significant rule' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 98–NM–77–AD.

Applicability: Model A320 series airplanes, as listed in Airbus Service Bulletin A320–57–1090, Revision 01, dated June 10, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the pressurized floor pick-up angles at the rear spar of the wing, which could result in reduced structural integrity of the airframe, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking in the pressurized floor pick-up angles on the rear spar of the wing, in accordance with Airbus Service Bulletin A320–57–1090, Revision 01, dated June 10, 1997.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 10,000 flight cycles.

(2) If any cracking is found during any inspection required by this AD, prior to further flight, replace each cracked pick-up angle and its associated diaphragms with improved parts, in accordance with Airbus Service Bulletin A320–57–1025, Revision 05, dated June 26, 1997. For all pick-up angles not replaced with improved angles, repeat the inspection thereafter at intervals not to exceed 10,000 flight cycles.

(b) Replacement of a pick-up angle and its associated diaphragms with improved parts, in accordance with Airbus Service Bulletin A320–57–1025, Revision 05, dated June 26, 1997, constitutes terminating action for the repetitive inspection requirements for that pick-up angle.

(c) If any crack is detected during any inspection required by this AD, and the applicable service bulletin specifies to contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in French airworthiness directive CN 97–084–097 (B), dated March 12, 1997.

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11090 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and C–9 (military) series airplanes. This proposal would require repetitive inspections to detect fatigue cracking of the fuselage frames and longerons 16R

and 17R above the forward lower cargo door; repair, if necessary; and modification of the fuselage frames and longerons, if necessary, and follow-on repetitive inspections to detect fatigue cracking of the skin adjacent to the modification. This proposal is prompted by numerous instances of fatigue cracking of the fuselage frames and longerons. The actions specified by the proposed AD are intended to prevent fatigue cracking of the fuselage frames and longerons 16R and 17R, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by June 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, ept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–110–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Operators have reported to the FAA numerous instances of fatigue cracks on in-service McDonnell Douglas Model DC–9 series airplanes in the fuselage frames and longerons 16R and 17R above the forward lower cargo door. These cracks were discovered during inspections conducted as part of the Supplemental Structural Inspection Document (SSID) program, required by AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996). Investigation has revealed that such cracking was caused by fatigue-related stress. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the airplane.

The subject area on certain Model C–9 (military) series airplanes is identical to that on the affected Model DC–9 series airplanes; therefore, both models may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–267, dated October 20, 1997, which describes procedures for repetitive visual inspections to detect fatigue cracking of the fuselage frames and longerons 16R and 17R above the forward lower cargo door, and repair of any cracking of the fuselage frames and longerons 16R and 17R. The service bulletin also describes procedures for modification of the fuselage frames and longerons 16R and 17R, if necessary, and follow-on repetitive visual inspections to detect fatigue cracking of the skin adjacent to the modification. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 887 airplanes of the affected designs in the worldwide fleet. The FAA estimates that 582 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the proposed inspection on U.S. operators is estimated to be $34,920, or $60 per airplane, per inspection cycle.

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

Should an operator be required to accomplish the proposed modification, it would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $860 or $713 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the proposed modification is estimated to be as high as $1,100 and as low as $953 per airplane.

Should an operator be required to accomplish the proposed follow-on inspection of the fuselage skin, it would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the proposed inspection on U.S. operators is estimated to be $60 per airplane, per inspection cycle.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 98–NM–110–AD.

Applicability: Model DC–9 and C–9 (military) series airplanes, as listed in McDonnell Douglas Service Bulletin DC9–53–267, dated October 20, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 prevent fatigue cracking of the fuselage frames and longerons 16R and 17R, which could result in reduced structural integrity of the airplane, accomplish the following:

Note 2: This AD will affect Principal Structural Element (PSE) 53.09.055A of the DC–9 Supplemental Inspection Document (SID).

(a) Prior to the accumulation of 30,000 total landings, or within 3,000 landings after the effective date of this AD, whichever occurs later, perform a visual inspection to detect fatigue cracking of the fuselage frames and longerons 16R and 17R above the forward lower cargo door, in accordance with McDonnell Douglas Service Bulletin DC9–53–267, dated October 20, 1997.

(b) *Condition 1.* If no cracking is detected during the inspection required by paragraph (a) of this AD, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD, in accordance with McDonnell Douglas Service Bulletin DC9–53–267, dated October 20, 1997.

(1) *Option 1.* Repeat the visual inspection thereafter at intervals not to exceed 19,000 landings. Or

(2) *Option 2.* Prior to further flight, modify the fuselage frames and longerons 16R and 17R. Prior to the accumulation of 19,000 landings after accomplishment of the modification, perform a visual inspection to detect fatigue cracking of the skin adjacent to the modification.

(i) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 19,000 landings.

(ii) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) *Condition 2.* If any cracking is detected during the inspection required by paragraph (a) of this AD, prior to further flight, repair the cracked area and modify the fuselage frames and longerons 16R and 17R; in accordance with McDonnell Douglas Service Bulletin DC9–53–267, dated October 20, 1997. Prior to the accumulation of 19,000 landings after accomplishment of the modification, perform a visual inspection to detect fatigue cracking of the skin adjacent to the modification; in accordance with the service bulletin.

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 19,000 landings.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO.

(d) Accomplishment of the actions required by this AD constitutes terminating action for the requirements of AD 96–13–03, amendment 39–9671, for PSE 53.09.055A only of the DC–9 SID.

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

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

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

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11089 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–304–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–120 series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This proposal is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–30–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Wayne A. Shade, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A , the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–7337; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–304–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–304–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the ground beta range during flight on airplanes equipped with turboprop engines. (For the purposes of this proposal, beta is defined as the range of propeller operation intended for use during taxi, ground idle, or reverse operations as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred during flight. Operation of the propellers in the beta range during flight, if not prevented, could result in loss of airplane controllability, or engine overspeed with consequent loss of engine power.

Communications between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of the information on in-flight beta operation contained in the FAA-approved Airplane Flight Manual (AFM) for airplanes that are not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

U.S. Type Certification of the Airplane

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. The FAA has reviewed all available information and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

FAA's Determinations

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop.

The FAA notes that EMBRAER Model EMB–120 series airplanes are equipped with an electro-mechanical gate device that is designed to protect against the positioning of power levers below the flight idle stop in flight. The gate device has an override feature that allows access to beta during a landing roll, in the event of certain system failures. If a certain type of failure occurs, access to beta is available in flight. A pilot who is accustomed to the protection that the electro-mechanical gate device provides may inadvertently access beta in flight. Further, a pilot may deliberately access beta in flight by using the override feature.

In light of this, the FAA considers that revision of the AFM is necessary to ensure that pilots are reminded that positioning power levers below the flight idle stop while the airplane is in flight is prohibited, even though an electro-mechanical gate device is installed. The FAA further considers this to be a minimal action necessary to ensure that pilots do not carry over certain flight habits from an airplane design that mitigates the effects of beta in flight to an airplane design that does not.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on EMBRAER Model EMB–120 series airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to modify the limitation that prohibits positioning the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 235 EMBRAER Model EMB–120 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour

per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $14,100, or $60 per airplane.

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

Regulatory Impact

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

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Embraer: Docket 97–NM–304–AD.

Applicability: All Model EMB–120 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop in flight is prohibited. Such positioning may result in an engine overspeed condition with consequent loss of engine and potential excessive asymmetric propeller drag reducing aircraft controllability.''

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

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

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

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11101 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–336–AD]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes. This proposal would require modification of the lever assembly of the roll disconnect system. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent uncommanded disconnects of the roll control system, which could result in a limited degree of roll control and consequent reduced controllability of the airplane.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–336–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Anthony E. Gallo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York

11581; telephone (516) 256–7510; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–336–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–336–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–8–100, –200, and –300 series airplanes. TCA advises that it has received several reports of uncommanded disconnects of the roll control system during landing, while the airplane was flying in turbulent conditions. Such uncommanded disconnects have been attributed to a problem with the design of the lever assembly of the roll disconnect system, in which turbulence may cause the roll control system to disconnect without a member of the flightcrew moving the cockpit disconnect handle. Uncommanded disconnects of the roll control system may be especially hazardous if the flightcrew is unaware that a disconnect has occurred. Such uncommanded disconnects of the roll control system, if not corrected, could result in a limited degree of roll control and consequent reduced controllability of the airplane.

This airplane model is equipped with a roll control system, which provides roll control by interconnecting the ailerons (which are controlled by inputs from the copilot's control wheel) and the roll spoilers (which are controlled by inputs from the pilot's control wheel), thus moving the pilot's and copilot's control wheels in tandem. If the roll control system jams, pulling the disconnect handle of the roll disconnect system (which is located in the cockpit) disengages the roll control system. Disengaging the roll control system causes the pilot's and copilot's control wheels to stop moving in tandem, and allows the ailerons and roll spoilers to be operated separately. Such separate operation limits the degree of roll control available through any one of the control wheels and results in reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Bombardier Service Bulletin 8–27–79, Revision 'A', dated March 20, 1998, which describes procedures for modifying the lever assembly of the roll disconnect system. The modification involves inspecting the existing lever return spring and replacing it with a new spring, if necessary; drilling a new hole in the lever assembly; filling the original hole with sealant; and installing the new spring with the lever end of the spring connected to a new attachment point for the lever return spring. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–98–04, dated February 27, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Difference Between This Proposed AD and the Parallel Canadian AD and the Service Bulletin

Operators should note that the service bulletin recommends accomplishing the action at ''operators' earliest convenience,'' and the parallel Canadian airworthiness directive requires compliance within 6 months. In light of the criticality of the unsafe condition (uncommanded disconnects of the roll control system, which could result in a limited degree of roll control and consequent reduced controllability of the airplane), the FAA finds a 3-month compliance time for accomplishing the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 180 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $21,600, or $120 per airplane.

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

Regulatory Impact

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

De Havilland, Inc.: Docket 97–NM–336–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes on which Bombardier Modification 8/2376 was not accomplished during production; serial numbers 003 through 294 inclusive, and 296 through 433 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 uncommanded disconnects of the roll control system, which could result in a limited degree of roll control and consequent reduced controllability of the airplane; accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the lever assembly of the roll disconnect system, in accordance with Bombardier Service Bulletin 8–27–79, Revision 'A', dated March 20, 1998.

(b) As of the effective date of this AD, no person shall install on the roll disconnect system of any airplane a lever assembly having part number 82710200–001.

(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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–98–04, dated February 27, 1998.

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11093 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–16–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, that currently requires an inspection to detect free movement of the actuator servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement, if necessary. This action would add a one-time inspection to determine the residual strength of the servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement of the actuator with a new or serviceable actuator, if necessary; and eventual replacement of the horizontal stabilizer actuator with an improved actuator. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent uncommanded trimming or failure of the trim system of the horizontal stabilizer, and consequent reduced controllability of the airplane.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–16–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–16–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–16–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 7, 1992, the FAA issued AD 92–18–04, amendment 39–8348 (57 FR 38432, August 25, 1992), applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, to require an inspection to detect free movement of the actuator servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement, if necessary. That action was prompted by a report of a horizontal stabilizer malfunction and subsequent uncommanded stabilizer movement caused by a broken spool in the actuator servo-valve assembly of the horizontal stabilizer control unit. The requirements of that AD are intended to prevent uncommanded trimming or failure of the trim system of the horizontal stabilizer.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer and the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, have determined that currently installed servo-valve sub-assemblies of the horizontal stabilizer may have suffered damage as a result of excessive control forces experienced during past heavy operation. This damage could result in a dormant failure of the actuator servo-valve assembly of the horizontal stabilizer control unit. This condition, if not corrected, could lead to an uncommanded nose-up trimming condition in the event of a horizontal stabilizer servo-valve failure, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin F28/27–183, dated November 21, 1994, which describes procedures for a one-time inspection to determine the residual strength of the servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement of the actuator with a new or serviceable actuator, if necessary. The service bulletin also describes procedures for replacement of the horizontal stabilizer actuator with an improved actuator that incorporates a revised servo-valve creep rate. This replacement is intended to ensure that a failure of the horizontal stabilizer actuator would result in a nose-down trim position. The RLD classified this service bulletin as mandatory and issued Dutch airworthiness directive 1992–077/2(A), dated January 31, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 92–18–04 to continue to require an inspection to detect free movement of the actuator servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement, if necessary. The proposed AD also would require a one-time inspection to determine the residual strength of the servo-valve sub-assembly of the horizontal stabilizer actuator, and replacement of the actuator with a new or serviceable actuator, if necessary; and eventual replacement of the horizontal stabilizer actuator with an improved actuator. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 27 airplanes of U.S. registry that would be affected by this proposed AD.

The inspection that is currently required by AD 92–18–04 would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $1,620, or $60 per airplane.

The inspection that is proposed in this new AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection of this AD on U.S. operators is estimated to be $3,240, or $120 per airplane.

The replacement proposed in this new AD action would take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed replacement of this AD on U.S. operators is estimated to be $12,960, or $480 per airplane.

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

Regulatory Impact

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

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

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8348 (57 FR 38432, August 25, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Fokker: Docket 98–NM–16-AD. Supersedes AD 92–18–04, Amendment 39–8348.

Applicability: Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes; equipped with Menasco horizontal stabilizer actuators having part number (P/N) 11100-( ); 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 (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 prevent uncommanded trimming or failure of the trim system of the horizontal stabilizer, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 20 days after September 9, 1992 (the effective date of AD 92–18–04, amendment 39–8348), perform an inspection of the servo-valve sub-assembly rod-end bearing and servo-valve sub-assembly for movement, in accordance with Fokker Service Bulletin F28/27–180, dated July 3, 1992.

(1) If the servo-valve sub-assembly rod-end bearing and servo-valve sub-assembly move freely within the load limits specified in the service bulletin, reassemble and conduct a functional test, in accordance with the service bulletin.

(2) If the servo-valve sub-assembly rod-end bearing or servo-valve sub-assembly require higher loads for movement than specified in the service bulletin, prior to further flight, remove and replace the horizontal stabilizer control unit with a serviceable control unit that has been inspected and found to be within the load limits of the service bulletin, or that has been inspected and repaired in accordance with Chapter 27–42–4 of the Menasco Overhaul Manual (OHM), as revised by Temporary Revision Number 3, dated July 10, 1992.

(b) Within 6 months after the effective date of this AD, perform a one-time inspection to determine the residual strength of the servo-valve sub-assembly of the horizontal stabilizer actuator, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin F28/27–183, dated November 21, 1994. If any discrepancy is found, prior to further flight, replace the actuator with a new or serviceable actuator in accordance with the service bulletin.

(c) Within 3 years after the effective date of this AD, replace the horizontal stabilizer actuator with an actuator that has been modified and re-marked in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin F28/27–183, dated November 21, 1994.

(d) As of the effective date of this AD, no person shall install a horizontal stabilizer control unit on any airplane, unless the horizontal stabilizer actuator has been modified and re-marked in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin F28/27–183, dated November 21, 1994.

(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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(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.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1992–007/2(A), dated January 31, 1995.

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11092 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–302–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Model G–159 (G–I) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Gulfstream Aerospace Corporation Model G–159 (G–I) airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This proposal is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–302–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA,

Small Airplane Directorate, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Wayne A. Shade, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–7337; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–302–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–302–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the ground beta range during flight on airplanes equipped with turboprop engines. (For the purposes of this proposal, beta is defined as the range of propeller operation intended for use during taxi, ground idle, or reverse operations, as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred during flight. Operation of the propellers in the beta range during flight could result in loss of airplane controllability, or engine overspeed with consequent loss of engine power.

Communication between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of the information on in-flight beta operation contained in the FAA-approved Airplane Flight Manual (AFM) for airplanes that are not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

FAA's Determinations

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop. Since turbopropeller-powered Gulfstream Aerospace Corporation Model G–159 (G–I) airplanes meet these criteria, the FAA finds that the AFM's for these airplanes must be revised to include the limitation and statement of consequences described previously.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other turbopropeller-powered Gulfstream Aerospace Corporation Model G–159 (G–I) airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to modify the limitation that prohibits the positioning of the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 143 Gulfstream Model G–159 (G–I) airplanes of the affected design in the worldwide fleet. The FAA estimates that 63 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,780, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Gulfstream Aerospace Corporation (Formerly Grumman): Docket 97–NM–302–AD.

Applicability: All Model G–159 (G–I) airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power, caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) For turbopropeller-powered Gulfstream Model G–159 (G–1) airplanes: Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of the propeller flight fine pitch lock selector to the ground interlock position in flight is PROHIBITED. Such positioning may lead to loss of airplane control.''

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

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

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

Issued in Renton, Washington, on April 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11102 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 98N–0168]

Medical Devices; 30–Day Notices and 135–Day PMA Supplement Review; Companion Document to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations governing the submission and review of premarket approval application (PMA) supplements to allow for the submission of a 30-day notice for modifications to manufacturing procedures or methods of manufacture. Amendments are being made to implement revisions to the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments on or before July 13, 1998. Submit written comments on the information collection requirements on or before June 26, 1998.

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

FOR FURTHER INFORMATION CONTACT: Kathy M. Poneleit, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**. This proposed rule is substantively identical to its companion direct final rule. The proposed rule will provide the procedural framework to finalize the rule in the event the companion direct final rule receives any significant adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with that for the direct final rule. All comments on this proposed rule will also be considered as comments on the companion direct final rule. FDA is publishing the direct final rule because the rule contains noncontroversial changes, and FDA anticipates that it will receive no significant adverse comments. If no significant comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, FDA will publish a confirmation notice within 30 days after the comment period ends confirming that the direct final rule will go into effect on September 9, 1998. Because this rule makes noncontroversial changes to an existing regulation in order to implement changes required by FDAMA, FDA believes that publication of a direct final rule is appropriate. Additional information about FDA's direct final rulemaking procedures is set forth in a guidance published in the **Federal Register** of November 21, 1997 (62 FR 62466).

If FDA receives a significant adverse comment regarding this rule, FDA will publish a document withdrawing the direct final rule within 30 days after the comment period ends and will proceed to respond to all of the comments received under this companion rule using usual notice-and-comment procedures. The comment period for this companion proposed rule runs concurrently with the direct final rule's comment period. Any comments received under this companion proposed rule will also be considered comments regarding the direct final rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether

the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment recommending a rule change in addition to the rule will not be considered a significant adverse comment, unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiative, and is intended to reduce the burden of unnecessary regulations on medical devices, without diminishing the protection of public health.

On November 21, 1997, the President signed FDAMA into law. As one of its provisions, FDAMA added section 515(d)(6) to the act (21 U.S.C. 360e(d)(6)). This new section provides that PMA supplements are required for all changes that affect safety and effectiveness, unless such changes involve modifications to manufacturing procedures or method of manufacture. Those types of manufacturing changes will require a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement. Examples of changes that potentially qualify for a 30-day notice are those intended by the PMA holder to reduce manufacturing and/or labor cost, reduce manufacturing time, reduce waste, or compensate for a change in suppliers of raw material or components.

Manufacturers who believe that the change they intend to make qualifies for this review will be required to submit a 30-day notice to FDA that describes in detail the change the manufacturer intends to make, summarizes the data or information supporting the change, and states that the change has been made in accordance with the requirements of part 820 (21 CFR part 820). The manufacturer may distribute the device 30 days after FDA receives the notice, unless FDA notifies the applicant within that 30-day period that the notice is not adequate. If the notice is not adequate, FDA will inform the applicant in writing that a 135-day supplement is needed and will describe what further action or information is required for FDA to approve the change. The time FDA uses to review the 30-day notice will be deducted from the 135-day supplement review period if the notice contains the appropriate information that is required for review of PMA supplements.

This rule incorporates the provisions for a 30-day notice and 135-day PMA supplements into FDA's regulations at § 814.39 (21 CFR 814.39).

The agency has developed guidance on this issue, entitled ''CDRH Guidance for 30-Day Notices and 135-Day PMA Supplements for Manufacturing Method or Process Changes for Use by OC, ODE, and Industry,'' and it has announced the availability of the guidance in the **Federal Register** of February 25, 1998 (63 FR 9570).

II. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulatory action is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule merely codifies applicable statutory requirements imposed by the FDAMA. The Commissioner of Food and Drugs certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This proposed rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

IV. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below along with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Supplements to Premarket Approval Applications for Medical Devices

Description: FDAMA (Pub. L. 105–115) added section 515(d)(6) to the act, modifying FDA's statutory authority regarding premarket approval of medical devices. This new section provides for an alternate form of notice to the agency for certain types of changes to a device for which the manufacturer has an approved PMA. Under section 515(d)(6) of the act, PMA supplements are required for all changes that affect safety and effectiveness unless such changes involve modifications to manufacturing procedures or the method of manufacture. For those types of manufacturing changes, the manufacturer may submit to the agency an alternate form of notice in the form of a 30-day notice or, where FDA finds such notice inadequate, a 135-day PMA supplement. The 30-day notice must describe the change the manufacturer

intends to make, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of part 820.

The manufacturer may distribute the device 30 days after FDA receives the notice, unless FDA notifies the applicant, within that 30-day period, that the notice is inadequate. If the notice is not adequate, FDA will inform the manufacturer that a 135-day supplement is required and will describe what additional information or action is necessary for FDA to approve the change.

This rule would incorporate the provisions for a 30-day notice and 135-day supplements into FDA's regulations at § 814.39 to reflect the changes made by FDAMA.

Description of Respondents: Businesses or other for profit organizations.

The information collection for § 814.39 has been approved by OMB until September 30, 1998, under Premarket Approval of Medical Devices, OMB Control Number 0910–0231, for a total of 36,063 hours. FDA believes that the submission of 30-day notices in lieu of PMA supplements will result in approximately a 10 percent reduction in total number of hours needed to comply with § 814.39. As a result, FDA estimates that the new total number of hours needed to comply with the information collection requirements in § 814.39 is 32,612 for a reduction of 3,451 hours.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
814.39	493	1	493	66.15	32,612

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA believes that the proposed amendments to § 814.39 permitting the submission of 30-day notices in lieu of PMA supplements would result in approximately a 10-percent reduction in the total number of hours needed to comply as compared to § 814.39 prior to these proposed amendments. As a result, FDA estimates that the new total number of hours that would be needed to comply with the information collection requirements in § 814.39 is 32,612, for a reduction of 3,451 hours.

For consistency with the direct final rule to which this proposed rule is a companion, FDA is following the PRA comment procedures for direct final rules in this proposed rule. As provided in 5 CFR 1320.5(c)(1), collections of information in a direct final rule is subject to the procedures set forth in 5 CFR 1320.10. Interested persons and organizations may submit comments on the information collection requirements of this proposed rule by June 26, 1998 to the Dockets Management Branch (address above).

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

V. Comments

Interested persons may, by July 13, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposal. This comment period runs concurrently with the comment period for the direct final rule. 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 the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered as comments regarding the direct final rule and this proposed rule. In the event the direct final rule is withdrawn, all comments received will be considered comments on this proposed rule.

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under the authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c-360j, 371, 372, 373, 374, 375, 379, 379e, 381.

2. Section 814.39 is amended by revising paragraph (a) introductory text and paragraph (a)(4) and by adding paragraph (f) to read as follows:

§ 814.39 PMA supplements.

(a) After FDA's approval of a PMA, an applicant shall submit a PMA supplement for review and approval by FDA before making a change affecting the safety or effectiveness of the device for which the applicant has an approved PMA, unless the change is of a type for which FDA, under paragraph (e) of this section, has advised that an alternate submission is permitted or is of a type which, under section 515(d)(6)(A) of the act and paragraph (f) of this section, does not require a PMA supplement under this paragraph. While the burden for determining whether a supplement is required is primarily on the PMA holder, changes for which an applicant shall submit a PMA supplement include, but are not limited to, the following types of changes if they affect the safety or effectiveness of the device:

* * * * *

(4) Changes in manufacturing facilities, methods, or quality control procedures that do not meet the requirements for a submission under paragraph (e) or (f) of this section.

* * * * *

(f) Under section 515(d) of the act, modifications to manufacturing procedures or methods of manufacture that affect the safety and effectiveness of a device subject to an approved PMA do not require submission of a PMA supplement under paragraph (a) of this

section and are eligible to be the subject of a a 30-day notice. A 30-day notice shall describe in detail the change, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of 21 CFR part 820. The manufacturer may distribute the device 30 days after the date on which FDA receives the 30-day notice, unless FDA notifies the applicant within 30 days from receipt of the notice that the notice is not adequate. If the notice is not adequate, FDA shall inform the applicant that a 135-day PMA supplement is needed and shall describe what further information or action is required for acceptance of such change. The number of days under review as a 30-day notice shall be deducted from the 135-day PMA supplement review period if the notice meets appropriate content requirements for a PMA supplement.

Dated: March 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–11085 Filed 4–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–217–FOR]

Kentucky Regulatory Program; Reopening of Public Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Kentucky regulatory program (hereinafter the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky submitted a letter requesting the removal of an amendment at 30 CFR 917.17(a) which required that it maintain a staffing level of 156 field inspectors and, in the same letter, provided justification for its request. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.], May 12, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Director, at the address listed below.

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2494

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2494.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated November 3, 1997 (Administrative Record No. KY–1418), Kentucky submitted a proposed amendment to its program requesting the removal of an amendment at 30 CFR 917.17(a) requiring that Kentucky maintain a staffing level of 156 field inspectors. In the same letter, Kentucky provided the following justification for its request:

1. Field inspector staffing levels are no longer based on 1984 inspection numbers and budgetary needs.

2. A study performed during the National Wildlife Federation Settlement Agreement determined that a cap of 24 inspectable units per field inspector should be established.

3. OSM has accepted the limits set by the study in determining inspection staff levels as indicated by the approval of Title V administrative and enforcement grants.

4. OSM's annual reports indicate that Kentucky's Title V regulatory program consistently meets high inspection frequency levels.

Kentucky also maintains that using a fixed number of field inspectors fails to provide the latitude necessary to adapt its inspection force to changing conditions in the coal industry. Further, the number of inspectors Kentucky maintains is based on the current and ever-changing number of inspectable units.

The proposed amendment was announced in the December 10, 1997, **Federal Register** (62 FR 65044). The notice did not clarify that Kentucky submitted documents that provide evidence that it has sufficient inspection and enforcement staffing levels to regulate mining in accordance with SMCRA. Those documents are: ''Historical Information on Kentucky's Surface Mining Primacy Program,'' complied by Kentucky, July 1997 (Administrative Record No. KY–1418); ''Review of Current Staffing and Funding Levels,'' prepared by the OSM Lexington Field Office, December 1997 (Administrative Record No. KY–1420); and ''Inspection Resources Study,'' prepared by OSM and Kentucky, August 1989 (Administrative Record No. KY–1418).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No Environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal Regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmenal relations, Surface mining, Underground mining.

Dated: April 16, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–11072 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–05–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on: Monday, May 18, 1998, 8:30 a.m. to 5:00 p.m.; Tuesday, May 19, 1998, 8:30 a.m. to 5:00 p.m.; Wednesday, May 20, 1998, 8:30 a.m. to 5:00 p.m.; and Thursday, May 21, 1998, 8:30 a.m. to 3:00 p.m.

ADDRESSES: The committee will meet at the National Center on Accessibility, Bradford Woods, Griffith Hall, 5020 State Road 67 North, Martinsville, Indiana.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (http://www.access-board.gov/rules/outdoor.htm).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas, including trails, camping and picnic areas, and beaches, covered by the Americans with Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by May 8, 1998, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 98–11047 Filed 4–24–98; 8:45 am]

BILLING CODE 8150–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–52, RM–9239]

Radio Broadcasting Services; Hague, NY, Addison, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by John Anthony Bulmer requesting the substitution of Channel 229C3 for Channel 229A at Hague, NY, the reallotment of Channel 229C3 to Addison, VT, as the community's first local aural service, and the modification of his construction permit for Station WWFY to specify Addison as its community of license. Channel 229C3 can be allotted to Addison, Vermont, in compliance with the Commission's minimum distance separation requirements, with respect to all domestic allotments, with a site restriction of 14.2 kilometers (8.8 miles) west, at coordinates 44–02–30 North Latitude; 73–28–00 West Longitude, to accommodate petitioner's desired transmitter site. The allotment will result in a short-spacing to Station CBM-FM, Channel 228C1, Montreal, Quebec, Canada. Therefore, since Addison is located within 320 kilometers (200

miles) of the U.S.-Canadian border, concurrence in the allotment as a specially negotiated short-spaced allotment will be sought from the Canadian government.

DATES: Comments must be filed on or before June 8, 1998, and reply comments on or before June 23, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Miller & Miller, P.C., 1990 M Street, NW, Washington, D.C. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–52, adopted April 8, 1998, and released April 17, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–11094 Filed 4–24–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–55, RM–9255]

Radio Broadcasting Services; Pleasanton, Bandera and Hondo, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Reding Broadcasting Company requesting the substitution of Channel 253C2 for Channel 252A at Pleasanton and the modification of Station KBUC(FM)'s license accordingly. In order to accommodate the upgrade, Reding also requests the substitution of Channel 276A for Channel 252A for Station KEEP(FM) at Bandera, Texas; the modification of Station KEEP(FM)'s license; the substitution of Channel 290A for Channel 253A and change of transmitter site for Station KRBH(FM) at Hondo, Texas; and the modification of Station KRBH(FM)'s construction permit. See *infra*, Supplementary Information.

DATES: Comments must be filed on or before June 8, 1998, and reply comments on or before June 23, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark N. Lipp, Ginsburg, Feldman & Bress, Chartered, 1250 Connecticut Avenue, NW, Washington, D.C. and Gene A Bechtel, Bechtel & Cole, Chartered, 1901 L Street, NW, Suite 250, Washington, D.C. 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–55, adopted April 8, 1998, and released April 17, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Channel 253C2, Channel 276A and Channel 290A can be allotted to Pleasanton, Bandera and Hondo, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 253C2 can be allotted to Pleasanton with a site restriction of 28.7 kilometers (17.8 miles) northwest at coordinates 29–11–00 and 98–38–00. Channel 276A can be allotted to Bandera and can be used at the site specified in Station KEEP(FM)'s license at coordinates 29–51–22 and 99–05–25. Channel 290A can be allotted to Hondo with a site restriction of 10.4 kilometers (6.4 miles) west at coordinates 29–21–00 and 99–15–00. Since Pleasanton, Bandera and Hondo, Texas, are located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government was solicited and has been obtained for these allotments. As requested, we shall propose to modify the license of Station KBUC(FM) at Pleasanton, Texas, to specify operation on Channel 253C2. In accordance with Section 1.420(g) of the Commission's Rules we will not accept competing expressions of interest or require that the petitioner demonstrate the availability of an additional equivalent channel at Pleasanton, Texas.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR PART 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–11098 Filed 4–24–98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA–98–3398]

RIN 2127–AF05

Federal Motor Vehicle Safety Standards; Retreaded/Regrooved for New Trailers

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

ACTION: Withdrawal of rulemaking.

SUMMARY: This notice withdraws rulemaking in connection with a petition from the Tire Retreading Institute (TRI) requesting that manufacturer-supplied retreaded tires be permitted for installation on new trailers. TRI said in its petition that there was no safety justification for the limitations on the use of retreaded tires, and that there would be significant environmental benefits from encouraging greater use of retreads.

NHTSA is withdrawing rulemaking because of its concern that safety could be degraded, since there is no safety standard establishing performance requirements for retreaded tires to be used on new trailers. Since there would be no means for the purchaser or this agency to assure the quality of retreads installed on new trailers, NHTSA is concerned that making the change in the petition could lessen safety.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph P. Scott, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 366–8525.

SUPPLEMENTARY INFORMATION:

a. Tire Retreating Institute (TRI) Petition

In 1993, the Tire Retreading Institute (TRI) filed a petition asking the agency to permit trailer manufacturers and distributors and dealers to install retreaded tires on new trailers without any limitations. TRI said its petition that there was no safety justification for the limitations on the use of retreaded tires, and that there would be significant environmental benefits from encouraging greater use of retreads. Docket No. 95–43 was initiated in response to the Tire Retreading Institute (TRI) petition.

TRI asserted that the current restriction on the source of retreaded tires is not supported by safety considerations, by implication, asserting that retreaded tires are safe. TRI stated in its comments that the Environmental Protection Agency (EPA) had urged the industry to petition NHTSA to revise its regulations in this area.

TRI proposed new language for S5.1.3 of § 571.120, as follows:

> In place of tires that meet the requirement of Standard No. 119, a trailer may be equipped with retreaded tires if the sum of the maximum load ratings meets the requirements of S5.1.2 and the purchaser is informed in writing that the trailer is equipped with such retreaded tires.

b. History of NHTSA Tire Standard

FMVSS No. 120 requires that vehicles equipped with pneumatic tires for highway service be equipped with new tires that meet the requirements of either FMVSS No. 109 or FMVSS No. 119. However, in place of tires that meet FMVSS No. 119 paragraph S5.1.3 of FMVSS No. 120 permits a truck, bus, or trailer to—at the request of the vehicle purchaser—be equipped at the place of the vehicle's manufacture with used or retreaded tires owned or leased by the vehicle purchaser. Only the vehicle manufacturer can, per the request of the purchaser, install retreaded tires on a new trailer—dealers and distributors are prohibited. The sum of the maximum load ratings of the tires must meet the requirements paragraph S5.1.2 of the standard, which requires the sum of the maximum load ratings of the tires fitted to an axle to be equal to the weight rating of the axle system. Also, only tires originally manufactured to comply with FMVSS No. 119, as evidenced by a DOT symbol marked on the sidewall of tire, can qualify for the S5.1.3 exception.

These limitations on the use of retreaded tires were established because NHTSA has no safety standard for non-passenger car retreaded tires. Absent a safety standard, NHTS decided to establish some limitations—to help ensure reasonable safety—on the use of retreaded or regrooved tires on new trucks and trailers. With respect to retreads, the agency presumed that the trailer purchaser would impose a quality control program for the retreads given to the trailer manufacturer that would assure the purchaser that its new vehicle had appropriate tires.

FMVSS No. 120 was promulgated in a **Federal Register** notice dated January 23, 1976 (41 FR 3467) and became effective in phases between September 1, 1976 and September 1, 1979. Initially, the S5.1.3 exception applied only to used tires owned or leased by the vehicle purchaser, if the maximum load ratings were sufficient to carry the loads of the axles on which they were installed. This action was intended to accommodate ''mileage contract purchasers,'' a common practice in the commercial truck, bus, and trailer industry by which the purchaser's vehicles are equipped with tires purchased or leased from a supplier on a cost-per-mile basis.

NHTSA reviewed the standard after its issuance and noticed some minor errors and areas that required clarification. NHTSA published the Notice of Proposed Rulemaking (NPRM) on October 30, 1980 (45 FR 71834) proposing to amend S5.1.3 to permit the installation of retreaded as well as used tires, but limiting the exception to mileage contract purchasers only. The agency reasoned that suppliers who provided tires on a mileage contract basis had a contractual obligation to ensure that the tires were serviceable and safe for use on the vehicles for which they were intended. The agency further stated that this safeguard would not exist in the case of any other purchaser who was merely trying to save the cost of purchasing new tires, since a purchaser could send the vehicle manufacturer marginal or unsafe tires for mounting on a new vehicle.

c. NPRM (October 30, 1980)

In response to the NPRM dated October 30, 1980, thirteen comments were received by the docket—twelve of which opposed the provision limiting the exception to mileage contract purchasers. The commenters stated that it is common practice for all vehicle fleets, not just mileage contract purchasers, to send tires from their banks to vehicle manufacturers for mounting on the new vehicles that they order. Tire banks are composed of serviceable tires that have been removed from vehicles that are no longer in service. The commenters argued that the proposal in the NPRM to limit the used/retreaded tire exception to mileage contract purchasers would effectively eliminate the practice of maintaining tire banks, thereby increasing the cost for the vehicle fleets affected with no safety justification for doing so. Some commenters also argued that it made no sense for a purchaser to spend $65,000 to $75,000 for a new vehicle, then install unsafe tires on it. Finally, one commenter correctly noted that FMVSS No. 120 did not require that new vehicles be equipped with tires. Therefore, a purchaser could—if they chose to do so—order a new vehicle without tires, then install unsafe tires after delivery.

NHTSA was persuaded by those comments and decided not to limit the

use of used and retreaded tires only to mileage contract purchasers, but to widen the exception to permit all purchasers to provide their own tires. In addition, since all commenters who addressed the retreaded tire proposal supported it, NHTSA adopted that provision for inclusion in S5.1.3. NHTSA published the final rule promulgating the current provisions of FMVSS No. 120 on May 17, 1984 (49 FR 20822).

d. Federal Register Notice (June 1, 1995)

On June 1, 1995, NHTSA's **Federal Register** Notice solicited comments on TRI's petition and whether the standard should be further amended to permit manufacturers, distributors, and dealers—in addition to purchasers—to install used and/or retreaded tires on new trucks and buses. Also in the notice, NHTSA posed fourteen questions in an attempt to obtain data ranging from the percentage of purchasers that use tire contracts and/or tire banks to the environmental impact of granting the petition.

e. Agency's Decision

NHTSA received 13 comments in response to its notice. Three commenters clearly supported the idea of expanding the use of retreads on new trailers. TRI, the petitioner, repeated its request for that expansion in its comments, noting that NHTSA has no safety data showing that retreads are less safe than new tires. Dempster Industries, Inc. (a trailer manufacturer) and Becker Tire & Treading, Inc. (a retreader) both noted that recycling is important and the requested expansion would result in cost savings for all. Two other commenters did not oppose the idea of expanding the use of retreads on new trailers. The American Trucking Association (ATA) stated that retreads cost about half as much as new tires and that its members believe manufacturers and dealers are capable of installing suitable retreads on new trailers. ATA said that this should not present any serious problems if the customer is clearly told what he or she is getting. Fixible, a bus manufacturer, indicated that, while it did not oppose the change, that company would continue to install only new tires, unless retreads were provided by the purchaser.

Eight commenters opposed the expansion requested in the petition. Two tire manufacturers, Dunlop and Continental General Tire, both urged the agency to leave the requirements as they are. Dunlop noted that there is no Federal standard regulating these retreads and that allowing any retread to be used on new trailers would increase the number of tire failures experienced by new trailers. Both the Pennsylvania Department of Transportation and the Advocates for Highway and Auto Safety also noted the absence of any Federal standard for these retreads and recommended that any expansion in the use of retreads on new trailers should be accompanied by a new Federal standard for these retreads. The National Automobile Dealers Association opposed the expansion, arguing that the price difference for new vs. retreaded tires is insignificant when compared to the price of a new vehicle. Two trailer manufacturers opposed the proposed change. Big Tex Trailers stated that tires are critical to safety and the prior history of retreads is not known. In that company's view, the change requested would lessen safety. Sooner Trailer Manufacturing Co., Inc. commented that the National Association of Trailer Manufacturers, which represents manufacturers of trailers with a gross vehicle weight rating of less than 26,000 pounds, has adopted a recommendation that its members refrain from using retreads as original equipment on new trailers. Finally, the American Retreaders Association commented that it opposed the change and that its members believe the current regulatory provisions work well.

After considering these comments and reexamining this area, NHTSA has decided to terminate rulemaking on this petition. Standard No. 120 currently requires a quality control check of tires mounted on new vehicles other than passenger cars. If those tires are new tires, they must be certified as complying with NHTSA's safety standards for new tires. If the tires mounted on new vehicles are used or retreaded tires, the purchaser has furnished those tires to the vehicle manufacturer. Given the substantial investment the purchaser is making in a new vehicle, NHTSA has trusted purchasers to take adequate steps to assure that the tires given to the manufacturer are safe and suitable for use on the new vehicle.

Under the approach requested in TRI's petition, quality control of the tires on new trailers would be left up to vehicle manufacturers and dealers. As noted in the comments, there is no Federal safety standard for non-passenger car retreads. In addition, NHTSA is unaware of any voluntary consensus industry standard for these retreads. Given these circumstances, it would be very difficult for vehicle manufacturers and dealers to apply any uniform standards for quality control purposes. Absent uniform standards, it would be difficult to assure no degradation of safety of the tires installed on new trailers and other non-passenger cars.

NHTSA would reexamine this area if information becomes available indicating that adequate quality control could be assured, such as an industry standard, best practices of major retreaders, or other voluntary approaches, as well as, a possible Federal Safety Standard. Without assuring quality control of these retreads, NHTSA is concerned that the safety of tires on new trailers would be diminished.

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

Issued on: April 21, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–11177 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 285 and 644

[I.D. 042098D]

Atlantic Tuna Fisheries; Atlantic Billfishes; Public Hearings

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

ACTION: Notice of additional public hearings.

SUMMARY: On April 9, 1998, NMFS published a document announcing a series of public hearings to receive comments from fishery participants and other members of the public regarding proposed Atlantic bluefin tuna (ABT) quota specifications and General category effort controls, tournament reporting for Atlantic billfishes, and an increase in minimum size limits for Atlantic blue marlin and Atlantic white marlin. NMFS announces two additional public hearings.

DATES: The additional hearings are scheduled as follows:

1. Monday, May 4, 1998, 7 to 9 p.m., Riverhead, NY.
2. Monday, May 4, 1998, 7 to 9 p.m., Toms River, NJ.

ADDRESSES: Written comments should be sent to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West

Highway, Silver Spring, MD 20910-3282.

The hearing locations are:

1. Riverhead Town Hall, 200 Howell Avenue, Riverhead, NY 11901, (516) 727–3200

2. Quality Inn, 815 Route 37 West, Toms River, NJ 08755, (732) 341–2400.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown at (978) 281–9260, Sarah McLaughlin at (301) 713–2347, or Buck Sutter at (813) 570–5447.

SUPPLEMENTARY INFORMATION: The actions that are the subject of the hearings are necessary to improve management and monitoring of the U.S. Atlantic tuna and billfish fisheries in order to implement 1996 and 1997 International Commission for the Conservation of Atlantic Tunas recommendations and to enhance collection of data in order to improve assessment of the environmental, economic, and social impacts of the fisheries.

Complete descriptions of the proposed ABT specifications and the interim billfish measures are contained in the proposed rule for ABT published April 2, 1998 (63 FR 16220), and the interim rule for billfish published March 24, 1998 (63 FR 14030), respectively, and are not repeated here. Copies of these actions may be obtained by writing (see **ADDRESSES**) or calling one of the contact persons (see **FOR FURTHER INFORMATION CONTACT**).

The purpose of this announcement is to alert the interested public of the hearings and provide for public participation.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rebecca Lent at least 5 days prior to the hearing date (see **ADDRESSES**).

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–11015 Filed 4–23–98; 10:26 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 80
Monday, April 27, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Farm Service Agency's (FSA) intention to request an extension for an information collection currently approved for FSA's regulation governing the designation of natural disaster areas by the Secretary for physical and production losses, or by the FSA Administrator for physical losses only. The regulations concerning this activity are published under the authority of the Consolidated Farm and Rural Development Act.

DATES: Comments on this notice must be received on or before June 26, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Steven R. Bazzell, Senior Loan Officer, Farm Loan Programs, Farm Service Agency, STOP 0520, 1400 Independence Avenue, S.W., Washington, DC 20250–0520; telephone (202) 690–4022; e-mail sbazzell@wdc.fsa.usda.gov; or facsimile (202) 690–3573.

SUPPLEMENTARY INFORMATION:

Title: Disaster Assistance—General.

Expiration Date of Approval: June 30, 1998.

OMB Control Number: 0560–0170.

Type of Request: Extension of a currently approved information collection.

Abstract: The information collected under Office of Management and Budget (OMB) Number 0560–0170 is needed to enable FSA to evaluate requests for a Secretarial natural disaster designation, or in the case where only physical loss of property occurred, an FSA Administrator's notification. The information collected establishes whether there was a (1) county-wide (or similar jurisdiction), 30-percent reduction in agricultural income, or (2) evidence that undue hardship will be suffered by farmers and ranchers if FSA Emergency Loan (EM) assistance is not made available. Once authorized, a Secretarial natural disaster designation makes low-interest EM loans (and certain other Federal assistance) available to eligible family farmers and ranchers who have suffered a 30-percent income loss.

Estimate of Burden: Public reporting burden for this collection of information is estimated at 0.51 hours per response.

Respondents: Individuals, State and local business and government officials, households and farms.

Estimated Number of Respondents: 1,020

Estimated Number of Responses per Respondents: 1.0

Estimated Total Annual Burden on Respondents: 525 hours

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSA duties and responsibilities, and whether the information will have practical utility; (b) the accuracy of FSA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions; (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. Comments may be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503, and also to Steven R. Bazzell at the address listed above. All responses to this notice will be summarized and included in the request for OMB approval.

All comments will become a matter of public record.

Signed at Washington, D.C., on April 10, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–11030 Filed 4–24–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request: FNS–583, Employment and Training Program Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collection of the FNS–583, Employment and Training Program Report.

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

ADDRESSES: Send comments and requests for copies of this information collection to John Knaus, Chief, Program Design Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information, including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other form of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: John Knaus, (703) 305–2519.

SUPPLEMENTARY INFORMATION:

Title: Employment and Training Program Report.

OMB Number: 0584–0339.

Expiration Date: August 31, 1998.

Type of Request: Revision of a currently approved collection.

Abstract: Title 7 CFR 273.7(c)(6) requires State agencies to submit quarterly Employment and Training (E&T) Program reports containing monthly figures for participation in the program. The Food and Nutrition Service (FNS) has designed a form for this purpose—the Employment and Training Program Report, form FNS–583. The information contained in the FNS–583 is used by FNS to determine whether States have met their mandated performance standards.

The enactment of the Balanced Budget Act of 1997, Public Law 105–33 (Balanced Budget Act), in August, 1997, amended the requirements for the Food Stamp Program E&T requirements so that States' efforts are now focused on a particular segment of the food stamp population—able-bodied adults without dependents (ABAWDs). The Food Stamp Act of 1997, as amended by the Balanced Budget Act, permits a State to exempt each month up to 15 percent of its population of ABAWDs that is in danger of losing eligibility for the Food Stamp Program. (7 U.S.C. 2015(o)(6)(C)). The statute also gives the Secretary the duty of adjusting the number of exemptions assigned for a current fiscal year based on the actual number of exemptions granted by the State in the preceding year. (7 U.S.C. 2015(o)(6)(E)).

The law further provides supplemental funding of unmatched Federal E&T funds for Fiscal Years 1998 through 2002 and targets 80 percent of all Federal E&T funds to qualifying work activities for ABAWDs. (7 U.S.C. 2025(h)(1)(E)). States may use up to 20 percent of their 100 percent E&T grant allocation to provide allowable work activities for their non-ABAWDs population. Under the law, the Secretary must monitor States' expenditures of E&T funds, including the cost of individual E&T components, to ensure the reasonable cost of efficiently and economically providing these activities. (7 U.S.C. 2025(h)(5)). The law also gives the Secretary the authority to set maximum reimbursements rates for E&T components. (7 U.S.C. 2025(h)(3)).

The Balanced Budget Act mandated implementation of these provisions effective October 1, 1997 without regard as to whether regulations were promulgated to implement them. For this reason, FNS submitted an emergency request to the Office of Management and Budget (OMB) on February 17, 1998, to revise the information collection for the FNS–583 form to reflect the new E&T Program requirements of the statute. OMB approved the total number of responses, respondents and burden hours described in this notice for six months, with an expiration date of August 31, 1998. In the meantime, FNS is preparing an interim final rulemaking to implement the new E&T Program provisions and is redesigning the FNS–583 form to include the new reporting requirements described in this notice.

Because of the changes to the E&T Program created by enactment of the Balanced Budget Act, FNS is providing a detailed explanation about the new reporting requirements which must be included in the FNS–583 and how we calculated the total number of responses, respondents and burden hours.

Work registration: State agencies have the option of providing either a State-designed work registration form to each household member required to register for work or noting the registration in the case file. There were 4,870,489 work registrants, including ABAWDS, during FY 1997. FNS estimates that the work registration process will take approximately 1.5 minutes (or .025 hours) per person per year. The total burden hours for household members participating in the work registration process is 121,762 hours (4,870,489 × .025 = 121,762).

In preparing the FNS–583 report, States must collect and assemble information quarterly about categories of E&T Program participants, including ABAWDs. Many States will have already classified work registrants into categories by annotating a computer record at the time each participant registered for work. Therefore, FNS estimates that it will take States an average of one half of the 1.5 minute work registration time, or 45 seconds per record (0.0125 hours), to compile the data for the FNS–583. With the total number of work registrants per year of 4,870,489, the total number of burden hours per year for the States to compile work registration data for the FNS–583 is 60,881 (4,870,489×0.0125 = 60,881), or 1,148.7 hours per State agency respondent (60,881 / 53 = 1,148.7). The total annual burden hours for the work registration process is 182,643 (121,762+60,881 = 182,643). When FNS submitted its emergency request in February, 1998, we originally calculated the total annual burden hours for the work registration process as 211,867. Upon checking our calculations, we realized that an error was made. Due to our error, the total annual burden hours for the work registration process will show a decrease of 29,224 (211,867–182,643). The correction will be made in our next submission.

15 percent ABAWDs exemption: State agencies must track the number of ABAWDs exemptions used during each month and report these numbers as an attachment to the quarterly FNS–583 report. Based on our experience, FNS is assuming there are 42 State agencies that will need to track the number of exemptions used on a monthly basis (including Guam and the Virgin Islands); eleven states will not use any exemptions.

States may track the number of exemptions using information technology that best suits the needs of their individual systems of operations. The tracking procedure could be as simple as annotating a file. FNS is therefore estimating that it will take 15 seconds (or .25 minutes) to note the exemption. FNS has allocated a total of 63,620 exemptions a month to all the States. However, since 11 States will not have to track the exemptions, FNS subtracted 14,740 monthly exemptions from the total of 63,620, to arrive at 48,880 exemptions a month that will need to be tracked, for a total of 586,560 a year (48,880×12). It will take a total of 2,444 hours per year, or an average of 58 reporting hours per respondent per year (586,560 exemptions × .25 minutes) / 60 minutes = 2,444 hours per year / 42 respondents = 58 burden hours per year per State agency respondent) to track the 15 percent ABAWDs exemption.

Every State that is allocated exemptions has to comply with the reporting requirements, even if a State uses no exemptions. This information will be used for calculating exemption allocations for the following year. FNS is assuming there will be 53 respondents and it will take 6 hours per year per State to track the total ABAWDs exemptions, for a total of 318 hours per year (6×53 = 318). Thus, the total annual burden hours to track and report the 15 percent ABAWDs exemptions is 2,762 (2,444+318 = 2,762).

E&T funding requirements for ABAWDs activities. States must report the following information as an attachment to the quarterly FNS–583 report: (1) The number of filled and offered (unfilled) workfare slots; (2) the number of filled and offered education and training slots; (3) the amount of Federal 100 percent E&T funding spent on workfare slots that meet the requirements of Section 6(o)(2)(C) of the Act. This information must be broken out to show the amount of money spent on qualifying workfare slots in areas of a State that have received a waiver in accordance with section 6(o)(4) of the Act and money spent in non-waived areas. (4) The amount of Federal 100 percent E&T funding spent on education

and training slots that meet the requirements of section 6(o)(2)(B) of the Act. This information must be broken out to show the amount of money spent on qualifying education and training slots in areas of a State that have received a waiver in accordance with section 6(o)(4) of the Act and money spent in non-waived areas.

In consultation with OMB, FNS established one reimbursement rate for both workfare and 20-hour a week education and training components. The rates established are $30 for an offered work slot and $175 for a filled work slot. (A slot is ''filled'' when an E&T participant reports to a work or training site to begin his/her work activities; a slot is ''offered'' when an E&T participant either refuses a bona fide workfare or training opportunity or does not report.) FNS estimates these reimbursement rates will create 140,000 E&T slots for eligible ABAWDs, with the number evenly divided between filled and offered education and training component slots and filled and offered workfare component slots. Thus, each State will create 2,642 E&T slots annually for ABAWDs (140,000/53 = 2,642), with an average 660 E&T slots created each quarter (2,642/4 = 660), evenly divided between filled and unfilled.

We estimate that it will take States 3 minutes (3/60 = .05 hours) to note in an ABAWDs' food stamp case record (or other record) if she/he was offered one of the two types of E&T slots and whether he/she filled the slot. The total time involved for this E&T activity is 7,000 hours per year (140,000×.05 = 7,000), or 132 hours per year per State (7000/53 = 132).

Section 6(o)(4) of the Food Stamp Act gives the Secretary the authority to waive the ABAWD work requirements if an area of a State has an unemployment rate of over 10 percent or does not have a sufficient number of jobs to provide employment for ABAWDs. (7 U.S.C. 2015(o)(4)). States have already submitted requests to FNS for waivers of the ABAWDs work requirements and know which areas are waived and which are not waived. For the quarterly FNS–583, States will have to review the food stamp case records of 660 ABAWDs to determine if the individual filled or was offered an E&T slot, and then place him/her in the appropriate category. Since States will know ahead of time which areas are waived and non-waived, States can separate the slots accordingly, multiply each slot in each area by the amount of funds spent, and then total up the figures for the waived and non-waived areas. These figures would then be reported on the FNS–583.

Based on the average of 660 slots per quarter per State, FNS estimates that it will take States 4 hours per quarter, or 16 hours per year, to track this information. The total time burden for tracking is 848 hours (16 hours annually per State × 53 states). The total burden hours for tracking this information is 7,848 (7,000 + 848) or 148 hours per year per State respondent.

Compiling E&T funding information for the quarterly FNS–583 report: FNS calculates it takes 8.5 hours per quarter for each of the 42 automated States to prepare their FNS–583s, for a total of 1,428 hours per year (8.5×42 = 357 per quarter; 357×4 = 1,428 total annually). The remaining 11 non-automated States used 15.5 hours each quarter to prepare their FNS–583s, for a total of 682 hours per year (15.5×11 = 170.5 quarterly, 170.5×4 = 682 annually). Adding the two figures (1,428 + 682), we calculate it takes States a total of 2,110 total hours per year to prepare the quarterly FNS–583s or approximately 39.8 hours per respondent per year. The total burden hours (excluding the work registration process) for the new E&T funding requirements of the Balanced Budget Act is 9,958 (7,000 + 848+ 2,110).

Summary:

Number of individuals registered for work	4,870,489
Number of State agencies registering individuals for work	53
Total Number of Respondents	4,870,542
Number of individuals annually registering for work	[1] 4,870,489
Number of annual State agencies' responses	[2] 212
Total Number of Responses	4,870,701

[1] (4,870,489×1)
[2] (53×4)

In calculating the total annual burden hours, FNS added all the burden hours for the work registration process, the 15 percent ABAWDs exemptions, and the E&T funding requirements (which includes the preparation time for the FNS–583).

Burden hours for work registration	182,643
Burden hours for 15 percent ABAWDs exemptions	2,762
Burden hours for E&T funding requirements	9,958
Total Annual Burden Hours	195,363

Frequency: The FNS–583 report must be completed and submitted to FNS on a quarterly basis by the 45th day following the end of the quarter.

Affected Public: Individual households and State and local governments.

Estimated Number of Respondents: 4,870,542.

Estimated Number of Responses: 4,870,701.

Estimated Time per Response: .025 hours per individual; 347.17 hours per State agency.

Estimated Total Annual Burden: 195,363 hours.

Dated April 21,1998.

Yvette S. Jackson,

Administrator, Food and Nutrition Service.

[FR Doc. 98–11091 Filed 4–24–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

ACTION: Notice of Determination of Existence of Price Conditions Necessary for Imposition of Temporary Duty on Frozen Concentrated Orange Juice from Mexico.

SUMMARY: Pursuant to Section 309(a) of the North American Free Trade Agreement Implementation Act of 1993 (''NAFTA Implementation Act''), this is a notification that for 5 consecutive business days the daily price for frozen concentrated orange juice was lower than the trigger price.

FOR FURTHER INFORMATION CONTACT: Joseph Somers, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture Washington, DC 20250–1000 or telephone at (202) 720–2974.

SUPPLEMENTARY INFORMATION: The NAFTA Implementation Act authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under Section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before

the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive business days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term ''daily price'' means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the ''Exchange''), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term ''business day'' means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange.

The term *trigger price* means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price

Whenever the price conditions are determined to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any of calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the **Federal Register** of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term *entered* means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period April 6–13, 1998, the daily price for frozen concentrated orange juice was less than the trigger price.

Issued at Washington, D.C. the 20th day of April, 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 98–11032 Filed 4–23–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This collection has been submitted under the emergency Paperwork Reduction Act procedures.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Interim Rule to Monitor the Gulf of Mexico Shrimp Vessels.

Agency Form Number: N/A.

OMB Approval Number: N/A (new number to be assigned).

Type of Request: New Collection—Emergency Review.

Burden: 308 hours.

Number of Respondents: 150.

Avg. Hours Per Response: Notification requirements—5 minutes; VMS installation and monitoring—6 hours; and logbook requirements—20 minutes.

Needs and Uses: The shrimp fishery is managed under the Fishery Management Plan for the Shrimp Fishery in the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council. These interim measures are needed to provide more effective monitoring of shrimp trawl bycatch of red snapper to determine the appropriate red snapper allowable catch levels, and thereby prevent overfishing of that species. The resulting data will be part of a significant short-term research program aimed at evaluating the effectiveness of Bycatch Reduction Devices (BRDs) in an operational context.

Affected Public: Businesses or other for-profit organizations, individuals.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to David Roster, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503. A clearance has been requested by Monday, April 27, 1998.

Dated: April 21, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–11005 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–817]

Certain Cut-to-Length Carbon Steel Plate From Brazil: Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment of final results of antidumping duty administrative review.

SUMMARY: On March 16, 1998, the Department of Commerce (''the Department'') published the final results of its administrative review of the antidumping duty order on Certain Cut-to-Length Carbon Steel Plate from Brazil (63 FR 12744) covering the period August 1, 1995 through July 31, 1996. Based on the correction of certain ministerial errors made in the final results, we are publishing this amendment.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–0414 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 353 (April 1, 1997).

Scope of This Review

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is August 1, 1995, through July 31, 1996. This review covers entries of Certain Cut-to-Length Carbon Steel Plate by Usinas Siderurgicas de Minas Gerais (''USIMINAS'') and Companhia Siderurgica Paulista (''COSIPA''). These two producers/exporters have been collapsed (''USIMINAS/COSIPA'') and are being treated as one entity for the purpose of this review.

Background

On March 16, 1998, the Department published the final results of its administrative review of the antidumping duty order on Certain Cut-to-Length Carbon Steel Plate from Brazil (63 FR 12744). This review covers one manufacturer/exporter of the subject merchandise, Usinas Siderurgicas de Minas Gerais (''USIMINAS'') and Companhia Siderurgica Paulista (''COSIPA''), for the period August 1, 1995 through July 31, 1996. After publication of our final results, we received timely allegations from the petitioners that we had made ministerial errors in calculating the final results. USIMINAS/COSIPA did not file a rebuttal to the petitioners' ministerial error allegations. We have corrected our calculations, in which we agree that we made ministerial errors, in accordance with section 751((h) of the Tariff Act.

In the final results, the ''all others'' cash deposit rate was incorrectly stated to be 36.00 percent. The correct ''all others'' rate (from the LTFV investigation) is 75.54 percent. See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Brazil, 58 FR 37091 (July 9, 1993).

Analysis of Ministerial Error Allegations Received From Interested Parties

We received two ministerial error allegations from petitioners. First, petitioners contend that the Department did not consistently change the variable name for USIMINAS' home market inland freight expense for all pertinent programs. In the final results, the Department included USIMINAS' INFLFTCH field in the proper calculation strands of the model match program, but did not make the corresponding corrections in the arm's length program. Petitioners further noted that COSIPA's INLFTCH field (also home market inland freight expense) should also be included in the movement expense calculation string.

As defined by section 751(h) of the Act, the term ''ministerial error'' includes errors ''in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the [Department] considers ministerial.'' We agree with petitioners that USIMINAS' INFLFTCH field and COSIPA's INLFTCH field should be included in the proper calculation strings in the arm's length program. We have made the suggested corrections for the amended final results.

Second, petitioners contend that the length of the customer code field defined in the arm's length program was insufficient. Petitioners state that the length statement for CUSCODH needs to be changed so that the results of the arm's length program are correctly applied to the model match program.

We agree with petitioners that the length statement for the customer code field needs to be changed. We have made the suggested corrections for the amended final results.

Amended Final Results of Review

We determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Usinas Siderurgicas de Minas Gerais (''USIMINAS'')	08/01/95–07/31/96	11.70
Companhia Siderurgica Paulista (''COSIPA'')	08/01/95–07/31/96	11.70

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate importer-specific *ad valorem* duty assessment rates based on the entered value of each entry of subject merchandise during the POR. We will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication date of this notice and will remain in effect until the publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34 (d). Timely written notification of 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. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This administrative review and notice are in accordance with Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 16, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–11149 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Circular Welded Non-Alloy Steel Pipe From Korea; Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty changed circumstances review.

SUMMARY: On March 26, 1998, the Department of Commerce published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 14679) to examine whether SeAH Steel Corporation is the successor to Pusan Steel Pipe, the successor to Sammi Metal Products Co., or neither. We have now completed this review and determine that, for purposes of applying the antidumping duty law, SeAH Steel Corporation is the successor to Pusan Steel Pipe and, as such, should be assigned the antidumping deposit rate applicable to Pusan Steel Pipe.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells or Cynthia Thirumalai, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–6309, (202) 482–4087.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 14679). We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order.

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of this review except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. In accordance with the Department's Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela (61 FR 11608, March 21, 1996), pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A–53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines is outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

This changed circumstances administrative review covers SeAH Steel Corporation (SeAH) and any parties affiliated with SeAH.

Successorship and Final Results of Review

We received no comments on the preliminary results of review. Therefore, for the reasons stated in the preliminary results of review and based on the facts on the record, we find that SeAH is the successor to Pusan Steel Pipe (PSP) for antidumping duty cash deposit purposes.

SeAH will, therefore, be assigned the PSP cash deposit rate of 6.00 percent ad valorem. This cash deposit requirement will be effective upon publication of this notice of final results of changed circumstances review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date. This cash deposit rate shall remain in effect until publication of the final results of the next administrative review.

This determination is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 353.22(f).

Dated: April 21, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–11145 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815, A–580–816]

Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled Carbon Steel Flat Products From Korea; Certain Corrosion-Resistant Carbon Steel Flat Products From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) is amending its final results of reviews, published on March 18, 1998, of the antidumping duty orders on cold-rolled and corrosion-resistant carbon steel flat products from Korea, to reflect the correction of ministerial errors in those final results. The period covered by these amended final results is the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian, Thomas Killiam, Fred Baker, or Alain Letort, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone 202/482–0162 (Bezirganian), 202/482–2924 (Baker), 202/482–2704 (Killiam) or 202/482–4243 (Letort), fax 202/482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296—May 19, 1997) do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Background

On March 18, 1998, the Department published the final results of its administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea, for the period August 1, 1995 through July 31, 1996 (63 FR 13170). The reviews covered shipments of the merchandise from Korea by Dongbu Steel Co., Ltd. (Dongbu), Union Steel Manufacturing Co., Ltd. (Union), and Pohang Iron and Steel Co., Ltd. (POSCO). (POSCO and the companies collapsed with POSCO (Pohang Coated Steel Co., Ltd. (POCOS) and Pohang Steel Industries Co., Ltd. (PSI)), are collectively referred to below as the POSCO Group.)

On March 23, 1998, the POSCO Group and Dongbu submitted clerical error allegations. On March 25, 1998, petitioners responded to Dongbu's allegation. On March 31, 1998, petitioners alleged that the Department had made a ministerial error with respect to the POSCO Group. On April 3, 1998, the POSCO Group responded to the petitioners' allegation.

Clerical Error Allegations

The POSCO Group alleged that the Department had made three ministerial errors. We disagree with two of those allegations, both of which involved expenses which the POSCO Group asserted should not have been included in the calculation of the U.S. indirect selling expense variable (INDIRSU). We discuss the basis for our determination with respect to those two allegations in the analysis memorandum from Steve Bezirganian to Richard Weible dated April 15, 1998. Dongbu alleged that the Department had made one clerical error by allegedly using the wrong date as the U.S. date of sale. We disagree with that allegation, and discuss our basis in the analysis memorandum from Fred Baker to Richard Weible dated April 15, 1998. We address herein the remaining allegations from the POSCO Group and the petitioners. Additional discussion of the allegations received from POSCO appears in the aforementioned analysis memorandum from Steve Bezirganian to Richard Weible.

Comment 1: The POSCO Group argues that the Department erred in its calculations for corrosion-resistant products by failing to deduct home market freight expenses from normal value.

Department's Position

We agree, and have corrected this error in these amended final results.

Comment 2: Petitioners assert that the Department erred in its calculations for the POSCO Group by not including various POSAM and BUS expenses in the numerators of its calculations of U.S. indirect selling expenses (INDIRSU). They note that the Department's analysis memorandum stated explicitly that the only expenses not to be included in the calculation were ''freight out.''

The POSCO Group argues that it is not the Department's practice to include the expenses in question in the calculation of indirect selling expenses, and to the extent they are relevant for the Department's analysis they are accounted for in another variable reported by POSCO.

Department's Position

We agree with petitioners. It was not our intent to omit the expenses at issue from the calculation of total indirect selling expenses. Therefore, this omission constitutes a ministerial error. Furthermore, upon review of this issue, we determined that we had also inadvertently failed to include certain POSAM income in the denominator of the calculation of INDIRSU for POSAM. See the April 15, 1998, memorandum from Steve Bezirganian for Richard Weible. Therefore, we have corrected both the ministerial error noted by petitioners and the additional ministerial error that we subsequently discovered.

Amended Final Results of Review

As a result of the correction, we have determined that the following weighted-average margins exists for the period August 1, 1995 through July 31, 1996:

CERTAIN COLD-ROLLED CARBON STEEL FLAT PRODUCTS

Manufacturer/producer/exporter[1]	Weighted-average margin (percent)
The POSCO Group	5.72
Dongbu	1.21

[1] Union had no shipments of cold-rolled products during the period of review.

CERTAIN CORROSION-RESISTANT CARBON STEEL FLAT PRODUCTS

Manufacturer/producer/exporter	Weighted-average margin (percent)
The POSCO Group	1.46
Dongbu	0.60
Union	0.39

The Department shall determine, and the United States Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective upon publication of this notice for all shipments of the subject merchandise from Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, as provided by section 751(a)(1) of the Act: (1) The cash deposit for the reviewed companies will be the rates stated above, except for Union, which had a *de minimis* margin, and whose cash deposit rate is therefore zero; (2) for merchandise exported by manufacturers or exporters not covered in these

reviews, but covered in a previous segment of these proceedings, the cash deposit rates shall continue to be the company-specific rates published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original investigations, but the manufacturer is, the cash deposit rates shall be those established for the manufacturer of the merchandise in the most recently completed segment of these proceedings; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will continue to be 14.44 percent (for certain cold-rolled carbon steel flat products) and 17.70 percent (for certain corrosion-resistant carbon steel flat products), which were the ''all others'' rates in the LTFV investigations.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as 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 is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

These amended final results of administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 17, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–11001 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Cold-Rolled Carbon Steel Flat Products From the Netherlands; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 18, 1998, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on cold-rolled carbon steel flat products from the Netherlands (63 FR 13204). The period of review is August 1, 1995 through July 31, 1996. On March 18, 1998, the sole respondent, Hoogovens Staal BV, and its U.S. subsidiary, Hoogovens Steel USA, Inc. (collectively, Hoogovens) filed a timely request that the Department correct certain clerical errors in these final results. On March 25, 1998, the petitioners (Bethlehem Steel Corporation, U.S. Steel Company (a Unit of USX Corporation), Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company) filed a response claiming that none of the errors alleged by Hoogovens appeared to be ministerial in nature, inasmuch as the Department followed the allocation methodology described in the final analysis memorandum. We are publishing this amendment to the final results of review in accordance with 19 CFR 353.28(c).

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 353 (1997).

Scope of this Review

The products covered by this review include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, i.e., aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is August 1, 1995, through July 31, 1996. This review covers entries of certain cold-rolled carbon steel flat

products from the Netherlands by Hoogovens Staal B.V. (Hoogovens).

Analysis of Comments Received

Hoogovens argues that the Department inadvertently used the wrong denominator to arrive at the per ton factor in reclassifying Hoogovens' warranty expenses as direct, rather than indirect expenses. The Department divided the total warranty expenses incurred during the period of March 1994–July 1996 (''window period'') by the total sales entered into the United States during the period of review of August 1995–July 1996, instead of the total shipments during the window period. According to Hoogovens, this resulted in a considerable overstatement of U.S. warranty expenses. For the home market warranty expenses, the Department used as the denominator the home market sales during the window period rather than the shipments, resulting in a slight overstatement of per ton expenses. Finally, after deducting warranty expenses from the reported home market indirect selling expenses (ISE), the Department allocated the remaining ISE on the basis of the quantity sold. Hoogovens alleges that the Department's practice is to require that ISE be reported as a percentage of sales value rather than on the basis of quantity.

Petitioners argue that the Department allocated the expenses exactly as described in its analysis memorandum. Moreover, petitioners point out, the Department found in its final results that Hoogovens had improperly failed to report its warranty expenses as direct selling expenses based on the tonnages sold. While petitioners argued in their case brief that the Department should deny any adjustment for the reported expense in the home market, in petitioners' view the Department's decision to allocate these expenses based on the tonnages in Hoogovens' reported data is consistent with the Department's stated intention and cannot be said to be a ministerial error. Finally, petitioners argue that Hoogovens' questioning of the Department's allocation of ISE raises a policy issue, not a ministerial error.

We agree in part with Hoogovens. For these amended final results we have corrected the denominators to correspond to the same period as the numerators. We disagree with the petitioners' claim that these were not ministerial errors. We did not intend to calculate a ratio in which the denominator and numerator were based on data covering different periods. Accordingly, we find this error to be ministerial within the meaning of 19 CFR 353.28(d).

In regard to the allocation of ISE, we agree with petitioners that this raises a methodological issue, not a ministerial error. We believe that the Department's allocation based on quantity rather than value is reasonable, and have adjusted the denominator to correspond to the quantities shipped in the home market during the extended window period.

Amended Final Results of Review

As a result of our correction of ministerial errors, we have determined the margin to be:

Manufacturer/ exporter	Period of review	Margin (percent)
Hoogovens Staal B.V. ..	8/1/95–7/31/96	4.32

Further, as a result of these corrections, we find that there are dumping margins on 84.3 percent of Hoogovens' U.S. sales by quantity. In the absence of any information on the record that the unaffiliated purchasers in the United States will pay the ultimately assessed duties, the Department finds that respondent has absorbed antidumping duties on 84.3 percent of its U.S. sales.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, the duty assessment rate will be a specific amount per metric ton. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of cold-rolled carbon steel flat products from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate for that firm as stated above; (2) if the exporter is not a firm covered in this review, or the original less than fair value (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; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 19.32 percent. This is the ''all others'' rate from the amended final determination in the LTFV investigation. See Amended Final Determination Pursuant to CIT Decision: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands, 61 FR 47871. These deposit requirements, when imposed, 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 under section 353.26 of the Department's regulations 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 order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of 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.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28(c).

Dated: April 17, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–11000 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–827, A–580–833, A–201–821]

Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: David Genovese, at (202) 482–0498, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (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 published in the **Federal Register** on May 19, 1997 (62 FR 27296).

The Petition

On April 1, 1998, the Department of Commerce (the Department) received a petition filed in proper form by Ameripol Synpol Corporation and DSM Copolymer. On April 3, 1998, the Department received an amendment to the petition. On April 13, 1998, the Department received supplemental information to the petition that it had requested from the petitioners.

In accordance with section 732(b) of the Act, the petitioners allege that imports of emulsion styrene-butadiene rubber (ESBR) from Brazil, the Republic of Korea (Korea), and Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support (see discussion below).

Scope of Investigations

For purposes of these investigations, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to these investigations are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as ''Clear'' or ''White Rubber.'' The 1700 grades are oil-extended and thus darker in color, and are often called ''Brown Rubber.'' ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of these investigations.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope in the petition accurately reflects the product for which they are seeking relief. As we discussed in the preamble to the new regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 18, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1874, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, D.C., 20230. This period of scope consultation is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether the domestic industry has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory provision regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the ''Scope of Investigation'' section, above. The Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department has, therefore, adopted the domestic like product definition set forth in the petition. In addition, the petitioners established that they represent more than 50 percent of domestic production of the like product. This level of industry support is above the statutory requirement. Accordingly, the Department determines that the petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value

[1] See *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

upon which our decisions to initiate these investigations are based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Brazil

The petitioners identified Petroflex Industria e Comercio S.A. (Petroflex) as the sole exporter and producer of ESBR from Brazil. The petitioners based export price on U.S. prices in call reports generated by the petitioners' sales personnel in the normal course of business and obtained from various customers over the last 12 months for ESBR grades 1502 and 1712, the grades the petitioners claim are those used most extensively by the tire industry. The petitioners converted U.S. prices quoted in dollars per pound to dollars per metric ton by multiplying the per pound amounts by 2204.60 pounds per metric ton. The petitioners calculated net U.S. prices by subtracting an estimate of the international freight and insurance expenses incurred to transport the subject merchandise from the factory to a port in the United States or to the U.S. customer, depending on the terms of sale specified in the call reports. Where the terms of sale were not specified in the call report, the petitioners assumed that the terms of sale were FOB Brazil and no freight expense was deducted from the U.S. price. The petitioners estimated the cost of international freight and insurance based upon the difference in the CIF values and the U.S. Customs values reported in the official U.S. import statistics for 1997.

With respect to normal value (NV), the petitioners obtained from a local business contact in Brazil prices for contemporaneous sales of ESBR grades 1502 and 1712 from Petroflex to a Brazilian consumer. Because home market prices were quoted in U.S. dollars, prices were converted from U.S. dollars to reals for purposes of making adjustments based on the daily exchange rate corresponding to the date of the price quotes. Daily exchange rates for 1997 were obtained from the database of exchange rates maintained by Import Administration on the internet. Daily exchange rates for 1998 were obtained from The Money Exchange (internet address www.oanda.com). When comparing normal value to U.S. price, the petitioners used the daily exchange rate corresponding to the effective date of each U.S. sale to convert the normal values to U.S. dollars. The petitioners calculated net home market prices by subtracting an amount for the estimated expense incurred by Petroflex to deliver the merchandise to the Brazilian consumer. This estimate was provided by the local business contact noted above.

The petitioners made a circumstance of sale adjustment for imputed credit expenses by subtracting home market credit expenses and by adding U.S. credit expenses to the net home market prices calculated in the petition. The petitioners calculated home market imputed credit expenses based on payment terms of net 35 days, as reported by the local business contact, and the annual average Brazilian bank rate published by the International Financial Statistics of 26.4 percent. The petitioners calculated U.S. credit expenses based on payment terms of net 30 days and the annual average lending rate in the United States published in the International Financial Statistics of 8.44 percent. The petitioners did not adjust the reported prices for differences in packing costs because the petitioners assumed that packing costs were the same for home market and for U.S. sales.

Comparison of NV and net U.S. prices for sales of ESBR from Brazil results in estimated dumping margins that range from 17.77 percent to 71.08 percent.

Korea

The petitioners identified two exporters and producers of ESBR: Korea Kumho Petrochemical Company (Kumho) and Hyundai Petrochemical Co., Ltd. (Hyundai). The petitioners based export price on U.S. prices in call reports generated by the petitioners' sales personnel in the normal course of business and obtained from various customers over the last 12 months for ESBR grades 1502 and 1712. The petitioners converted U.S. prices quoted in dollars per pound to dollars per metric ton by mulitplying the per pound amounts by 2204.60 pounds per metric ton. The petitioners calculated net U.S. prices by subtracting an estimate of the international freight and insurance expenses incurred to transport the subject merchandise from the factory to a port in the United States or to the U.S. customer, depending on the terms of sales specified in the call reports. Where the terms of sale were not specified in the call reports, the petitioners assumed that the terms of sale were FOB Korea and no freight expense was deducted from the U.S. price. The petitioners estimated the cost of international freight and insurance based upon the difference in the CIF values and the U.S. Customs values reported in the official U.S. import statistics for 1997.

With respect to NV, the petitioners obtained from local business contacts in Korea prices for contemporaneous sales of ESBR grades 1502 and 1712 from Kumho to Korean consumers. For Hyundai, the petitioners obtained from local business contacts in Korea prices for contemporaneous sales of ESBR grades 1500/1500H (rather than 1502) and 1712 from Hyundai to Korean consumers. However, the petitioners provided documentation to show that ESBR grades 1500/1500H and 1502 are priced the same by Hyundai in Korea. Due to the volatility in the exchange rate, the petitioners received a set of price quotes from one producer for a period before exchange rate volatility set in, as well as for a period after the Korean won plummeted in value. Where home market prices were quoted in U.S. dollars, prices were converted from U.S. dollars to won for purposes of making adjustments based on the daily exchange rate corresponding to the effective date of the price quote. Daily exchange rates for 1997 were obtained from the database of exchange rates maintained by Import Administration on the internet. Daily exchange rates for 1998 were obtained from The Money Exchange (internet address www.oanda.com). When comparing normal value to U.S. price, the petitioners used the daily exchange rate corresponding to the effective date of each U.S. sale to convert the normal values to U.S. dollars. The petitioners calculated net home market prices by subtracting an amount for the estimated expense incurred by Hyundai and Kumho to deliver the merchandise to the consumer in Korea. This estimate was provided by the local business contact noted above.

The petitioners made a circumstance of sale adjustment for imputed credit expenses by subtracting home market credit expenses and by adding U.S. credit expenses to the net home market prices calculated in the petition. The petitioners calculated home market imputed credit expenses based on the typical credit terms for ESBR in Korea as obtained by local business contacts of 90 days, and the average corporate bond rate in Korea published by the International Financial Statistics for August 1997, of 12.1 percent (to reflect the corporate bond rate before the won depreciated), and October 1997, of 12.5 percent (to reflect the corporate bond rate after the won depreciated). See Exhibit 8 of the petition. The petitioners calculated U.S. credit expenses based on payment terms of net 30 days, and the annual average lending rate in the

United States published in the International Financial Statistics of 8.44 percent. The petitioners did not adjust the reported prices for differences in packing costs because the petitioners assumed that packing costs were the same for home market and for U.S. sales.

Comparison of NV and net U.S. prices for sales of ESBR from Korea results in estimated dumping margins that range from 14.92 percent to 118.88 percent.

Mexico

The petitioners identified Industrias Negromex, S.A. de C.V. (Negromex) as the sole exporter and producer of ESBR from Mexico. The petitioners based export price on contemporaneous price quotes to an unaffiliated U.S. consumer and U.S. prices in call reports generated by the petitioners' sales personnel in the normal course of business over the last 12 months for grades 1502 and 1712. The petitioners converted U.S. prices quoted in dollars per pound to dollars per metric ton by multiplying the per pound amounts by 2204.60 pounds per metric ton. The petitioners calculated net U.S. prices by subtracting an estimate of the international freight and insurance expenses incurred to transport the subject merchandise from the factory to a port in the United States or to the U.S. customer, depending on the terms of sales specified in the call reports. Where the terms of sale were not specified in the call report, the petitioners assumed that the terms of sale were FOB Mexico and no freight expense was deducted from the U.S. price. The petitioners estimated the cost of international freight and insurance based upon the difference in the CIF values and the U.S. Customs values reported in the official U.S. import statistics for 1997.

With respect to NV, the petitioners obtained from a local business contact in Mexico contemporaneous price quotes for ESBR grades 1502 and 1712 from Negromex to Mexican consumers of ESBR. The petitioners converted home market prices quoted in pesos per kilogram to U.S. dollars per metric ton by using a conversion ratio of one kilogram equals 1/1000 metric tons and the Mexican pesos/U.S. dollar exchange rate in effect on the date of the U.S. sale. Daily exchange rates for 1997 were obtained from the database of exchange rates maintained by Import Administration on the internet. Daily exchange rates for 1998 were obtained from The Money Exchange (internet address www.oanda.com).

The petitioners made a circumstance of sale adjustment for imputed credit expenses by subtracting home market credit expenses and by adding U.S. credit expenses to the net home market prices calculated in the petition. The petitioners calculated home market imputed credit expenses based on payment terms of net 60 days, as reported by the local business contacts, and the annual average Mexican Treasury bill rate published by the International Financial Statistics of 19.80 percent. The petitioners calculated U.S. credit expenses based on payment terms of net 30 days and the annual average lending rate in the United States published in the International Financial Statistics of 8.44 percent. The petitioners did not adjust the reported prices for differences in packing costs because the petitioners assumed that packing costs were the same for home market and for U.S. sales.

Comparison of NV and net U.S. prices for sales of ESBR from Mexico results in estimated dumping margins that range from 6.06 percent to 25.16 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of ESBR from Brazil, Korea, and Mexico are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of imports of the subject merchandise sold at less than NV. The allegations of injury and causation are supported by relevant evidence including business proprietary data from the petitioning firms and U.S. Customs import data. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation.

Initiation of Antidumping Investigations

We have examined the petition on ESBR and have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of ESBR from Brazil, Korea, and Mexico are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations for the antidumping duty investigations by September 8, 1998.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Brazil, Korea, and Mexico. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by May 18, 1998, whether there is a reasonable indication that imports of ESBR from Brazil, Korea, and Mexico are causing material injury, or threatening to cause material injury, to a U.S. industry. Negative ITC determinations will result in the particular investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

Dated: April 21, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–11148 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–838]

Agreement Suspending the Antidumping Investigation on Honey From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to the agreement between the United States Department of Commerce and the Government of the People's Republic of China Suspending the Antidumping Investigation on Honey from the People's Republic of China.

SUMMARY: The Department of Commerce and the Government of the People's Republic of China have signed an Amendment to the Agreement Suspending the Antidumping Investigation on Honey from China.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia at 202/482–2243, or

James C. Doyle at 202/482–0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 1998, the Department and the Government of the People's Republic of China initialed an Amendment to change the base period for calculating reference prices from the most recent six months of data to the most recent three months of data. The purpose of this amendment is to allow the reference prices to conform more closely to market conditions. The Department subsequently released the Amendment to interested parties for comment. After careful consideration by the Department of the comments submitted on March 24, 1998, and further consultations between the parties, the Department and the Government of the People's Republic of China signed a final Amendment on April 13, 1998. The text of the final Amendment follows this notice.

Dated: April 16, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

The United States Department of Commerce and the Government of the People's Republic of China (PRC) hereby amend Section IV. REFERENCE PRICE of the Agreement Suspending the Antidumping Investigation on Honey from the PRC, signed August 2, 1995 to read as follows:

Section IV. REFERENCE PRICE

The reference prices are equal to the product of 92 percent and the weighted-average of the honey unit import values from all other countries based on the most recent three months of data at the time the reference price is calculated. The source of the unit import values is publicly available United States trade statistics from the United States Bureau of the Census.

This amendment shall apply to all reference prices effective on and after July 1, 1998.

Dated: April 10, 1998.

Robert S. LaRussa,

For the United States Department of Commerce.

Dated: April 13, 1998.

Qian Changyong,

For the Ministry of Foreign Trade and Economic Cooperation, PRC.

[FR Doc. 98–10998 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–820]

Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amendment of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 18, 1998, the Department of Commerce (''the Department'') published the final results of its administrative review of the antidumping duty order on Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany (63 FR 13217) covering the period January 27, 1995 through July 31, 1996. Based on the correction of a ministerial error made in the final results, we are publishing this amendment.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–0196 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 353 (April 1, 1997).

Background

On March 18, 1998, the Department published the final results of its administrative review of the antidumping duty order on Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany (63 FR 13217). This review covers one manufacturer/exporter of the subject merchandise, Mannesmannroehren-Werke AG (''MRW''), and Mannesmann Pipe & Steel Corporation (''MPS'') (collectively ''Mannesmann''), for the period January 27, 1995 through July 31, 1996. After publication of our final results, we received timely allegations from petitioner and Mannesmann that we had made ministerial errors in calculating the final results. The petitioner filed a timely rebuttal to Mannesmann's ministerial error allegations. We corrected our calculations, where we agree that we made ministerial errors, in accordance with section 751 (h) of the Tariff Act.

Analysis of Ministerial Error Allegations Received From Interested Parties

We received two ministerial error allegations from Mannesmann and one from petitioner. First, Mannesmann contends that the Department neglected to convert certain indirect selling expenses and inventory carrying costs (RINDIRSU and INVCARU) to U.S. dollars from Deutsche Marks. Mannesmann notes that these variables are created using a factor multiplied by the cost of manufacturing (TOTCOMCV) which is reported in Deutsche Marks. Mannesmann asserts that the Department should correct the final results by converting RINDIRSU and INVCARU to U.S. dollars.

As defined by section 751(h) Act, the term ''ministerial error'' includes errors ''in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the [Department] considers ministerial.'' We agree with Mannesmann that RINDIRSU and INVCARU should be converted to U.S. dollars. This type of unintentional error meets the definition of ministerial error contained in the Act. We have made the suggested correction for the amended final results.

Second, Mannesmann asserts that the factors for general and administrative expenses (GNA) and interest expenses are based upon cost data as reported by Mannesmann and not as adjusted by the Department. Therefore, Mannesmann argues, these GNA and interest factors should be applied before the Department's billet cost adjustment is made to material costs.

Petitioner argues that Mannesmann has made no showing that applying the GNA and expense factors to Mannesmann's adjusted cost of manufacturing (COM) was an inadvertent or unintentional act, as opposed to a deliberate, methodological choice by the Department. Petitioner cites *Melamine Chemicals, Inc.* v. *United States,* 592 F. Supp. 1338, 1340–

41 (CIT 1984) as stating that under the ministerial error procedure the Department may only correct an inadvertence or mistake that involves no discretionary considerations. Petitioner further contends that the Department applied the interest expense and GNA factors to Mannesmann's adjusted COM correctly under the law. Petitioner asserts that Mannesmann fails to cite any previous case where, unlike in this case, the Department performed its build-up of cost of production (COP) by applying GNA and interest expense factors to a COM that values a major input at the affiliates' reported cost of production even though the Department expressly disregarded those costs. Petitioner argues that it is standard Department practice that all COP/CV cost calculations be based on a respondent's manufacturing costs as adjusted, when appropriate, under the major input rule.

We agree with petitioner that this issue is methodological in nature and have not made this correction in the amended final results. We note that the same calculation was made in the preliminary results of review, and Mannesmann did not comment on it in its case brief.

Third, petitioner argues that the Department erred in the calculation of net price (NPRICOP) for use in the cost test. Petitioner asserts that the calculations performed understate the adjustments to GRSUPRH (gross unit price) and overstate NPRICOP. Petitioner notes that Mannesmann's failure at verification on certain inland freight charges (INLFTC2H) essentially resulted in the Department's application of adverse facts available in the calculation of normal value. The petitioner further argues that the Department's calculation of NPRICOP in the below-cost test rewards Mannesmann by raising net price, thereby tending to cause fewer sales to fall below cost.

We disagree with petitioner that this issue is clerical in nature. We find that this issue is methodological in nature and have not made this correction in the amended final results. Since most of petitioner's argument is business proprietary, please see Amended Final Analysis Memorandum for a more detailed explanation of this issue. We note that the same calculation was made in the preliminary results of review, and petitioner did not comment on it in its case brief.

Amended Final Results of Review

We determine that the following weighted-average margin exists:

Manufacturer/ exporter	Period of review	Margin (per-cent)
Mannesmann	1/27/95—7/31/96	21.94

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate importer-specific *ad valorem* duty assessment rates based on the entered value of each entry of subject merchandise during the POR. We will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication date of this notice and will remain in effect until the publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of 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. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This administrative review and notice are in accordance with Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 16, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–10999 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808, A–122–830, A–475–822, A–791–805, A–580–831 and A–583–830]

Initiation of Antidumping Duty Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, Republic of South Africa, South Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Presing (Belgium), at (202) 482–0194; Maureen McPhillips (Canada), at (202) 482–0193; Rick Johnson (Italy, Republic of Korea, and Taiwan) at (202) 482–3818; Robert James (Republic of South Africa), at (202) 482–5222, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the regulations published in the **Federal Register** on May 19, 1997 (62 FR 27296).

The Petition

On March 31, 1998, the Department of Commerce (the Department) received a petition filed in proper form by Armco, Inc., J&L Specialty Steel, Inc.[1], Lukens, Inc., North American Stainless[2], the United Steelworkers of America, AFL–CIO/CLC[3], the Butler Armco Independent Union and the Zanesville Armco Independent Organization, Inc. (petitioners). The Department received supplemental information to the petition on April 14, 15, 17 and 20, 1998.

In accordance with section 732(b) of the Act, petitioners allege that imports of stainless steel plate in coils (SSPC) from Belgium, Canada, Italy, Republic of South Africa, Republic of Korea and

[1] J&L Speciality Steel, Inc. is not a petitioner in the Belgium case.

[2] North American Stainless is not a petitioner in the Italy case.

[3] The United Steelworkers of America, AFL–CIO/CLC is not a petitioner in the Canada case.

Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to each of the antidumping investigations they are requesting the Department to initiate (see *Discussion* below).

Scope of Investigations

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed scope with the petitioners to insure that the scope in the petition accurately reflects the product for which they are seeking relief. Moreover, as discussed in the preamble to the new regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 8, 1998. Comments should be addressed to Import Administration's Central Record Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771 (10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[4]

Section 771(10) of the Act defines the domestic like product as ''a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the ''Scope of Investigation'' section, above. The Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department has, therefore, adopted the domestic like product definition set forth in the petition. In this case, the Department has determined that the petition and supplemental information to the petition contain adequate evidence of sufficient industry support. For all countries, producers and workers supporting the petition represent over 50 percent of total production of the domestic like product. Therefore, polling was not necessary. Accordingly, the Department determines that the petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

On April 14, 1998, Atlas Stainless Steels (Sammi Atlas), a producer of SSPC in Canada, requested that the Department poll the domestic industry regarding its support for the petition as required by 19 U.S.C. 1673a(c)(4)(A). Sammi Atlas alleges that the petitioners are not sufficiently representative of a domestic industry to permit them to maintain a petition on stainless steel plate in coils from Canada pursuant to 19 U.S.C. 1673a(c)(4)(A)(ii). Sammi Atlas argues that the petitioners overstated their share of U.S. production of SSPC by including the further processing of largely-imported products into SSPC. Moreover, Sammi Atlas contends that the petitioners have inflated production volumes of two other petitioning companies. Therefore, Sammi Atlas maintains that after the exclusion of the further-processed production volumes and the application of the correct U.S. production volumes, the petitioners fail to have enough support for the petition, as required in section 732(b)(1) of the Act. Accordingly, Atlas requests that the Department poll the domestic stainless plate industry to determine whether there is industry support for the petition with respect to Canada, as required by 19 U.S.C. 1673a(c)(4)(A).

[4] See *Algoma Steel Corp., Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

In response to Sammi Atlas' submission, the Department requested and received affidavits from each of the petitioning companies testifying to the accuracy of the production volumes of SPPC reported in the petition. In addition, we contacted Armco and North American Stainless to obtain additional information which corroborated their affidavits. While both parties have submitted affidavits in support of their production volumes, we believe that the individual affidavits from each petitioning company for their own production lend more credibility to the petitioners' production volumes than those submitted by the Canadian producer, Sammi Atlas. Even if North American Stainless were not included as a producer of SSPC, producers supporting the petition still account for more that 50% of total production of domestic like product. Therefore, the issue of whether or not North American is a producer of the subject merchandise is moot. Accordingly, the Department has determined that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act (see, Memorandum to the file, dated April 20, 1998).

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decisions to initiate these investigations are based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Belgium

The petitioners identified ALZ, N.V. (ALZ), Cockerill Sambre S.A., and Fabrique de Fer Charleroi as possible exporters of SSPC from Belgium. The petitioners further identified ALZ as the sole producer of subject merchandise in Belgium. The petitioners based export price (EP) for ALZ on U.S. sales prices (from foreign market research) for the first sales to unaffiliated purchasers in January 1998. Because the terms of ALZ's U.S. sales were delivered to the U.S. customer, the petitioners calculated a net U.S. price by subtracting estimated costs for shipment from ALZ's factory in Belgium to the port of export (from foreign market research). In addition, the petitioners subtracted ocean freight, insurance (from official year U.S. import statistics), and estimated costs for U.S. import duties and fees (from the 1997 HTSUS schedule). Petitioners also subtracted amounts for the U.S. harbor maintenance fee and U.S. merchandise processing fee (19 CFR, §§ 24.23 and 24.24). Finally, the petitioners obtained net U.S. prices by also subtracting costs incurred to transport the merchandise from the U.S. port to the customer's location in the United States (from affidavit from petitioners), and credit expenses.

With respect to normal value (NV), based on information available to them, petitioners determined that volume of Belgium home market sales was sufficient to form a basis for normal value, pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners obtained gross unit prices (from foreign market research) for the products offered for sale to customers in Belgium which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs and credit expenses (from foreign market research). Petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of SSPC in the home market provided in the petition were made at prices below the cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales below cost investigation. Because one of the home market sales used in the petition was below the calculated COP, pursuant to sections 773(a)(4) and 773(e) of the Act, the petitioners based NV for that sale in Belgium on constructed value (CV).

Pursuant to section 773(e) of the Act, CV consists of the cost of materials, fabrication, other processing (*i.e.*, cost of manufacturing (COM)) and selling, general, and administrative expenses (SG&A) and profit. To calculate COM and SG&A, the petitioners relied on market research data, and ALZ's 1996 financial statements. The petitioners added to CV an amount for profit obtained from ALZ's 1996 financial statements.

The estimated dumping margins in the petition, based on a comparison between ALZ's U.S. prices and CV, are 12.06 percent and 16 percent. Based on a comparison of EP to home market prices, petitioners calculated dumping margins are 9.33 percent.

Canada

The petitioners identified Atlas Stainless Steels (Sammi Atlas), Division of Sammi Atlas, Inc., a member of the Sammi Group, a major South Korean producer of stainless steel products, as the sole Canadian producer of SSPC. Therefore, the petitioners conclude that Sammi Atlas accounts for substantially all Canadian exports of SSPC to the United States.

The petitioners based EP on two of Sammi Atlas' export sales to steel service centers/distributors in the United States (from domestic industry sources). To calculate the net export price for the first U.S. sale, dated September 1997, petitioners deducted estimated U.S. inland freight (from the experience of U.S. producers), international freight and insurance (from the 1997 HTSUS schedule), customs duties, harbor maintenance, merchandise processing fees (from official year U.S. import statistics), and foreign inland freight (from affidavit from petitioners).

Because the terms of the gross unit price of the February 1998 sale to the U.S. were ex-mill, duty-paid, petitioners adjusted the gross unit price by subtracting U.S. import duties, harbor maintenance, and merchandise processing fees.

With respect to NV, based on information available to them, petitioners determined that the volume of Canadian home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners used the prices for two home market sales of SSPC made in May 1997 and February 1998 by Sammi Atlas to unaffiliated steel service centers. Since the gross unit price of the May 1997 sale was on an FOB basis with 30-day payment terms, they calculated the net home market price for this sale to the first unaffiliated customer by subtracting the estimated credit expense (from ''International Financial Statistics'' of the International Monetary Fund).

The gross unit price for the February 1998 sale of the same product included an amount for an alloy surcharge and inland freight charges (from foreign marker research). Petitioners subtracted from the price to the unaffiliated customer these two items and an amount reflecting estimated credit expenses for the 30-day payment (from foreign marker research) terms to yield the net home market price in Canadian dollars. The two Canadian home market sales were then converted to U.S. dollar prices using the official exchange rate in effect on the month of the comparison U.S. sale.

The two price comparisons of EP to NV yield dumping margins of 15.35 percent and 6.85 percent, respectively.

Italy

The petitioners identified Arinox Srl (Arinox) as an exporter and Acciai Speciali Terni SpA (AST) as an exporter and producer of SSPC from Italy.

Petitioners relied on price information for AST, basing EP on U.S. sales prices obtained by two of the petitioning companies for sales to an unaffiliated purchaser in November 1997. The petitioners calculated a net U.S. price by subtracting amounts for foreign inland freight (from foreign market research), U.S. inland freight (from an affidavit from petitioners), international freight and insurance (the average difference in the C.I.F. values and the U.S. Customs values reported in the official U.S. import statistics for 1997), U.S. harbor maintenance and U.S. merchandise processing fees (19 CFR, §§ 24.23 and 24.24), and estimated costs for U.S. import duties (from the 1997 HTSUS schedule). Imputed credit was also deducted from export price for the price-to-price comparison (lending rate as published in International Financial Statistics).

With respect to NV, based on information reasonably available to them, petitioners determined that the volume of Italian home market sales was sufficient to form a basis for normal value, pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners obtained gross unit prices from a foreign market research for products offered for sale to customers in Italy which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs (from foreign market research). Petitioners did not adjust for packing costs because petitioners claim that packing for export is more expensive than packing for domestic shipment.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that the sales of stainless steel plate in coils in the home market provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales below cost investigation. Because the home market sales used in the petition were below the calculated COP, pursuant to sections 773(a)(4) and 773(e) of the Act, the petitioners also based NV for sales in Italy on CV.

CV consists of COM, SG&A, and profit. The petitioners calculated the direct portion of COM based on Italian costs obtained through foreign market research. To calculate the indirect portion of COM, SG&A, and profit, the petitioners relied on public information and the 1995 financial statements of AST, which were provided in the petition.

The estimated dumping margins in the petition, based on a comparison between AST's U.S. price and the CV, range from 49.99 to 59.02 percent. Based on a comparison of EP to home market price, petitioners calculate a dumping margin range from 11.36 percent to 34.59 percent.

Republic of South Africa

Petitioners identified two South African exporters and producers of stainless steel coiled plate: Columbus Stainless Steel Co., Ltd. (Columbus) and Iscor Ltd. (Iscor). Petitioners noted that, to the best of their knowledge, Columbus accounted for over 90 percent of the exports of subject merchandise from The Republic of South Africa. Petitioners based EP on two duty-paid, delivered price quotes made by Columbus to unaffiliated U.S. steel service centers/distributors. The quoted prices were for two grades of coiled plate during the fourth quarter of 1997.

Because the terms of Columbus' U.S. sales were delivered to the U.S. customer, the petitioners made deductions for international freight and insurance, average U.S. inland freight charges (from the experience of U.S. producers.) from the U.S. port to all U.S. purchaser locations, U.S. import duties, and harbor maintenance and merchandise processing fees. To calculate international freight and insurance, petitioners divided import charges by the weight of imported coiled plate from The Republic of South Africa in 1997 for the two HTS numbers named in the petition. Petitioners used the specific *ad valorem* harbor maintenance and merchandise processing fees that U.S. Customs levies on imported merchandise.

With respect to normal value (from foreign market research), petitioners determined that the volume of South African home market sales was sufficient to form a basis for NV pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners obtained two price quotes from Columbus for coiled plate offered for sale to customers in The Republic of South Africa which are either identical or similar to those sold to the United States. Petitioners adjusted these prices for estimated inland freight, packing and credit expenses. Petitioners provided information alleging that the sales of SSPC in the home market provided in the petition were made at prices below the COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales below cost investigation. However, based on our review of the foreign market research and a discussion with the foreign market researcher whose data formed the basis for petitioners' below-cost allegation, the Department has found that the information contained in the petition did not provide reasonable grounds to believe or suspect that sales in the home market have been made at below COP.

The estimated dumping margins in the petition based on a comparison between U.S. prices and NV are 14.09 percent to 19.46 percent.

Republic of Korea

The petitioners identified Pohang Iron and Steel Company (POSCO) and Sammi Steel Company (Sammi) as exporters and producers of SSPC from the Republic of Korea. The petitioners based export price on price quotations obtained by two of the petitioning companies for sales to unaffiliated U.S. purchasers of SSPC manufactured by POSCO. The quoted prices were (with the exception of one sale) delivered, duty paid sales of SSPC sold during the first, third, and fourth quarters of 1997. Petitioners calculated a net U.S. price by subtracting from the reported U.S. price estimated shipment costs from POSCO's factory in Korea to the port of export (from foreign market research), costs for ocean freight and insurance (the average import charges reported in official U.S. import statistics for Korea), import duties (1997 HTSUS schedule), harbor maintenance and merchandise processing fees (19 CFR 24.23 and 24.24) and domestic inland freight (from affidavit provided by one of the petitioning companies).

With respect to NV, based on information available to them, petitioners determined that the volume of South Korean home market sales was sufficient to form a basis for normal value, pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners obtained gross unit prices from market research for SSPC manufactured by POSCO and offered for sale to customers in the Republic of Korea which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs (from foreign market research).

Petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of SSPC in the home market provided in the petition were made at prices below the COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales below cost investigation. Because the home market sales used in the petition were below the calculated COP, pursuant to sections 773(a)(4) and 773(e) of the Act, petitioners based NV

for sales in The Republic of Korea on CV.

Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, and profit. The petitioners calculated the direct portion of COM based on South Korean costs obtained through market research. To calculate the indirect portion of COM, SG&A and CV profit, petitioners relied on POSCO's 1996 financial statements. Based on comparisons of EP to CV, petitioners estimated margins range from 30.96 to 35.78 percent. Based on a comparison of EP to home market price, estimated dumping margins range from 4.20 percent to 11.97 percent.

Taiwan

The petitioners identified Chang Mien Industries Co., Ltd. (Chang Mien), Chia Far Industrial Factory Co., Ltd. (Chia Far), Chien Shing Stainless Steel (Chien Shing), China Steel Corp. (China Steel), Tang Eng Iron Works, Co., Ltd (Tang Eng), Tung Mung Development Co. Ltd. (Tung Mung), and Yieh United Steel Corp. (Yieh United) as exporters and producers of SSPC from Taiwan. The petitioners based EP on price quotations made to unaffiliated U.S. purchasers prior to the date of importation. The quoted prices were for delivered and duty paid SSPC during the fourth quarter of 1997. Petitioners calculated net U.S. price by subtracting amounts for international freight and insurance (the average import charges reported in the official U.S. import statistics under the 1997 HTS subheading 7219.12.0045 from Taiwan), U.S. import duties (from the 1997 HTSUS schedule) and harbor maintenance and merchandise processing fees (19 CFR 24.23 and 24.24) from the quoted prices. Finally, petitioners obtained net U.S. prices by also subtracting cost incurred to transport the merchandise from the U.S. port to the customer's location in the United States (from an affidavit from petitioner).

With respect to NV, based on information available to them, petitioners determined that the volume of Taiwanese home market sales was sufficient to form a basis for normal value, pursuant to section 773(a)(1)(B)(ii)(II) of the Act. Petitioners obtained gross unit prices from foreign market research for sales of SSPC by Tang Eng and Tung Mung which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting amounts for inland freight and packaging (from foreign market research). Petitioners submitted information alleging that the sales of SSPC in the home market provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales below cost investigation. However, based on our review of the foreign market research study and a discussion with the foreign market researcher whose data formed the basis for petitioners' below-cost allegation, the Department has found that the information contained in the petition did not provide reasonable grounds to believe or suspect that sales in the home market have been made at below COP.

The estimated dumping margins in the petition, based on a comparison between Tang Eng's and Tung Mung's U.S. prices and home market price, range from 0.29 to 8.02 percent.

Initiation of Cost Investigations

Pursuant to section 773(b) of the Act, petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home markets of Belgium, Italy, and the Republic of Korea were made at prices below the fully allocated COP and, accordingly, requested that the Department conduct a country-wide sales below COP investigation in connection with the requested antidumping investigations in each of these countries. The Statement of Administrative Action (''SAA''), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H.R. Doc. No. 316, 103d Cong., 2d Sess., at 833 (1994). The SAA, at 833, states that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.''

Further, the SAA provides that ''new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.'' *Id*. Based upon the comparison of the adjusted prices from the petition of the representative foreign like products in their respective home markets to their costs of production, we find the existence of ''reasonable grounds to believe or suspect'' that sales of these foreign like products in each of the listed countries were made below their respective COPs within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating the requested country-wide cost investigations, except with regard to Taiwan and Republic of South Africa. (see Country specific sections above.)

Fair Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of SSPC from Belgium, Canada, Italy, Republic of Korea, The Republic of South Africa, and Taiwan are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. Petitioners explained that the industry injured condition is evident in the declining trends in net operating profits, net sales volumes, profit to sales ratios and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation.

Initiation of Antidumping Investigations

Based upon our examination of the petition on SSPC, as well as our discussion with the authors of the foreign market research reports (see, Memoranda to the file, dated April 20, 1998), we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of SSPC from Belgium, Canada, Italy, Republic of Korea, Republic of South Africa, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations by September 8, 1998.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been

provided to the representatives of Belgium, Canada, Italy, Republic of Korea, Republic of South Africa, and Taiwan. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by May 15, 1998, whether there is a reasonable indication that imports of SSPC from Belgium, Canada, Italy, Republic of Korea, Republic of South Africa, and Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will, for any country, result in the investigations being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to Section 777(i) of the Act.

Dated: April 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–10997 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–815]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Sulfanilic Acid From the Peoples' Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 27, 1998.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the 1996–1997 administrative review for the antidumping order on Sulfanilic Acid from the PRC, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: Kristin Stevens, Doug Campau or Steven Presing, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION: Under the Act, 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. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit.

Since it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with Section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim due date	Final due date*
Sulfanilic Acid (A–570–815)	PRC	8/1/96–7/31/97	9/25/97	7/03/98	10/31/98

*The Department shall issue the final determination 120 days after the publication of the preliminary determination.

Dated: April 21, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement, Group III.

[FR Doc. 98–11136 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–604; A–588–054]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews and termination in part.

SUMMARY: On May 20, 1996, the Department of Commerce (the Department) published the preliminary results of its 1992–93 and 1993–94 administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers four manufacturers/exporters and ten resellers/exporters of the subject merchandise to the United States during the period October 1, 1993, through September 30, 1994, and one manufacturer/exporter for the period October 1, 1992, through September 30, 1993. The review of the A–588–604 order covers five manufacturers/exporters, ten resellers/exporters, and seventeen firms identified by the petitioner in this case as forging producers, and the period October 1, 1993, through September 30, 1994. The A–588–604 review also covers one manufacturer/exporter for the period October 1, 1992, through September 30, 1993.

We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order

on TRBs from Japan (52 FR 37352). On October 7, 1994 (59 FR 51166), the Department published the notice of ''Opportunity to Request an Administrative Review'' for the 1993–94 reviews of both TRBs cases. The petitioner, the Timken Co. (Timken), and two respondents requested administrative reviews. We initiated the A–588–054 and A–588–604 administrative reviews for the period October 1993 through September 1994 on November 14, 1994 (59 FR 56459). On May 20, 1996, we published in the **Federal Register** the preliminary results of the 1993–94 administrative reviews of the antidumping duty order and finding on TRBs from Japan (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Termination in Part,* 61 FR 25200 (*Prelim Results*).

The *Prelim Results* also included the preliminary results for the 1992–93 administrative reviews of both TRBs cases for Koyo Seiko Company, Ltd. (Koyo). While we initiated the 1992–93 reviews of both TRBs cases on November 17, 1993 (58 FR 60600) and published our final results of administrative reviews for the 1992–93 period in the **Federal Register** on November 7, 1996, we did not include Koyo in these 1992–93 reviews (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding,* 61 FR 57629 (*TRBs 92–93*)). Rather, as explained in our *Prelim Results*, we determined that, because we had yet to make our final scope determination concerning Koyo's rough forgings, rather than delay our 1992–93 results of review for all other reviewed firms, we would conduct Koyo's 1992–93 reviews after making our final scope determination. On February 2, 1995, we published in the **Federal Register** our final scope determination in which we found Koyo's rough forgings to be within the scope of the A–588–604 TRBs order (60 FR 6519). We provided Koyo additional time to submit sales and cost information concerning its rough forgings for both the 1992–93 and 1993–94 administrative reviews and determined that, due to the timing of our receipt of this information and the timing of our 1993–94 administrative review analysis, it would be appropriate to conduct the 1992–93 and 1993–94 reviews for Koyo concurrently (*see Prelim Results* at 25200). As a result, both Koyo's 1992–93 and 1993–94 final results are included in this instant notice.

On August 21, 1996, we held a hearing which covered the 1993–94 reviews of both the A–588–054 and A–588–604 TRBs cases and the 1992–93 reviews of Koyo in both the TRBs cases. In addition, the Department re-opened the administrative record of these proceedings on March 16, 1998 to afford Kawasaki an additional opportunity to submit a complete response to the Department's antidumping questionnaire. On March 23, 1998, Kawasaki declined to do so.

The Department has now completed these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under the Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except for those manufactured by NTN Bearing Corporation, Ltd. (NTN). This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8484.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. In addition, in accordance with our February 2, 1995, final scope determination concerning Koyo's rough forgings, Koyo's rough forgings are also included within the scope of the A–588–604 order.

The HTS numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written description remains dispositive.

The period for each 1993–94 review is October 1, 1993, through September 30, 1994. These reviews cover TRBs sales by five TRBs manufacturers/exporters (Koyo, NSK Ltd. (NSK), NTN, Nachi-Fujikoshi Corporation (Nachi), and Maekawa Bearing Mfg. Co., Ltd. (Maekawa)), and ten resellers/exporters (Honda Motor Company (Honda), Fuji Heavy Industries, Ltd. (Fuji), Kawasaki Heavy Industries, Ltd. (Kawasaki), Yamaha Motor Co., Ltd. (Yamaha), Sumitomo Corporation (Sumitomo), Itochu Co., Ltd. (Itochu), Suzuki Motor Co., Ltd. (Suzuki), Nigata Converter Co., Ltd. (Nigata), Toyosha Co., Ltd. (Toyosha), and MC International (MC Int'l)). These reviews also cover U.S. sales/importations of forgings by Koyo, NTN, and seventeen firms identified by the petitioner as Japanese forging producers (Daido Steel Co., Ltd. (Daido Steel), Asakawa Screw Co., Ltd. (Asakawa), Fuse Rashi Co., Ltd. (Fuse), Hamanaka Nut Mfg. Co., Ltd. (Hamanaka), Ichiyanagi Tekko (Ichiyanagi), Isshi Nut Industries (Isshi Nut), Kawada Tekko, Kinki Maruseo Nut Kogyo Kumiai (Kinki), Kitazawa Valve Co., Ltd. (Kitz Corp.), Nittetsu Bolten (Nittstsu), Shiga Bolt, Shinko Bolt, Sugiura Seisakusho (Sugiura), Sumikin Seiatsu (Sumikin), Toyo Valve Co. (Toyo Valve), Unytite Fastener Mfg. Co., Ltd. (Unytite Kogyo), and Showa Seiko Co., Ltd. (Showa)).

As explained in the *Prelim Results,* we have terminated the 1993–94 reviews of the A–588–604 case for Fuse, Hamanaka, Kinki, Kitz Corp., Shiga Bolt, Shinko Bolt, Sugiura, Toyo Valve, Nittetsu, Sumikin, and Unytite Kogyo (see *Prelim Results* at 25202). As also explained in the *Prelim Results,* we used for Nachi, Kawasaki, Daido Steel, Kawanda Tekko, Asakawa, Ichiyanagi, and Isshi Nut a first-tier non-cooperative total best information available (BIA) rate of 40.37 percent in the A–588–604 case. In addition, we used a first-tier total BIA rate of 47.63 percent for Kawasaki and Nachi in the A–588–054 case (see *Prelim Results* at 25201).

Because Fuji and MC Int'l did not make any shipments of subject merchandise during the POR in the A–588–604 case and because Showa did not make any shipments of subject merchandise during the POR in the A–588–604 case, as explained in our *Prelim Results,* we have not assigned a rate to Fuji and MC Int'l in the A–588–604 nor to Showa in the A–588–604 case (see *Prelim Results* at 25202).

Because we determined in the *Prelim Results* that Itochu and Sumitomo have no influence over the sale prices and quantities of those shipments of TRBs they made to the United States, we have determined that the supplier's rates, and not unique Sumitomo and Itochu rates,

should be applied for cash deposit and appraisement purposes (see *Prelim Results* at 25202).

Finally, we have terminated the 1993–94 A–588–054 review for Honda since we recently revoked Honda from the A–588–054 finding in our 1992–93 final results (see *TRBs 92–93* at 57650).

The period for the 1992–93 reviews is October 1, 1992, through September 30, 1993. The 1992–93 reviews of both the A–588–054 and A–588–604 cases included in this notice cover TRBs sales by Koyo.

Analysis of Comments Received

We received case briefs from Timken, Koyo, NTN, NSK, Fuji, and Kawasaki. We received rebuttal briefs from Timken, Koyo, NTN, and NSK. In addition, at the request of the presiding official at the hearing, we received additional comments from NTN on August 28, 1996, and additional comments from Timken on September 9, 1996, regarding the issue of new information in NTN's rebuttal brief. These comments, and those contained in all of the case and rebuttal briefs, are addressed below in the following order:

1. Miscellaneous Comments Concerning Model Match, Set-Splitting, Level of Trade, Sales Not in the Ordinary Course of Trade, Arm's Length Test, Annual Averaging, and Assessment
2. Adjustments to United States Price (USP)
3. Discounts, Rebates, and Post-Sale Price Adjustments (PSPAs)
4. Cost of Production (COP) and Constructed Value (CV)
5. Clerical and Computer Programming Errors

1. Miscellaneous Comments

Comment 1: NTN argues that the Department incorrectly split home market TRB sets which are ''unsplittable.'' NTN claims that, because certain of its TRB models contain cups and cones which are never sold individually in any market, it is illogical to split such models into individual cup and cone sales. Furthermore, NTN states that because the rationale behind the Department's set-splitting methodology is to find merchandise ''such or similar'' to individual cups and cones sold in the United States, the Department may only split TRB sets sold in the home market which contain cups and cones identical or similar to those cups and cones sold individually in the United States. NTN argues that, because cups and cones contained in its ''unsplittable'' sets are never sold individually, they do not represent merchandise which is potentially similar to individually sold cups and cones. Therefore, NTN asserts, the Department creates, by splitting such sets, a pool of home market cups and cones which cannot be fairly considered as candidates for matching to cups and cones sold separately in the United States.

Timken argues that, in accordance with section 771(16) of the Tariff Act, the Department's model-match methodology reasonably assesses objective physical criteria and the variable costs of production when identifying that home market merchandise which is such or similar to merchandise sold in the United States. Timken asserts that if the cup or cone split from an ''unsplittable'' set is physically identical, or most physically similar, to a cup or cone individually sold in the United States, there is no statutory basis for the Department to reject such a comparison. Timken further states that NTN's argument, which basically asserts that a cup or cone sold within a set can never be found to be such or similar to a cup or cone that is sold separately, calls for an additional matching factor which is unwarranted by the statute. Finally, Timken argues that if the Department were not to split NTN's claimed ''unsplittable'' sets, the pool of home market such or similar merchandise would be narrowed and the Department's ability to match U.S. and home market merchandise would be curtailed.

Department's Position: We agree with Timken. Section 771(16) of the Tariff Act does not require that such or similar merchandise be sold in the same manner as merchandise under review. TRB components that are sold solely within sets do not lose their status as merchandise such or similar to individually-sold TRB components simply by virtue of the fact that they are sold as components of sets instead of as individual cups and cones. The fact that a home market cup or cone was never sold individually in any market does not preclude the possibility that that cup or cone may be the most physically similar merchandise to cups and cones NTN sold separately in the United States. Because they may be the most similar products, it is appropriate to include this merchandise in the pool of home market sales and, if such cups and cones are determined to be the most similar merchandise to products sold in the United States, it is appropriate to use them in our dumping comparisons, as we have done in past reviews of NTN and as has been approved by the Court of International Trade (CIT) (see, e.g., *NTN Bearing Corp.* v. *United States*, 747 F. Supp. 726, 741 (CIT 1990), *NTN Bearing Corp.* v. *United States*, 924 F.Supp. 200, 206 (CIT 1996) *TRBs 1992–93* at 58631, and *Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 58 FR 64720 (December 9, 1992) (*TRBs 1990–92*)).

Comment 2: NTN contends that the Department improperly determined its reported home market sample and small-quantity sales to be in the ordinary course of trade and included such sales in its margin calculations. NTN argues that its home market sample sales cannot be considered as in the ordinary course of trade because they are items which enable a customer to make a buying decision, and maintains that its reported home market small-quantity sales cannot be considered ordinary, given the extremely small quantities involved. Citing to past TRBs reviews in which the Department excluded these sample and small-quantity sales from its margin calculations for NTN, NTN asserts that, in view of the Department's past exclusion of such sales as outside the ordinary course of trade, the Department should do so in these final results as well in accordance with *Shikoku Chemicals Corp* v. *United States*, 795 F. Supp. 417 (CIT 1992) (''At some point Commerce must be bound by its prior actions so that parties have a chance to purge themselves of antidumping liabilities'') and in accordance with the Supreme Court's observation that ''long-continued methodologies naturally serve to provide the basis from which subjects of agency investigation adjust their behavior'' (*Id.* at 12, n.8. (quoting *United States* v. *Midwest Oil Co.*, 236 U.S. 459 (1915)).

Timken argues that, while the Department did grant NTN's claim in some past proceedings, it has denied the claim in the most recent TRBs reviews and in several of the reviews of the antidumping duty order on antifriction bearings (AFBs) from Japan. In addition, Timken points out that two of the TRBs determinations NTN relies on have been remanded by the CIT, and in both cases the Department reversed its position and included NTN's sample and small-quantity sales within its margin calculations (the Department's *Final Remand Results Pursuant to The Timken Company* v. *United States*, Court No. 92–03–0061, transmitted to the CIT on December 13, 1994, and the Department's *Final Remand Results Pursuant to The Timken Company* v. *United States*, Court No. 92–03–00162, transmitted to the CIT on December 16, 1994). Given these changes, Timken contends, it is clear that the

Department's preliminary determination to include these sales in its margin calculations is in accordance with established precedent.

Further, Timken argues that it has been the Department's long-standing policy to require a respondent to provide sufficient evidence to support any claim for the exclusion of sales as not in the ordinary course of trade. Therefore, Timken contends, because NTN failed to demonstrate that its alleged small-quantity and sample sales were outside the ordinary course of trade, the Department reasonably determined that NTN failed to meet the burden of demonstrating that the sales in question were outside the ordinary course of trade.

Department's Position: We agree with Timken. Section 773(a)(1)(A) of the Tariff Act states that the Department is required to compare the price of the merchandise imported into the United States to the price of the merchandise sold or offered for sale ''in the principal markets of the country from which exported in the usual commercial quantities and in the ordinary course of trade for home market comparison.'' As defined in section 771(15) of the Tariff Act, ordinary course of trade means the ''conditions and practices which, for a reasonable time prior to exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind.''

Generally, when determining whether home market sales are within the ordinary course of trade, the Department applies the standards set forth in *Murata Mfg. Co., Ltd.* v. *United States,* 820 F. Supp. 603, 606 (CIT 1993) (*Murata*), *Nachi-Fujikoshi Corp.* v. *United States,* 798 F. Supp. 716, 718–719 (CIT 1992) (*Nachi*), and *Mantex, Inc., et. al.,* v. *United States,* 841 F. Supp. 1290, 1305–1309 (CIT 1993) (*Mantex*). In *Murata* the CIT quoted with approval the Department's statement in *Certain Welded Steel Standard Pipes and Tubes from India; Final Results of Antidumping Duty Administrative Reviews,* 56 FR 64753 (1991), that the Department, in determining whether home market sales are in the ordinary course of trade, does not rely on one factor considered in isolation, but rather considers all circumstances of the sales in question. In addition, the CIT noted that in other cases the Department determined that sales were outside the ordinary course of trade based not only on the presence of small quantities or high prices, but also because the Department found other factors that supported the outside-the-ordinary-course-of-trade categorization (see *Murata* at 9). In *Nachi* the CIT held that the Department must make determinations regarding sample sales by examining the relevant facts of each individual case and that the burden of proof to demonstrate that such sales are outside the ordinary course of trade lies with the respondent (see *Nachi* at 718). In *Mantex* the CIT restated its previous opinion in *Nachi (see Mantex* at 1306).

In its response NTN described its sample sales as sales of items to a customer which are used by the customer to determine whether or not to buy the product. NTN explained that, through statements and other representations the customer makes, NTN determines the ''sample'' nature of the sale and codes the sale accordingly. Concerning its small-quantity sales reported as not in the ordinary course of trade, NTN explained that for each transaction where the total quantity was three units or less, and the total number of transactions during the POR was seven or less, NTN searched back to fiscal year 1990 and, if certain conditions were met, it considered the sale as outside the ordinary course of trade. The only other information on the record regarding these sales are NTN's computer data files in which it reported such sales separately from the rest of its home market data base.

In accordance with *Murata*, we attempted to examine all factors surrounding NTN's reported sample and small-quantity sales to determine if they were outside the ordinary course of trade. However, NTN provided us with little information other than a general description of these sales upon which to base such a determination. The administrative record contains no other narrative explanation, supporting documentation, or other evidence to demonstrate why these sales are not representative of NTN's normal practices in selling TRBs in Japan, or otherwise demonstrates the ''aberrational'' nature of these sales. For example, we have no evidence supporting the notion that NTN's sample sales were sold only for the purpose of allowing the customer to make a decision to buy. Likewise, we have no evidence supporting NTN's categorization of its ''small-quantity'' sales as abnormal, other than the fact that they were small-quantity sales. In accordance with *Nachi*, the burden of proving that its sales are outside the ordinary course of trade lies clearly with the respondent, and in this instance NTN has failed to meet that burden.

Furthermore, this is not the first review or the first case in which we have rejected NTN's categorization of certain of its sales as not in the ordinary course of trade. In our last three TRBs reviews we clearly explained that we applied the *Murata* and *Nachi* standards to our determination of whether such sales were indeed outside the ordinary course of trade (see *TRBs 92–93* at 57639 and *TRBs 90–92* at 64732). In those reviews we determined that NTN did not supply sufficient evidence to allow us to determine that these sales were outside the ordinary course of trade. As a result, NTN has had clear notice prior to these current reviews that its response failed to demonstrate the ''not-in-the-ordinary-course-of-trade'' status of its sample and small-quantity sales. However, NTN took no steps to improve its response regarding this issue, but rather provided only the same general information with little other explanation.

Therefore, for the reasons stated above, and in accordance with our established practice, we have not changed our treatment of NTN's sample and small-quantity home market sales for these final results. Rather, we have again determined these sales to be within the ordinary course of trade and we have included them in our margin calculations.

Comment 3: NSK argues that the Department must apply the ordinary meaning of ''sale'' to the antidumping law (which involves not only the transfer of ownership, but the payment, or promise, of consideration), and should exclude from its analysis those free samples NSK reported as given away to its customers in the United States. NSK claims that it has provided evidence demonstrating that this free U.S. merchandise constitutes promotional samples, and contends that, by including this promotional merchandise in its analysis, the Department fails to recognize the normal business practice of giving away free samples and calculates distortive margins. Finally, NSK argues that, in accordance with the *Torrington Company* v. *United States,* 926 F. Supp. 1151 (CIT 1996), for the purpose of calculating antidumping duties, the Department reviews sales, not entries. Therefore, NSK concludes, there is no basis for including this merchandise in the Department's margin calculations.

Timken argues that not only does the statute require the Department to calculate a value for each U.S. entry of subject merchandise, but, if the Department accepts NSK's arguments, it would allow NSK to evade the law by providing zero-priced merchandise as gifts while raising its prices on other subject merchandise identified as sales.

Department's Position: On June 10, 1997, the CAFC held that the term ''sold'' requires both a transfer of ownership to an unrelated party and consideration. *NSK Ltd.* v. *United States,* 115 F.3d 965, 975 (Fed. Cir. 1997) (*NSK*). The CAFC determined that samples which NSK had given to potential customers at no charge and with no other obligation lacked consideration. Moreover, the CAFC found that, since free samples did not constitute ''sales,'' they should not have been included in calculating U.S. price.

In light of the CAFC's opinion, we have revised our policy with respect to samples. The Department will now exclude from its dumping calculations sample transactions for which a respondent has established that there is either no transfer of ownership or no consideration.

This new policy does not mean that the Department automatically will exclude from analysis any transaction to which a respondent applies the label ''sample.'' It is well-established that the burden of proof rests with the party making a claim and in possession of the needed information (see, e.g., *NTN Bearing Corporation of America* v. *United States,* 997 F.2d 1453, 1458–59 (CAFC 1993), (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (CAFC 1993), and *Tianjin Mach. Import & Export Corp.* v. *United States,* 806 F. Supp. 1008, 1015 (CIT 1992)). When respondents fail to support their sample claim, we did not exclude the alleged samples from our margin analysis.

In light of the policy above, we have determined that the record indicates that NSK's reported sample transactions did not involve consideration. Accordingly, pursuant to the CAFC's decision in *NSK,* we have excluded NSK's reported U.S. sample sales from the U.S. sales database.

In addition, with regard to assessment rates, in order to ensure that we collect duties only on sales of subject merchandise, we included the entered values and quantities of the sample transactions in our calculation of NSK's assessment rate and set the dumping duties due for such transactions to zero. We have done this because U.S. Customs will collect the *ad valorem* duties on all entries of subject merchandise whether or not the merchandise was a sample transaction. However, to ensure that sample transactions do not dilute the cash deposit rates, we excluded both the calculated U.S. prices and quantities for sample transactions from our calculation of the cash deposit rates.

Comment 4: NTN claims that the Department's sum-of-the-deviations model-match methodology inconsistently treats the Y2 factor variable. Specifically, NTN questions why the Department sets the variable ''Y2H'' equal to ''Y2DEV'' when the Department sets the deviation for the outside diameter (OD) variable equal to zero.

Timken argues that the Department's sum-of-the-deviations model-match methodology properly reflects the reality of bearing characteristics. For example, Timken states, because thrust TRBs have a zero Y2 factor, when comparing thrust to non-thrust TRBs, the Department correctly set the Y2 factor deviation equal to the non-zero Y2 factor value because the difference between a zero and non-zero value will always be the non-zero value. Timken further asserts that, because the Department only compares TRB cups to cups and TRB cones to cones, if the inside diameter (ID) or OD for the U.S. TRB is zero, the value for the ID or OD for the home market TRB being compared will automatically be zero. Therefore, Timken concludes, if the ID or OD for the U.S. TRB is zero, and the ID or OD for the home market TRB is also zero, the ID or OD deviation between the U.S. and home market cups or cones compared will automatically be zero.

Department's Position: We agree with Timken. In order to determine the home market merchandise most similar to U.S. merchandise, we apply our sum-of-the-deviations model-match methodology using five physical criteria of TRBs: ID, OD, width, load rating, and the Y2 factor. Because each of these criteria are quantitatively measured, we compare the value for each criterion for the U.S. model to that for the home market merchandise and calculate the difference. Once we determine the deviation for each criterion, we derive the overall sum of the deviations for all five criteria and use this value to rank the most similar home market merchandise.

When we first developed this methodology we realized that, in certain instances, the ID, OD, or Y2 factor of a TRB would be equal to zero. For example, TRB cups do not have an ID, TRB cones do not have an OD, and thrust TRBs may not have a Y2 factor. Because we only compare U.S. cups to home market cups and U.S. cones to home market cones, the ID for each U.S. and home market cup compared would be equal to zero and the OD for each U.S. and home market cone compared would be equal to zero. As a result, the ID deviation for cup comparisons would automatically equal zero and the OD deviation for cone comparisons would automatically equal zero. In order to account for this in our sum-of-the-deviations model-match methodology, if the ID or OD of the U.S. TRB is equal to zero, we automatically set the ID or OD deviation equal to zero.

In contrast to the above, we do not compare U.S. thrust TRBs to only home market thrust TRBs (see *TRBs 92–93* at 57631 and *TRBs 90–92* at 64721). Therefore, if the Y2 factor for the U.S. model is equal to zero, the Y2 factor for the comparison home market model will not automatically be equal to zero. Because we calculate the deviation between U.S. and home market criteria as the absolute value of one minus the home market TRBs criterion value divided by the value of the U.S. TRBs criterion, if the U.S. Y2 factor value is equal to zero, we would, in effect, be dividing by zero in our computer program. Therefore, to ensure the proper calculation of the Y2 factor deviation when the U.S. model's Y2 factor is equal to zero, we automatically set the Y2 deviation equal to the home market TRBs value.

Comment 5: Both Fuji and Kawasaki argue that, because merchandise which meets the criteria for the application of the ''Roller Chain'' principle is outside the scope of the Japanese TRBs order and finding, the Department should adopt an assessment strategy which would ensure that antidumping duties are not assessed on this ''Roller Chain'' merchandise.

Fuji proposes that one method would be for the Department to assess duties on an entry-by-entry basis. Fuji claims that not only would this ensure proper assessment of Fuji's entries, but it would be administratively easy for the Department to do given the fact that Fuji has provided the Department with its entry numbers. Alternatively, Fuji suggests that, because all of those TRBs which qualify for exclusion under the ''Roller Chain'' principle were imported by a single related importer, Subaru-Isuzu Automotive, Inc. (SIA), the Department should assess duties on an importer-specific basis and apply zero duties to all SIA imports. Fuji adds that if the Department selects this option it should also adjust the cash deposit rate it calculates for Fuji to take into account the ''Roller Chain'' merchandise by including the value of the ''Roller Chain'' merchandise in the cash deposit rate calculation denominator. Finally, Fuji proposes that, if the Department rejects these first two proposals, the Department should, at a minimum, adjust both the cash deposit and assessment rates it calculates for Fuji by including the value of the TRBs meeting the ''Roller Chain'' criteria in the

denominators used when calculating these rates.

Kawasaki contends that not only is there sufficient evidence on the record to demonstrate that all A–588–054 TRBs imported by Kawasaki Motors Manufacturing Corporation (KMM) meet the ''Roller Chain'' principle, but there is also sufficient evidence allowing the Department to identify the total value of KMM's A–588–054 TRB imports. Thus, Kawasaki asserts, the Department has the information necessary to calculate an A–588–054 assessment rate for Kawasaki which would effectively exclude KMM's entries of TRBs from antidumping duty assessment.

With regard to Fuji, Timken argues that if the Department decides to apply a single assessment rate to all of Fuji's imports, and recalculates Fuji's assessment rate to take into account Fuji's ''Roller Chain'' merchandise, the Department should first be certain that liquidation was suspended and antidumping duty deposits were paid on Fuji's ''Roller Chain'' merchandise. If Fuji's ''Roller Chain'' entries were suspended, Timken argues, the Department should not use the assessment rate Fuji proposed in its comments. Rather, Timken asserts, because duties are assessed on entered value, the Department should calculate Fuji's assessment rate by including in the calculation denominator the sum of the entered values of both Fuji's non-''Roller Chain'' and ''Roller Chain'' merchandise.

In response to Fuji's contention that the Department should apply to Fuji cash deposit and assessment rates which are identical, Timken argues that, while the statutory scheme requires estimates of antidumping duties to be as accurate as possible, it is not necessary that cash deposit rates be absolutely accurate (*Badger-Powhatan, a Division of Figgie International, Inc.* v. *United States,* 633 F. Supp. 1364, appeal dismissed, 808 F.2d 823 (Fed. Cir. 1986)). Timken therefore urges the Department to apply to all of Fuji's entries a cash deposit rate equal to the final margin rate the Department calculates for Fuji's non-''Roller Chain'' merchandise.

With regard to Kawasaki, Timken contends that the Department cannot make a determination that any of Kawasaki's entries were subject to the ''Roller Chain'' principle not only because the record lacks the information necessary for the Department to do so, but also because Kawasaki was an uncooperative respondent to which the Department applied a first-tier total BIA rate in both the A–588–054 and A–588–604 reviews. Timken contends that the Department applied total adverse BIA to Kawasaki because it submitted only partial information in response to the Department's questionnaire, which was insufficient for the Department to conduct its analysis. Timken claims that, the Department cannot accept partial data because to do so would place control of the review in the hands of Kawasaki by permitting Kawasaki to selectively provide information. Timken argues that this reasoning was upheld in *Persico Pizzamiglio, S.A.* v. *United States,* 18 CIT 299, Slip. Op. 94–61 (April 14, 1994) (*Persico*), in which the CIT explained that the acceptance of partial submissions will only encourage respondents to selectively disclose only that information which would serve to decrease a dumping margin based on BIA. Therefore, Timken states, the Department should assess Kawasaki's entries of A–588–054 TRBs at a rate equivalent to the total adverse BIA rate it assigns to Kawasaki in these final results and not make any adjustments to this rate to effectively exclude KMM's entries of TRBs.

Department's Position: We agree with the petitioner and in part with the respondents. It is important to first clarify that merchandise which meets the criteria of the ''Roller Chain'' principle is not out-of-scope merchandise. Our determination in an administrative review that the ''Roller Chain'' principle is applicable to certain merchandise is not equivalent to a determination that the merchandise is non-scope merchandise. To the contrary, in these TRBs reviews, that merchandise which we have deemed to be ''Roller Chain'' merchandise clearly falls within the scope of the A–588–054 finding and the A–588–604 order, as described earlier in this notice. Based on section 772(e)(3) of the Tariff Act and the applicable legislative history, we have developed a practice whereby we do not calculate and do not assess antidumping duties on subject merchandise which is imported by a related party and which is further processed where the subject merchandise comprises less than one percent of the value of the finished product sold to the first unrelated customer in the United States (see, e.g., *Roller Chain Other Than Bicycle From Japan,* 48 FR 51804 (November 14, 1983), and *TRBs 92–93* at 57548)). The statute provides for the assessment of antidumping duties only to the extent of the dumping that occurs. If there can be no determination of any dumping margin where the imported merchandise is an insignificant part of the product sold, then there is no dumping to offset and antidumping duties are not appropriate. Therefore, we do not consider ''Roller Chain'' merchandise as non-scope merchandise, but rather as scope-merchandise which is not subject to duty assessment.

We disagree with Fuji that our cash deposit rates should somehow take into account merchandise meeting the ''Roller Chain'' criteria because we have no way of knowing at the time of entry whether any particular entry qualifies under the ''Roller Chain'' principle for exclusion from assessment of antidumping duties. Our decision to exclude any merchandise is made on a case-by-case basis within the course of an administrative review, which takes place after the actual entry of the potentially excludable merchandise. For this reason, at the time of entry we must require cash deposits of estimated antidumping duties on all entries, including those entries of merchandise potentially excludable from assessment under the ''Roller Chain'' principle. Furthermore, cash deposit rates are estimates of dumping liability. Because at the time of entry we have no idea of the value of merchandise which we may ultimately determine meets the ''Roller Chain'' criteria, we cannot alter our cash deposit rate to effectively compensate for the value of the ''Roller Chain'' merchandise in the current review, which may be a value significantly different from that in the future.

We also disagree with Fuji that entry-by-entry assessment is a viable option for its assessment. Entry-by-entry assessment requires the traditional appraisement instructions which list each entry and the margin calculated for it. The disadvantages of such assessment are numerous. For example, because our dumping analysis focuses on sales, it is necessary for us to associate reviewed sales with entries in some way. However, companies are generally unable to make such a link. In addition, such appraisement instructions are burdensome, time-consuming, and at risk for error. It is therefore the position of the Department that assessment rates applicable to all covered entries are preferable. In comparison to entry-by-entry assessment, the use of an assessment rate which applies to all entries during the POR is far less burdensome and time-consuming, and the risk of incorrect assessment is minimized. In general, we have tried to calculate assessment rates on an importer-specific basis to prevent one importer from paying antidumping duties attributable to margins found on sales to a different importer. However, this concern for importer-specific rates is limited to

those instances where the importer is not related to the foreign exporter. Where the importer is related to the foreign exporter, we consider the related parties to constitute one corporate entity and the use of manufacturer/exporter-specific assessment rates to be appropriate. Therefore, we also reject Fuji's proposal that we adopt an importer-specific rate for SIA, its related U.S. subsidiary, and we will calculate one rate for Fuji's related importers.

We have determined that Fuji's final proposal, that the assessment rate take into account the value of the ''Roller Chain'' merchandise, is the most viable assessment option and would ensure that antidumping duties are not assessed on that merchandise we determined to meet the ''Roller Chain'' principle criteria. As explained above, we do not agree that the cash deposit rate should be altered in any way. Therefore, after ensuring that liquidation was suspended for SIA's entries of TRBs, we will ensure that assessment does not occur on this ''Roller Chain'' merchandise by including the total entered value of Fuji's ''Roller Chain'' merchandise in our assessment rate calculation denominator. This will have the effect of lowering the percentage assessment rate so that, even though antidumping duties will be assessed on all entries, the lower percentage assessment rate (which will still result in the collection of the actual amount of antidumping duties owed) will effectively exclude the ''Roller Chain'' merchandise from assessment.

Concerning Kawasaki's alleged ''Roller Chain'' merchandise, as the record for these reviews demonstrates, Kawasaki only provided a response to the general information section of our questionnaire (section A) and included within this partial response a statement indicating that it declined to provide the information requested in the remaining sections of the questionnaire. Because the information Kawasaki declined to provide was its detailed home market and U.S. sales and adjustment information, we were unable to conduct an analysis of, or calculate a margin for, Kawasaki. Therefore, Kawasaki's refusal to provide a response to the additional sections of our questionnaire significantly impeded our ability to conduct a review for Kawasaki and we used a total first-tier uncooperative BIA rate of 40.47 for Kawasaki in the A–588–604 review and of 47.63 percent in the A–588–054 review (see *Prelim Results* at 25201).

Kawasaki now argues that, because it submitted information demonstrating that all of KMM's entries of A–588–054 TRBs during the POR met the requirements of the ''Roller Chain'' principle, the Department should not assess duties against this merchandise. Kawasaki, therefore, makes an argument identical to Fuji's third proposal in that it calls for the recalculation (*i.e.*, lowering) of its A–588–054 assessment rate such that duties will not be assessed against KMM's entries of TRBs.

Kawasaki's argument, however, not only overlooks the fact that the information it wants the Department to rely on to ensure that duties are not assessed on KMM's entries represented only a partial response to the questionnaire, but it ignores the fact that it was an uncooperative respondent that refused to provide the information necessary for us to conduct an analysis. Furthermore, our March 16, 1998 letter requesting once more that Kawasaki provide a complete response to our questionnaire stated specifically that failure to do so would result in our proceeding on the basis of total BIA, including issuing appraisement instructions to Customs to liquidate all Kawasaki entries, including those allegedly subject to the ''Roller Chain'' principle, at the appropriate BIA rate. On March 23, 1998, Kawasaki stated for a third time that it would not provide the requested information necessary to complete our analysis and calculate dumping margins for Kawasaki.

The CIT has ruled on several occasions that the use of a respondent's incomplete questionnaire response would only reward the respondent for failing to report requested information. For example, in Persico, the case cited by Timken in its comments, the CIT rejected the argument that the Department should have used some of the information submitted by the respondent instead of relying on other information as BIA. The CIT stated:

> ''If the court were to accept Persico's argument, such result might encourage respondents to analyze information Commerce would employ as BIA should that agency ignore a questionnaire response for being unresponsive or incomplete. Presumably, the respondent would then selectively disclose only that information which would decrease a dumping margin calculated from BIA. . . . In this way, it would be in a respondent's best interest to only partially respond to Commerce's inquiry. . . . By allowing Commerce to reject a submission *in toto*, the court encourages full disclosure by the respondent, because only full disclosure will lead to a dumping margin lower than that established by employing BIA.''

(See *Persico* at 23). In *Nippon Pillow Block Sales Co., Ltd. and FYH Bearing Units USA, Inc.* v. *United States*, 903 F. Supp 89 (CIT 1995) (*Nippon*), the CIT, applying the same reasoning as in *Persico*, stated that ''if Commerce were required to use the small portion of the requested information that Nippon submitted, there would be no incentive for Nippon to provide Commerce with complete information since the submission of partial information would result in a decreased dumping margin.'' See *Nippon* at 95.

In the instant case, the partial information submitted by Kawasaki allegedly demonstrates that KMM's imports met the requirements of the ''Roller Chain'' principle. If we were to take this information into account, as Kawasaki argues, Kawasaki's assessment rate would be reduced and duties would not be assessed on a significant portion of its TRBs entries. As a result, this uncooperative respondent, who refused to provide the information necessary for us to conduct an analysis, would actually benefit from its refusal to provide the Department with a complete response. In this way, we would encourage Kawasaki to selectively disclose only that information which would benefit its position, and control over the proceedings would effectively move from the Department to the respondent. Furthermore, because Kawasaki was an uncooperative respondent to which we assigned a first-tier total adverse BIA rate in the reviews of both TRBs cases, there was no basis on which to verify the limited information Kawasaki submitted. Therefore, given Kawasaki's uncooperativeness, we have no basis upon which to conclude that the limited information in Kawasaki's partial submission is accurate and reliable. For these reasons we disagree with Kawasaki that, because information on the record allegedly demonstrates that KMM's entries of TRBs were subject to the ''Roller Chain'' principle, we have an obligation to take that information into account for assessment purposes. Rather, we will assess duties for Kawasaki in both the TRBs cases at rates equivalent to the first-tier total BIA rates we assigned to Koyo for these final results.

Comment 6: Fuji argues that the Department failed to make a difference-in-merchandise (difmer) adjustment when it compared Fuji's U.S. TRBs to most similar, rather than identical, home market TRBs. Fuji asserts that because it is a reseller, the acquisition costs it provided to the Department are its variable costs and the Department should calculate a difmer adjustment based on the difference in acquisition costs between U.S. merchandise and the non-identical comparison home market merchandise.

While Timken does not object to the Department making a difmer adjustment for Fuji based on Fuji's acquisition costs, Timken contends that the computer programming language Fuji included in its brief demonstrating how the Department should incorporate the adjustment into Fuji's computer program is deficient because it applies the adjustment to comparisons of identical U.S. and home market merchandise and does not properly convert the adjustment from yen to U.S. dollars.

Department's Position: We agree with Fuji that a difmer adjustment is warranted and have based that adjustment on the difference in Fuji's reported acquisition costs. However, we also agree with Timken that Fuji's suggested programming language is deficient. Therefore, we have incorporated the difmer adjustment into our computer program for Fuji by using computer programming language which ensures that the adjustment is (1) only applied to comparisons between U.S. merchandise and the most similar, rather than identical, home market merchandise, and (2) is properly converted from yen to U.S. dollars.

Comment 7: Fuji argues that because it is a reseller which does not have access to the variable costs of manufacturing (VCOM) and total costs of manufacturing (TCOM) of the TRBs it resells in the U.S. and home markets, it agrees with the Department's use of its acquisition costs as the basis for the 20 percent difmer test. Fuji contends that in those cases where VCOM and TCOM are available, the Department allows non-identical home market models to be included within the pool of potential home market matches if the difference in the VCOMs between the U.S. and home market models is less than 20 percent of the U.S. model's TCOM. In other words, Fuji states, the Department uses the U.S. model's costs as the benchmark for its comparison. However, Fuji asserts, rather than use the U.S. model's acquisition cost as the benchmark for the 20 percent difmer test the Department conducted for Fuji, the Department incorrectly used the home market model's acquisition costs as the basis for the 20 percent difmer comparison.

Department's Position: We agree with Fuji. In our margin calculation computer program for Fuji we inadvertently used programming language which incorrectly applied the 20 percent difmer test. We have corrected this error for these final results.

Comment 8: Fuji argues that the Department's 99.5 percent arm's-length test, in which it calculates home market customer-specific weighted-average related/unrelated price ratios and excludes from its margin calculations all sales to a home market customer if its ratio is not greater than 99.5 percent, is too restrictive and inappropriately rejects bona fide sales to related home market customers that are made at the same prices as sales to unrelated home market customers. Fuji asserts that, even though it sold from the same price list at the same prices to all home market customers during the POR for any given product during any given month, the Department's arm's-length test nevertheless resulted in the exclusion of a large percentage of its related customer sales from the Department's preliminary margin calculations.

For example, Fuji asserts that the Department's reliance on POR weighted-average prices results in the exclusion of related party sales simply because different quantities may have been purchased by a related party after a monthly price change took effect, even though the prices charged to related and unrelated customers during any given month were the same. In addition, Fuji contends that, even if the same number of units are sold to both the related and unrelated customer, all sales to the related customer will fail the test even if a majority of the sales to the related customer during the POR were priced higher than the sales of the identical product to the unrelated customer.

Fuji claims that, to avoid these inaccuracies, the Department should adopt a new arm's-length test in which individual transactions to related customers are determined to be at arm's length unless the prices to the related customer deviate from the weighted-average prices to unrelated customers by more than two standard deviations. Fuji asserts that this method not only better reflects commercial reality, but it eliminates abnormally high and low priced sales while still ensuring that only those related-customer sales prices which are statistically comparable to unrelated-party sales prices are included in the Department's margin calculations.

Fuji further asserts that, if the Department does not adopt this new test, it should at least modify its existing arm's-length test such that it would use the same methodology, but apply it on a monthly, rather than a POR, basis. Fuji explains that if the Department compares the average monthly weighted-average price of a product sold to an related customer to the monthly weighted-average sales prices of the same product to an unrelated customer, it would capture the fact that Fuji's monthly average sales prices to related and unrelated customers are the same. In this way, Fuji concludes, the Department will avoid the arbitrary results produced by its current test and correctly include within its margin calculations those sales to related home market customers which were clearly at arm's length.

Timken argues that Fuji's arguments are hypothetical in nature and fail to demonstrate that the Department's methodology actually produced distortive results. In addition, Timken asserts, given that the Department employed a reasonable methodology, there is no basis for the Department to change it's arm's-length analysis. Finally, Timken states that it is the Department, and not an interested party, who makes the determination as to what methodology should be used (*NTN Bearing Corp.* v. *United States*, 747 F. Supp. 726 (CIT 1990)).

Department's Position: We agree with Timken. While Fuji argues that our 99.5 percent arm's-length test produces arbitrary results, it failed to provide a single example from its own data supporting its assertions. Fuji presents only theoretical examples of why the arm's-length test is distortive and we have no basis upon which to conclude that our test is unreasonable. Furthermore, not only is our 99.5 percent arm's-length test methodology well established (see, e.g., *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review*, 61 FR 15772 (April 9, 1996)), but the CIT has repeatedly sustained this methodology (see e.g., *Usinor Sacilor* v. *United States*, 872 F. Supp. 1000 (CIT 1994) (*Usinor*), *Micron* Technology, Inc. v. *United States*, 893 F. Supp. 21 (CIT 1995) (*Micron*), and *NTN Bearing Corp. of America, Inc.* v. *United States*, 905 F. Supp. 1083 (CIT 1995)). Consistent with our view that a party must provide evidence of distortion in order for us to verify its allegations that our arm's-length test is distortive, in *Usinor* the CIT specifically stated that ''[g]iven the lack of evidence showing any distortion of price comparability, the court finds the application of Commerce's arm's-length test reasonable.'' See *Unisor* at 1004. Likewise, in *Micron*, because the CIT found that the plaintiff/respondent failed to ''demonstrate that Commerce's customer-based arm's length test inquiry is unreasonable'' and failed to ''point to record evidence which tends to undermine Commerce's conclusion,'' the CIT sustained the 99.5 percent arm's-length test based on the lack of evidence showing a distortion of price comparability (see *Micron* at 45–46).

Therefore, for these final results we have not altered our 99.5 percent arm's-length test for Fuji, and have continued to apply the test as we have in other cases upheld by the CIT and as we did in our preliminary results.

Comment 9: Fuji contends that, because it changes its home market prices only at the beginning of a month, the Department's use of annual weighted-average home market prices fails to capture the monthly fluctuations in its prices. Therefore, Fuji asserts, the Department should calculate monthly weighted-average home market prices. Fuji contends that not only would this change be a minimal burden on the Department, but such a change would ensure greater accuracy in the Department's margin calculations for Fuji. Fuji further asserts that, if the Department chooses not to rely on monthly weighted-average home market prices, it should at least calculate semiannual home market weighted-average prices based on the two periods within the POR which reflect the timing of Fuji's price changes.

Timken argues that not only did the Department conduct a detailed analysis which demonstrated that Fuji's home market prices were stable over the POR such that the calculation of annual weighted-average home market prices was reasonable, but there is no evidence on the record indicating that the use of monthly weighted-average home market prices for Fuji would be more accurate or reasonable than annual weighted-average prices.

Department's Position: We agree with Timken. Pursuant to the law in effect prior to January 1, 1995, although it is our normal practice to calculate monthly weighted-average home market FMVs, it has been our established practice in TRBs reviews to conduct a three-step price stability test in order to determine if a respondent's pricing practices in the home market were sufficiently stable throughout the POR such that we may reasonably calculate annual weighted-average home market FMVs. (see, e.g., *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Review,* 56 FR 65228 (December 16, 1991) (*054 TRBs 88–89*), and *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Review,* 56 FR 26054 (June 6, 1991) (*054 TRBs 87–88*)). We began this practice in an effort to simplify our TRBs calculations which involve extremely large data bases and complex, time-consuming analysis.[1] Although Fuji's 1993–94 databases were less voluminous than other respondents' databases, the amount of data Fuji submitted, as well as the overall complexity of the analysis we conducted for Fuji, prompted us to determine if annual weighted-average FMVs were appropriate for our calculations. Therefore, consistent with section 777A of the Act, we determined whether the use of annual weighted-average FMVs was appropriate by performing our established three-step price stability test. First, we compared the annual/POR weighted-average home market price for each home market TRB model with each of the model's 12 monthly weighted-average prices during the POR. We then calculated the proportion of each model's sales for which the annual weighted-average price did not vary more than plus or minus 10 percent from the monthly weighted-average prices. Second, we compared the volume of sales of all models for which annual weighted-average prices did not vary more than plus or minus 10 percent from the monthly weighted-average prices with the total volume of sales of TRBs. Because the annual weighted-average price of at least 90 percent of Fuji's home market TRBs sales did not vary more than plus or minus 10 percent from the monthly weighted-average prices, we considered Fuji's annual weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between price and time for each model by calculating a Pierson coefficient. Because the correlation coefficient we calculated for Fuji was less than 0.05 (where a coefficient approaching 1.0 indicates a direct correlation between price and time), we concluded that there was no significant relationship between price and time.

Because this three-step analysis demonstrated that over 90 percent of Fuji's annual weighted-average prices were within 10 percent of its monthly weighted-average prices and that there was no relationship between Fuji's pricing practices and time, we concluded that Fuji's home market pricing practices were sufficiently stable over time such that annual FMVs were representative of home market prices.

Therefore, while Fuji argues that monthly weighted-average FMVs would be more accurate, our analysis and all the evidence on the record indicate that our use of annual weighted-average FMVs for Fuji produced accurate and reliable results.

We also disagree with Fuji that we should, at a minimum, rely on FMVs based on certain semiannual weighted-averages. Since we have confirmed that annual weighted-average FMVs will not differ significantly from monthly weighted-average FMVs, we have no reason to suspect that annual weighted-average FMVs would differ significantly from weighted-average FMVs calculated on a greater-than-one-month or semiannual basis. Furthermore, Fuji has provided no evidence supporting its contention that its proposed semiannual weighted-average FMVs would produce results more accurate than those we achieved by using annual weighted-average FMVs. Therefore, we have continued to rely on annual weighted-average FMVs for Fuji for these final results.

Comment 10: In its responses for both the 1992–93 and 1993–94 reviews, Koyo reported four different categories of sales in the home market: (1) sales to original equipment manufacturers (OEM) for the OEM market, (2) sales to OEM customers for the after-market (AM), (3) sales to AM customers for the OEM market, and (4) sales to AM customers for the AM market. In order to determine whether any of these four categories of sales represented distinct levels of trade (LOT), we conducted an analysis in which we calculated and compared the weighted-average prices for each category in order to determine if patterns of pricing differences existed between these categories. Based on our analysis we concluded that sales in category 1 clearly represented an OEM LOT while sales in category 4 clearly represented an AM LOT. However, because sales within categories 2 and 3 did not clearly reflect distinct LOTs, we examined whether sales in these two categories were more appropriately defined as within the category 1 OEM LOT or the category 4 AM LOT. Based on further analysis we concluded that sales in category 2 were most similar to those in category 1 and sales in category 3 were most like the sales in category 4. Therefore, we collapsed sales categories 1 and 2 into one OEM LOT and sales within categories 3 and 4 into one AM LOT.

Koyo contends that, in all its questionnaire responses since the 1990–92 TRBs reviews (where the Department

[1] For example, if our three-step price stability test reveals that price variations have no relation to time, we eliminate from our multiple searches for contemporaneous home market such or similar merchandise. This results in a dramatic simplification of the highly complex TRBs sum-of-the-deviations model-match methodology and ensures less errors in computer programs and margin calculations.

first recognized the complexity of the bearing distribution system), it has explained its distribution system and identified the identical four home market sales categories as in these 1992–93 and 1993–94 reviews. Koyo states that in the most recently completed final results for Koyo (the 1990–92 TRBs reviews), the Department determined that category 1 was the OEM LOT, and collapsed categories 2, 3, and 4 into a single AM LOT. Koyo asserts that because (1) no party ever objected to the Department's determination and (2) Koyo has not changed its distribution system or its explanation of this system for these reviews, there is no reason for the Department to change its LOT identification for these 1992–93 and 1993–94 reviews.

Koyo also argues that the Department's LOT analysis was flawed because the Department relied on an over-inclusive pool of sales when calculating the weighted-average prices it used to identify Koyo's home market LOTs. Koyo asserts that the Department calculated weighted-average prices for categories 1, 2, 3, and 4 by including all models sold rather than eliminating from the calculation those models sold only in a given category but not sold to the category being compared. As a result, Koyo contends, the Department's analysis is distorted. Based on its own analysis Koyo argues that, by removing from the calculation of each category's weighted-average price those sales of models which were sold only in that category, the comparison of the revised weighted-average prices for each category reveals that categories 2 and 3 are most similar to category 4, and categories 2, 3, and 4 are distinctly different from category 1. Therefore, Koyo concludes, the Department should have collapsed categories 2, 3, and 4 into a single AM LOT and treated category 1 as the distinct OEM LOT.

Timken argues that the elaborate analysis Koyo presented in its comments is flawed because it lacks any support on the record explaining why sales have been put into sub-categories within the OEM and AM LOTs. Timken asserts that, absent an explanation as to why there should be distinctions within the OEM and AM LOTs, Koyo's analysis is nothing more than a *post-hoc* rationalization of its original, unsupported LOT designations. Timken concludes that, regardless of any possible flaws in the Department's analysis, given the lack of information on the record, the Department should continue to categorize categories 1 and 2 as a single OEM LOT and categories 3 and 4 as a single AM LOT.

Department's Position: We agree in part with both the petitioner and the respondent. As explained above, in its 1992–93 and 1993–94 responses Koyo claims two distinct LOTs in the home market, an OEM LOT and an AM LOT. However, Koyo reported four separate home market categories of sales based on the customer category (OEM or AM) and market in which the sale was made (OEM or AM). Because Koyo's response lacked both a detailed explanation of these four subgroups and an explanation whether these four subgroups represented distinct LOTs, we determined that it was necessary to conduct a detailed analysis using Koyo's reported home market pricing data to identify any pricing patterns and determine whether these categories reflected distinct LOTs. As also indicated above, our analysis revealed that four separate LOTs did not exist, and we concluded that certain categories of sales should be collapsed into two separate LOTs. Therefore, we agree with Timken that Koyo's responses lacked the information necessary to demonstrate four distinct LOTs. However, we disagree with Timken that Koyo's comments and analysis are an attempt to argue that four separate LOTs exist. Rather, in its comments Koyo only asserts that inherent flaws in the Department's LOT analysis resulted in the Department's improper combining of category 1 sales with category 2 sales and category 3 sales with category 4 sales.

In light of Koyo's comments we have reexamined our LOT analysis for Koyo in both the 1992–93 and 1993–94 reviews and have determined that the computer analysis we used to identify Koyo's home market LOTs produced accurate and reliable results. For example, we began our analysis by calculating an overall weighted-average price for each of Koyo's four categories and compared these prices to one another. We relied on this comparison as a means to ascertain the general pricing trends that existed between Koyo's categories such that we would have some basis upon which to proceed with a more detailed model-specific comparison. In other words, while this macro-comparison did allow us to draw some general conclusions, we recognized that it was not detailed enough to provide conclusive results concerning each category and its relationship, if any, to the other three categories. Therefore, in order to identify Koyo's LOTs and resolve the issue of whether categories 2 and 3 reflected distinct and separate LOTs or were more like category 1 or 4 such that they should be collapsed with category 1 or 4 in some way, we conducted a model-specific analysis in which we calculated and compared the model-specific weighted-average prices for each model sold in each category. For example, we compared the model-specific weighted-average prices for each model sold in categories 1 and 2, 1 and 3, 3 and 4, and 2 and 4. In doing so, we compared only the weighted-average prices for those models which were sold in two categories. For example, when we compared the pricing practices between categories 1 and 2, we only compared the prices for models sold to both categories 1 and 2. As a result, contrary to Koyo's assertion, we did not rely on our macro-comparison as the basis of our overall LOT determinations and we did not base our analysis on an over-inclusive pool of models. Rather, we conducted a more detailed model-specific analysis in which we excluded from our comparisons those models which were not sold in both of the categories being compared. Therefore, we disagree with Koyo that our analysis was inherently flawed.

However, while we have concluded that our computer analysis was accurate and reliable, we have discovered that, when we interpreted the results of this analysis in our preliminary results, we misidentified Koyo's four categories. This led to us draw incorrect conclusions concerning the manner in which Koyo's categories were to be combined for LOT purposes. Therefore, for these final results we have properly identified Koyo's categories and have reexamined the results of our LOT analysis. Based on our reexamination of our model-specific comparisons we have concluded that our original determination that categories 1 and 4 were distinct from each other and reflected separate OEM and AM LOTs was correct. Furthermore, we have concluded that there is a clear pattern of pricing differences between categories 1 and 2 and categories 1 and 3 such that we cannot consider sales in categories 2 and 3 to be at the same LOT as category 1. In addition, our reexamination of our comparisons between categories 2 and 4 and categories 3 and 4 reveal that there is no distinct pattern of pricing differences between categories 2 and 4 and categories 3 and 4 such that we could consider sales in categories 2 and 3 as at a separate LOT than category 4. Therefore, we agree with Koyo that we improperly collapsed its home market sales categories in our preliminary results of review. As a result, for these

final results we have collapsed categories 2, 3, and 4 into one distinct AM LOT and treated category 1 as the OEM LOT.

2. Comments Concerning Adjustments to United States Price (USP)

Comment 11: Timken argues that it is not clear why NTN did not report its U.S. credit expenses on a transaction-specific basis and, based on its own analysis, claims that NTN has under-reported these credit expenses.

NTN argues that not only has it consistently reported its U.S. credit expenses on a customer-specific basis, but the Department has consistently accepted NTN's methodology in all past reviews. NTN states that Timken has provided no evidence indicating that NTN's customer-specific methodology is unreasonable, and is only attempting to persuade the Department to adopt a position which would yield the results that Timken wants.

Department's Position: We disagree with Timken. While we prefer to have credit calculated on a transaction-specific basis, when there is a massive number of transactions in a review, we generally will not require the respondent to calculate and report individual credit costs for each transaction. Rather, when there is a voluminous number of transactions involved, we permit a respondent to report credit calculations based on the average credit days outstanding on a customer-specific basis. This has been upheld by the CIT (see, e.g., *The Torrington Company* v *United States*, 818 F. Supp 1563 (CIT 1993)), and is in accordance with our established practice (see, e.g., *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Administrative Review*, 56 FR 31692 (1991)).

Given the massive number of transactions NTN has reported in this review, we have allowed NTN to report its U.S. credit expenses on a customer-specific basis. Furthermore, not only have we allowed NTN to report its credit expenses on a customer-specific basis in all previous TRBs reviews, but NTN has explained in past reviews that it derived its customer-specific credit ratio based on information directly from its accounts receivables ledgers concerning the average number of days payment was outstanding for each of its customers. As such, NTN's reported credit amounts are based on a customer's actual payment information as maintained in NTN's books and records (see, e.g., *TRBs 92–93* at 57637)). We have verified this method in previous reviews, and, because there is no evidence that NTN has changed its methodology for this review, we are satisfied that NTN has again reported U.S. credit expenses which are derived directly from actual customer payment information. Therefore, we have not altered our treatment of NTN's U.S. credit expenses for these final results.

Comment 12: Timken argues that, because it appears on the record that NTN USA is some form of holding company which provides support to its wholly-owned subsidiaries, some portion of NTN USA's expenses should be allocated to sales of subject merchandise. Therefore, Timken contends, the Department should increase the pool of U.S. indirect selling expenses by a portion of NTN USA's general and administrative expenses.

NTN argues that, because these G&A expenses are not provided for, as Timken suggests, NTN USA's expenses should not be allocated to sales of subject merchandise.

Department's Position: We disagree with Timken. The record indicates that those expenses incurred by NTN USA on behalf of the various NTN U.S. subsidiaries are already included in NTN's reported U.S. indirect selling expenses. Therefore, there is no basis to recalculate NTN's reported U.S. indirect selling expenses to account for those expenses incurred by NTN USA.

Comment 13: Timken asserts that, because there is no evidence on the record justifying the various adjustments NTN made to the pool of U.S. indirect selling expenses it reported to be deducted from USP, the Department should not allow these adjustments, and should include the adjustment amounts in the total amount of U.S. indirect selling expenses deducted from USP.

NTN states that, because its reporting of its U.S. indirect selling expenses has remained consistent throughout all TRBs administrative reviews to date and because the Department has consistently accepted this reporting methodology, the Department should disregard Timken's contentions and again allow NTN to make the adjustments at issue to its reported U.S. indirect selling expenses.

Department's Position: We agree with NTN. We have examined certain of these adjustment's in previous verifications of NTN without discrepancy (see *TRBs 90–92* at 64726) and, absent evidence from Timken supporting its contention that these adjustments are unreasonable, we have no reason to reject them for these final results.

Comment 14: Timken contends that NTN's adjustment to its U.S. indirect selling expenses for a certain interest expense amount should not be allowed because there is no explanation on the record of what this amount represents, what it is attributable to, or why it should be removed from the pool of U.S. indirect selling expenses to be deducted from USP.

NTN states that both the Department and Timken are well aware that the interest expense in question reflects those interests expenses NTN incurred in regard to antidumping duty cash deposits. NTN contends that, just as antidumping duties are not a basis for adjustment to USP, the costs related to them should also not be the basis for an adjustment to USP.

Department's Position: We agree with Timken that we should deny an adjustment to NTN's U.S. indirect selling expenses for expenses which NTN claims are related to financing of cash deposits.

The statute does not contain a precise definition of what constitutes a selling expense. Instead, Congress gave the administering authority discretion in this area. It is a matter of policy whether we consider there to be any financing expenses associated with cash deposits. We recognize that we have, to a limited extent, removed such expenses from indirect selling expenses for such financing expenses in past reviews of this finding, this order, and other orders. However, we have reconsidered our position on this matter and have now concluded that this practice is inappropriate. Further, we note that the Court's affirmance of our prior policy does not preclude us from following this new, reasonable policy.

We have long maintained, and continue to maintain, that antidumping duties, and cash deposits of antidumping duties, are not expenses that we should deduct from U.S. price. To do so would involve a circular logic that could result in an unending spiral of deductions for an amount that is intended to represent the actual offset for the dumping (see, e.g., *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360 (June 24, 1992) (*AFBs II*)). We have also declined to deduct legal fees associated with participation in an antidumping case, reasoning that such expenses are incurred solely as a result of the existence of the antidumping duty order (see *AFBs II*). Underlying our logic in both these instances is an attempt to distinguish between business expenses

that arise from economic activities in the United States and business expenses that are direct, inevitable consequences of an antidumping duty order.

Financial expenses allegedly associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. Money is fungible. If an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. Companies may choose to meet obligations for cash deposits in a variety of ways that rely on existing capital resources or that require raising new resources through debt or equity. For example, companies may choose to pay deposits by using cash on hand, obtaining loans, increasing sales revenues, or raising capital through the sale of equity shares. In fact, companies face these choices every day regarding all their expenses and financial obligations. There is nothing inevitable about a company having to finance cash deposits and there is no way for the Department to trace the motivation or use of such funds even if it were.

In a different context, we have made similar observations. For example, we stated that ''debt is fungible and corporations can shift debt and its related expenses toward or away from subsidiaries in order to manage profit'' (see *Ferrosilicon from Brazil*, 61 FR at 59412 (regarding whether the Department should allocate debt to specific divisions of a corporation)).

So, while under the statute we may allow a limited exemption from deductions from U.S. price for cash deposits themselves and legal fees associated with participation in dumping cases, we do not see a sound basis for extending this exemption to financing expenses allegedly associated with financing cash deposits. By the same token, for the reasons stated above, we would not allow an offset for financing the payment of legal fees associated with participation in a dumping case.

We see no merit to the argument that, since we do not deduct cash deposits from U.S. price, we should also not deduct financing expenses that are arbitrarily associated with cash deposits. To draw an analogy as to why this logic is flawed, we also do not deduct corporate taxes from U.S. price; however, we would not consider a reduction in selling expenses to reflect financing alleged to be associated with payment of such taxes.

Finally, we also determine that we should not use an imputed amount that would theoretically be associated with financing of cash deposits. There is no real opportunity cost associated with cash deposits when the paying of such deposits is a precondition for doing business in the United States. Like taxes, rent, and salaries, cash deposits are simply a financial obligation of doing business. Companies cannot choose not to pay cash deposits if they want to import nor can they dictate the terms, conditions, or timing of such payments. By contrast, we impute credit and inventory carrying costs when companies do not show an actual expense in their records because companies have it within their discretion to provide different payment terms to different customers and to hold different inventory balances for different markets. We impute costs in these circumstances as a means of comparing different conditions of sale in different markets. Thus, our policy on imputed expenses is consistent; under this policy, the imputation of financing costs to actual expenses is inappropriate.

Comment 15: In its response NTN reported that it paid commissions to NBCA for certain purchase price sales. In addition, NTN indicated that NBCA incurred other expenses associated with the services it provided with regard to these purchase price sales. In our preliminary results we determined that it was necessary to determine the arm's-length nature of these related-party commissions by comparing the related-party commission rate to those commission rates NTN reported it paid to unrelated U.S. commissionaires. However, because the record did not explicitly indicate the related-party commission rate, we attempted to calculate this commission rate based on data NTN provided in exhibit B–8 of its response. In exhibit B–8 NTN demonstrates its calculation of NBCA's total U.S. indirect selling expenses for all merchandise (both scope and non-scope), as well as its allocation of these total expense amounts to scope and non-scope merchandise. In addition, it is important to note that the purpose of this exhibit was for NTN to calculate the indirect selling expense NBCA incurred for its reported U.S. exporter's sales price (ESP) sales. Because the expenses NBCA incurred in relation to those services it provided for certain purchase price sales were not expenses NBCA incurred in association with its ESP sales, NTN removed these expenses from its reported total NBCA expenses in exhibit B–8 by making a downward adjustment to specific total expense accounts. These downward adjustments were clearly identified in exhibit B–8 as related to those expenses incurred by NBCA for certain purchase price sales. Based on these reported downward adjustments we calculated a total commission amount and divided this by the total sales value of NTN's TRB purchase price sales, which we derived directly from NTN's U.S. computer sales file. We considered the resulting ratio the related-party commission rate and, upon comparing it to the commission rates NTN reported it had paid to unrelated U.S. parties, we determined the related-party commission not to be at arm's length. Therefore, we treated it as an indirect selling expense and adjusted for it accordingly in margin calculations for purchase price sales.

NTN argues that, while it agrees with the Department's disregarding the related-party commission, the Department's additional arm's-length analysis was unnecessary because, in accordance with the Department's practice, related-party commissions are treated as intra-company transfers of funds and, as such, are not proper adjustments to price. NTN further claims that, while the Department should not have conducted an arm's-length analysis, it is nevertheless important for the Department to recognize that it made two errors when calculating the related-party commission rate. First, NTN asserts, the Department relied on a numerator which reflected all expenses incurred by NBCA for the services it provided for certain purchase price sales, rather than on a numerator which reflected only the related-party commission NBCA was paid. Second, NTN argues, even if the Department had used the correct numerator, the calculation would still be incorrect because the Department used a denominator which reflected only scope merchandise. NTN asserts that exhibit B–8 clearly indicates that the downward adjustments for purchase price sales reflected all merchandise, not only TRBs. As a result, because the numerator for the calculation would reflect both scope and non-scope merchandise, the Department should have used a denominator which reflected NTN's purchase price sales of all merchandise, rather than only the purchase price sales of TRBs. In order to further demonstrate its point, NTN reported its actual related-party commission rate and referred to the difference between this rate and the one calculated by the Department.

Timken argues that NTN seeks to alter the Department's judgment regarding these related-party commissions by supplementing the record with new factual information. Timken asserts that NTN has reported for the first time its actual related-party commission rate

and has indicated for the first time that the downward adjustments it made in exhibit B–8 for those expenses NBCA incurred for services it provided for certain purchase price sales reflect both scope and non-scope merchandise. Therefore, Timken asserts, the Department should reject this untimely information and disregard NTN's arguments.

Department's Position: Based on Timken's assertion that NTN's brief contained new information, we reviewed the information and preliminarily concluded that it most likely constituted new factual information. Therefore, at the August 21, 1996 hearing, we explained our position to the parties and requested that NTN and Timken refrain from discussing the information in question. Based on the objections raised by NTN at the hearing and the fact that we had yet to make a final decision regarding the nature of the information in question (*i.e.*, we had not yet officially rejected or returned the information to NTN), we reopened the record on the issue and provided both NTN and Timken additional time to comment on the issue of whether the information in question constituted new information which should be rejected and not considered by the Department. The additional comments submitted by NTN and Timken, our final determination concerning the issue of new information, and our position on the related-party commission issue are discussed in Comment 16 below.

Comment 16: NTN argues that the Department's decision to disallow discussion of the related-party commission issue at the hearing was not only unwarranted, but, because it prevented NTN from sufficiently making its case, it served to render the administrative review process useless. NTN also asserts that, because the Department failed to communicate coherently which information in NTN's case brief it had rejected, NTN was only able to surmise which information was in question. NTN further asserts that, regardless of what the specific information is, it is its contention that none of the information contained in its pre-hearing case brief can be considered new factual information. For example, NTN claims, even a brief review of exhibit B–8 reveals that the numerator used by the Department in its calculation reflected all expenses incurred by NBCA for services it provided for certain purchase price sales, rather than only the commission amount. NTN contends that this is demonstrated by the fact that the Department's numerator corresponds to the sum of all the expenses (i.e., the total amount of downward adjustments for these purchase price-related NBCA expenses) as identified on worksheet 4 of exhibit B–8. As a result, NTN concludes, there is no way the numerator used by the Department could be considered as reflective of only a commission amount.

NTN further argues that the Department has verified that the downward adjustments made in exhibit B–8 reflect expenses incurred for all merchandise, both scope and non-scope. Therefore, NTN claims, because the adjustments clearly reflect all merchandise, rather than only TRBs, it is patently absurd for the Department to now claim that it did not realize this.

As for the related-party commission rate NTN reported in its case brief, NTN contends that it was never instructed by the Department to report this rate in this review or any other previous TRBs review. In fact, NTN claims, it only submitted this rate in its brief in an effort to point out the inaccuracy of the Department's calculation. NTN asserts that, to refuse to accept this corrected figure, which the Department was attempting to calculate itself, is arbitrary and capricious.

In addition, NTN argues, one of the primary purposes of the pre-hearing briefing process is to allow respondents to address methodologies and correct clerical errors. NTN asserts that not only was the information in question clearly not new information, but it is apparent that NTN submitted the information in order to correct the Department's clerical errors. Citing *NTN Bearing Corp.* v. *United States,* Slip Op. 94–1186 (Fed. Cir. 1995) and *Koyo Seiko* v. *United States,* 14 CIT 680 (CIT 1990), NTN asserts that, because the Department has an obligation to correct errors which are timely identified by a respondent and because fair and accurate determinations are fundamental to the proper administration of the antidumping laws, the Department cannot simply reject the information in question. Rather, NTN urges the Department to either reconvene the hearing to allow comments on the related-party commission issue or allow NTN to submit the comments it was prevented from making at the August 28, 1996 hearing.

Timken argues that the Department could draw only one conclusion from the information NTN provided in exhibit B–8 concerning the expenses NBCA incurred when providing services for certain purchase price sales. Therefore, Timken asserts, because the additional information NTN provided in its case brief provides a different interpretation of exhibit B–8, the Department should reject the new information and not change how it treated NTN's related-party commissions.

Department's Position: We both agree and disagree in part with NTN. First, it is important to clarify that, while we indicated to NTN and Timken at the hearing that we considered certain information in NTN's case brief to constitute new factual information, we did not consider this to be our final decision on the issue. For example, we did not, in accordance with 19 CFR 353.31(3), officially reject and return the information in question to NTN at any time prior to the hearing. Rather, we decided that the hearing was the appropriate forum for explaining our initial determination and to determine whether the issue required additional examination and/or comment. Due to the controversy surrounding the issue at the hearing, we decided that, in order to make a reasonable and equitable decision, we would allow additional comment and discussion. Therefore, we reopened the record on this issue and provided both NTN and Timken time to submit additional argument and rebuttal concerning the nature of the information in question. Given that we never officially rejected and returned the information in question and that we reopened the record to allow further examination, we disagree with NTN that we arbitrarily made a final decision on this issue without providing NTN proper notice.

We also disagree with NTN that our decision to disallow discussion of the new information at the hearing undermined the administrative review process and prevented NTN from adequately presenting its position. While we acknowledge that we did not allow NTN and Timken to specifically discuss this new information at the hearing, this only prevented NTN from discussing the more detailed points of its position. It did not, in any manner, prevent NTN from voicing its assertion that the calculation was inaccurate, from objecting to the Department's treatment of the related-party commission, or from asserting that the additional analysis we performed concerning the commission was unwarranted. Furthermore, while NTN may not have been able to address the detailed points of its position at the hearing, it nevertheless fully briefed these specific points in its pre-hearing briefs. Given that parties to a hearing, in accordance with 19 CFR 353.38, may only discuss at the hearing that which has already been presented in their

written briefs, both the Department and Timken were fully aware of NTN's specific arguments upon receipt of its brief and no party would have been permitted to provide any additional, new arguments at the hearing. In addition, since most of the information at issue was identified as proprietary by NTN, no party (NTN, Timken or the Department) would have been able to discuss the information at the hearing regardless of our decision to disallow its discussion. Furthermore, by reopening the record, we clearly provided NTN with the opportunity to make any additional arguments to support its position. Thus, we do not agree that NTN had no opportunity to present its case.

We also disagree with NTN that we never clarified which information in its case brief we considered to be new information. Because Timken's case brief clearly identified that information which it alleged to be new information, NTN was on notice of the fact that the issue of whether the information in question is new might be addressed in the course of the hearing. In addition, immediately following the hearing Department officials discussed with NTN the new information issue to ensure that NTN understood the parameters of the additional comments we requested at the hearing. Thus, at this time NTN had every opportunity to request clarification where necessary. Furthermore, our reopening of the record regarding this issue provided NTN with an additional opportunity and additional time to request clarification or explanation.

Therefore, we disagree with NTN's assertions that we mistreated NTN and failed to extend NTN the opportunity to fully state its position and/or to participate in the administrative review proceeding. However, we do agree with NTN that the additional analysis we conducted in our preliminary results, in which we found it necessary to calculate a related-party commission rate, was unnecessary. We also agree with NTN that certain information we initially deemed as new factual information was not actually new information.

It has been the Department's practice to treat NTN's related-party ''commissions'' for certain purchase price sales as intra-company transfer of funds which are not an allowable adjustment to price (see, e.g., *AFBs 93–94* at 66489). Thus, it has been our practice not to include these ''commissions'', the transfer payment between NTN and NBCA, in our analysis. Rather, we have consistently taken into account the actual expenses which NBCA incurred with respect to these purchase price sales and, based on our determination that these expenses are those that we typically consider to be indirect expenses incurred by sales organizations, we have treated these expenses as indirect selling expenses and made the appropriate adjustment for these expenses in our purchase price margin calculations for commission offset purposes (see id.).

In light of our past treatment of NTN's related-party commission, and the fact that the record in this review contains no evidence which would support a change in this treatment, we have determined for these final results that it was unnecessary for us to calculate NTN's related-party commission rate. Rather, we have determined that, in accordance with our previous policy regarding NTN's related-party commission, the appropriate adjustment is not to consider NTN's intra-company transfers as commissions or direct selling expenses, but rather to consider as indirect selling expenses those expenses which NBCA incurred for those services it provided for certain purchase price sales. Because NTN's claimed U.S. related-party ''commissions'' are not a proper basis for a COS adjustment, the actual calculation of NTN's related-party commission rate is irrelevant to our treatment of the related-party commission and those expenses NBCA incurred for those services it provided for certain purchase price sales. Given the fact that all the information Timken alleged to be new in NTN's brief addressed the inaccuracies in our attempt to calculate NTN's related-party commission rate, the new information issue is moot with regard to our commission rate calculation.

However, because Timken did allege that NTN's brief contained new information concerning the nature of the expenses NBCA incurred in relation to certain purchase price sales, and because it is these expense amounts that we consider in our margin calculations, we have determined that the new information issue is relevant with regard to our adjustment for these expenses. Therefore, for these final results we have examined the record in order to determine whether the fact that both scope and non-scope merchandise are reflected in NTN's exhibit B–8 downward adjustments for these purchase price-related expenses is new information and whether there are any inaccuracies in NTN's exhibit B–8 which would cast doubt on the reliability of these reported purchase price-related expense amounts.

As indicated earlier, NTN reported and allocated indirect selling expenses incurred by NBCA for ESP sales. Because NBCA does not maintain separate records for the merchandise it sells, the initial, unadjusted expenses NTN reported in this exhibit reflect both scope and non-scope merchandise sold by NBCA. Prior to allocating these expenses to scope and non-scope merchandise NTN made a series of downward adjustments to the total expense amounts, including the downward adjustments for those expenses NBCA incurred with regard to purchase price sales. Based on our examination of exhibit B–8 for these final results, it is clear from the exhibit that the total unadjusted expenses reported by NTN reflect both scope and non-scope merchandise and that all downward adjustments NTN made to these total U.S. indirect selling expenses reflect both scope and non-scope merchandise. Therefore, we agree with NTN that the purchase price-related adjustments NTN claimed in exhibit B–8 clearly reflect both scope and non-scope merchandise, and that this fact is not new information. Furthermore, we have determined that NTN's removal of these expenses was warranted, given that the purpose of exhibit B–8 was to calculate ESP-related indirect selling expenses. We also find NTN's methodology for calculating and allocating these ESP-related indirect selling expenses to scope and non-scope merchandise was reasonable and non-distortive. NTN adjusted total expense amounts which reflected all merchandise by adjustments which also reflected all merchandise. Because it was only after the adjustments were made that NTN allocated the total expenses to scope merchandise, the fact that the adjustments reflected both scope and non-scope merchandise did not distort the allocation of these expenses to scope merchandise.

Therefore, based on the fact that the information NTN provided concerning NBCA's purchase price-related expenses was not new information, and the fact that there is no reason to doubt the nature of these expenses as reported by NTN, for these final results we have considered these expenses as indirect selling expenses in our purchase price margin calculations (for commission offset purposes), rather than making a COS adjustment for NTN's related-party ''commissions''.

Comment 17: Timken argues that the Department should recalculate Koyo's reported U.S. selling, general and administrative expenses (SG&A) to include those expenses incurred by American Koyo Manufacturing

Corporation (AKBMC), Koyo's U.S. manufacturing affiliate.

Koyo contends that AKBMC's G&A expenses are already included as an element of its reported further-processing expenses. Thus, Koyo argues, to include these G&A expenses in the pool of U.S. indirect selling expenses would obviously result in an impermissible double counting of AKBMC's G&A expenses.

Department's Position: We agree with Koyo. In our verification of Koyo's 1992–93 U.S. sales and further-manufacturing information we not only verified the accuracy of Koyo's reported U.S. SG&A expenses (see the Department's U.S. further-manufacturing verification report for Koyo dated September 8, 1995). Therefore, if we were to include AKBMC's G&A expenses in Koyo's U.S. indirect selling expenses, we would, in essence, be deducting these expenses from U.S. price twice. Therefore, we have not changed our treatment of AKBMC's G&A expenses for these final results.

Comment 18: Timken contends that Koyo's reported Japanese pre-sale freight expenses are misallocated because Koyo used an improper denominator in its allocation methodology. Timken argues that, because Koyo incurs these expenses for both domestic and export sales, but does not record the expenses separately for export and domestic sales, the expenses should be allocated equally to bearings sold domestically and abroad. However, Timken asserts, Koyo's allocation methodology instead results in greater *pro rata* amounts being allocated to domestic sales in comparison to export sales. Timken contends that this is due to the fact that Koyo's allocation denominator is the sum of a home market total sales value which reflects the total sales value to unrelated parties and a U.S. sales value which reflects the total transfer prices between related parties. Timken argues that, because these two total sales values represent different stages in the stream of commerce, the expenses are over-allocated to home market sales and under-allocated to U.S. sales. Timken suggests that one method to ensure an even allocation of the expenses would be to allocate them on the basis of the ratios of the home market and export sales to the total costs of sales. Timken concludes that, even if the Department does not choose this method, it still has an obligation to correct the allocation of these expenses such that they are evenly allocated to Koyo's domestic and export sales.

Koyo first argues that not only is its Japanese pre-sale freight allocation methodology well-established, but it has been repeatedly verified and accepted by the Department in numerous reviews of both the TRBs and AFBs cases. Next, Koyo argues that it allocated these expenses in the manner in which they were incurred. Koyo states that because the expenses, by definition, cannot be distinguished between the two markets, it calculated a single allocation ratio by dividing the total expense amount, which was incurred entirely by Koyo Japan, by Koyo Japan's total sales value for both the export and domestic markets, as taken directly from Koyo's financial reports. Third, Koyo asserts that Timken is incorrect in assuming that the denominator includes U.S. and home market total sales values at different stages. Koyo points out that the total home market sales value does not reflect only the total sales value to unrelated parties but also accounts for the total sales values to several related home market customers as well. Likewise, Koyo states, the entire export sales value is based not only on sales to its related affiliate in the United States, but includes all export sales, including sales to unrelated parties in third-country markets. As a result, Koyo concludes, the home market, U.S., and third-country sales values which constitute the denominator reflect a mix of sales to related and unrelated parties such that Koyo's allocation results in a fair ''apples-to-apples'' comparison.

Department's Position: We agree with Koyo. In general, when a respondent relies on an allocation to calculate its per-unit adjustment amounts, we require that allocation to reflect the manner in which the expenses were actually incurred (see, e.g., *TRBs 92–93* at 57635 and *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42848 (August 19, 1996)). In addition, we examine the respondent's allocation methodology to determine if there is internal consistency between the numerator and denominator and in the methodology as a whole. For example, if an expense is allocated on the basis of total sales value, as are the expenses at issue here, the expense amount (the numerator) and the total sales value (the denominator) should reflect the same pool of sales such that the total expense amount reported by the respondent is divided into the total value of the sales for which the expense was actually incurred. Likewise, the allocation ratio should be applied to the same sales price reflected in the denominator. For example, we would not accept the application of an allocation ratio to gross sales price if the denominator was calculated by totaling the value of all sales on the basis of a net price.

In the instant case, Koyo Seiko, the Japanese parent, incurred the pre-sale freight expenses at issue for all merchandise, whether destined for sale to the U.S., third-country, or home market. Because Koyo does not maintain its records such that it is able to calculate the total expense amount incurred for each market, it was unable to separately calculate the specific pre-sale freight expenses attributable to each market. Therefore, Koyo used as its allocation numerator the total expense amount incurred by Koyo Seiko for all merchandise, as derived from Koyo Seiko's sales records. The sales for which these expenses were incurred were Koyo Seiko's sales to all its various customers, which encompassed a mix of related and unrelated entities in both the export and home markets. Thus, Koyo calculated its pre-sale freight allocation denominator by totaling the value for all of Koyo Seiko's sales to all its customers, as derived from Koyo Seiko's records.

Because Koyo Seiko's customers encompassed a mix of related and unrelated parties in both the home and export markets, Koyo's denominator includes sales values which reflect both transfer and resale prices. Because Koyo Seiko's customer in the United States is KCU, its wholly-owned U.S. affiliate, the U.S. sales transactions relevant to Koyo's allocation are those between Koyo Seiko and KCU. Thus, Koyo correctly included within its denominator the total value of its sales to KCU, which were made at transfer prices. Similarly, in the home and third-country markets Koyo Seiko sold to both related and unrelated customers. Therefore, Koyo properly included within its allocation denominator the total value of Koyo Seiko's sales to its home and third-country market customers, some of which were at resale prices, while others were at transfer prices. Koyo's methodology, therefore, not only relies on a numerator and denominator which reflect the same pool of sales, but its denominator is calculated on the basis of the value of those sales for which the reported total expense amount was actually incurred.

When calculating the per-unit expense adjustment amount for each U.S. and home market transaction, Koyo applied its allocation ratio (which was the same for all sales) to the appropriate unit price. For U.S. sales it applied the ratio to the transfer prices Koyo reported between Koyo Seiko and KCU, which

were the U.S. prices upon which the expense was incurred and the U.S. sales values reflected in Koyo's allocation denominator. For home market sales, Koyo applied the ratio to either a resale price (for unrelated customers) or transfer price (for related customers) because these were the home market prices upon which the expense was incurred and the home market sales values reflected in the allocation denominator.

Therefore, because Koyo's allocation properly reflects the manner in which, and the sales upon which, Koyo actually incurred this expense, we do not agree with the petitioner that Koyo's allocation is unreasonable and have made no changes to this methodology for these final results.

Comment 19: In its response Koyo reported inventory carrying costs (ICC) it incurred in the United States as well as the ICC it incurred in Japan for both further-manufactured and non-further-manufactured TRBs it sold in the United States. In those instances where the average number of days a TRB spent in inventory in the United States was shorter than the number of days in which KCU, Koyo's U.S. sales subsidiary, was required to pay Koyo, we set the U.S. ICCs equal to zero, added the number of days of KCU's payment terms to the number of days Koyo reported for inventory in Japan, and calculated a revised ICC for U.S. sales using this revised number of days in inventory and the home market borrowing rate. This is in accordance with our practice to use the interest rate applicable to the foreign parent's borrowings in calculating U.S. ICCs when there is evidence on the record that the foreign parent assumed the financial burden of this imputed expense through delayed payment by the U.S. subsidiary (see, e.g., *Federal-Mogul Final Remand Results* at Comment 1 and *The Timken Company* v. *United States*, 865 F. Supp. 881 (CIT 1994)). We then applied our recalculated factor for Japanese ICC to the transfer price between Koyo and KCU and our recalculated U.S. ICC factor to the landed cost of the TRB to derive per-unit ICCs for Koyo's U.S. sales.

Timken argues that, because there are inventory carrying costs associated with that portion of merchandise which has been further manufactured, any calculation of the inventory carrying costs for further-manufactured merchandise should not rely on the transfer price between Koyo and KCU, because it fails to deduct from USP those inventory carrying costs attributable to further-manufacturing. In addition, Timken contends that, with respect to the Department's recalculation methodology, it incorrectly used the home market borrowing rate, rather than Koyo's U.S. borrowing rate.

Koyo argues that the Department should not adjust USP for the imputed carrying costs associated with its further-manufacturing costs because, during the period that forgings are held at AKBMC's Orangeburg facility, they are considered raw materials used in the production of TRBs. Because the Department bases inventory carrying costs on the value of finished goods only, Timken's argument should be dismissed. In addition, Koyo adds that the imputed costs of AKBMC's raw material inventory are already included in its further-manufacturing costs through the inclusion of financing costs. As a result, Koyo argues that to make an additional adjustment, as Timken suggests, would constitute the double-counting of these inventory carrying costs.

However, Koyo states that if Timken is only suggesting that the Department apply the inventory carrying cost factor for U.S. sales to the cost of manufacturing TRBs, rather than the transfer price, Koyo agrees. Koyo asserts that the Department should apply its recalculated inventory carrying cost factor to the total cost of manufacturing for both finished and further-manufactured TRBs sold in the United States because it would allow the Department to apply the same general formula to both the U.S. sales of finished TRBs and U.S. further-manufactured TRBs.

Finally, Koyo argues that the Department properly used the home market borrowing rate in its recalculation because, for those situations in which the number of days in inventory in the United States is less that the terms of payment between Koyo and KCU, the applicable rate is the home market rate. However, Koyo adds, while it agrees with the Department's recalculation methodology, the Department erroneously applied the home market rate to the full period covered by the terms of payment between Koyo and KCU, rather than only to the actual number of days that the merchandise spent in inventory in the United States.

Department's Position: We disagree with Timken and agree in part with Koyo. As indicated above, we applied our recalculation methodology to both Koyo's further-manufactured and non-further-manufactured U.S. sales. However, for these final results we have determined that it is inappropriate to recalculate the ICCs Koyo reported for its further-manufactured sales because Koyo's methodology accurately reflects the ICCs it incurred for these sales.

In our preliminary results we determined that it was necessary to recalculate Koyo's reported ICCs for U.S. sales in order to account for those instances where the foreign parent assumed the financial burden of the imputed expenses through the delayed payment by the U.S. subsidiary. As the record indicates, with respect to Koyo's non-further-manufactured U.S. sales, where KCU purchases finished TRBs from Koyo and resells the finished bearings to unrelated U.S. customers, there were instances where the total time in inventory (in both the United States and Japan) of the finished TRBs was shorter than the number of days in which KCU was required to pay Koyo. Accordingly, because Koyo incurred the financial burden of the imputed expense in these instances, we recalculated Koyo's reported ICCs for its U.S. sales in accordance with our practice in such instances to use the interest rate applicable to the foreign parent's borrowings. We therefore disagree with Timken that we should not have applied the home market interest rate in our recalculation.

As was the case with its non-further-manufactured U.S. sales, Koyo reported ICCs for both the time in inventory in Japan and in the United States for the further-manufactured sales. However, the Japanese ICC Koyo reported for its further-manufactured U.S. sales reflected the time in inventory in Japan for forgings, while the reported U.S. ICC reflected the time in inventory in the United States for the finished TRBs. This is consistent with the fact that (1) Koyo treated forgings as finished merchandise in Japan, (2) once the forgings were purchased by AKBMC, Koyo's U.S. manufacturing subsidiary, the forgings became part of AKBMC's raw material inventory, and (3) it wasn't until the forgings were further processed into finished TRBs that ICCs were incurred in the United States for finished goods. Because the forgings became raw material inventory upon purchase by AKBMC, the ICCs for the forgings at this point were not U.S. selling expenses, but rather reflected and were captured in AKBMC's production costs. Because it is our policy to make an ICC adjustment to USP for only finished goods in inventory because unfinished goods represent production expenses rather than U.S. selling expenses (see, e.g., *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea;*

Final Results of Antidumping Duty Administrative Review, 61 FR 20216 (May 6, 1996)), it would be inappropriate to apply our recalculation methodology to Koyo's further-manufactured sales because this methodology would not only treat the ICCs incurred during the time the forgings are unfinished goods as U.S. selling expenses, but it would result in the double-counting of these expense as well. Therefore, we have not applied our recalculation methodology to Koyo's further-manufactured sales for these final results and have relied on Koyo's originally reported ICC expense calculations.

With respect to Timken's argument that any calculation of Koyo's ICC for further-manufactured sales should not rely on the transfer price between Koyo and KCU because it excludes the ICCs incurred during the time of further-manufacture, we disagree. As noted above, we only calculate ICCs for finished goods. Because the forgings are clearly not finished merchandise during the further-manufacturing process, these expenses were properly captured in AKBMC's production costs. In addition, we note that as a general rule we prefer ICCs to be calculated using cost-based information because it represents the imputed cost to the firm for storing merchandise in inventory. However, as explained in our *Federal-Mogul Final Remand Results,* transfer prices represent the actual cost to a U.S. subsidiary of acquiring the subject merchandise and, as such, reflect the actual cost of the merchandise as it entered the subsidiary's inventory (see *Federal-Mogul Final Remand Results* at Comment 1). Because the reporting and subsequent verification of the U.S. ICCs typically requires that the U.S. subsidiary establish the average cost of merchandise held in inventory as well as the total cost of merchandise sold during the time period at issue (generally one year), subsidiaries often base such costs on transfer prices, which are maintained in the normal course of business, and provide an accurate basis upon which to calculate the cost to the subsidiary of holding inventory prior to the sale to an unrelated customer. Based on these reasons, as well as the fact that there is no evidence on the record to impugn the reliability of Koyo's reported transfer prices, we have determined that the use of the transfer price as the basis for Koyo's calculation of the ICC expenses incurred in Japan for its U.S. further-manufactured sales and as the basis for our calculation of the ICC expense incurred by Koyo for non-further-manufactured U.S. sales is appropriate and accurate.

Finally, we agree with Koyo that, when recalculating Koyo's ICCs for its U.S. non-further-manufactured sales where the time in inventory in the United States was less than the terms of payment between Koyo Seiko and KCU, we incorrectly included within our calculation of the revised number of days in inventory the full number of days of KCU's payment terms to Koyo Seiko, despite the fact that the actual number of days the merchandise spent in inventory in the United States was less than the payment terms. As a result, we agree that our recalculation overstates Koyo's ICCs for these U.S. TRBs sales. Therefore, for these final results we have corrected this error by calculating the number of days in inventory for Koyo's non-further-manufactured U.S. merchandise by adding to the number of days the U.S. merchandise spent in inventory in the home market the actual number of days in inventory in the United States, rather than the number of days reflected by the full payment terms between KCU and Koyo Seiko.

Comment 20: Timken argues that, because TRBs manufactured by American NTN Bearing Corporation (ANBC), NTN's U.S. manufacturing subsidiary, are maintained in ANBC's inventory until sold to NBCA, the time in inventory at ANBC should be added to NBCA's time in inventory in NTN's U.S. inventory carrying cost calculation for further-manufactured merchandise.

NTN contends that Timken's argument is misplaced because NBCA incurs all inventory expenses relative to further-manufactured merchandise from the point ANBC completes the manufacture of the finished merchandise.

Department's Position: We agree with NTN. Because NBCA incurs all the inventory expenses relative to further-manufactured merchandise from the point that ANBC completes the production of the finished merchandise, the ICCs Timken refers to are already included in NBCA's reported ICCs for U.S. sales. Therefore, we have made no changes to NTN's reported ICCs for these final results.

Comment 21: Timken argues that the Department improperly treated NSK's reported U.S. technical service expenses as indirect selling expenses. Timken contends that not only did NSK report technical service expenses which the Department considers to be directly related to sales, but NSK failed to segregate its technical service expenses into direct and indirect portions. Timken asserts that, because it is the Department's practice to treat all of a respondent's U.S. technical service expenses as direct selling expenses when a respondent fails to segregate the expenses into direct and indirect portions, the Department should make an adverse inference and treat all of NSK's reported U.S. technical service expenses as direct selling expenses.

NSK argues that the record demonstrates that its reported U.S. technical service expenses reflect indirect expenses such as salaries and fringe benefits, and that any expenses which could be potentially identified as direct selling expenses would have a *de minimis* impact on the expense calculation. Furthermore, NSK asserts, the Department has verified and accepted its reported technical service expenses in past reviews of both the TRBs and AFBs cases (*TRBs 90–92* at 64726) and should do so again in these instant reviews.

Department's Position: We agree with Timken. Our questionnaire specifically requests respondents to separate the fixed and variable portions of technical service expenses because we treat fixed technical servicing costs as indirect expenses and variable technical servicing costs as direct expenses. Our review of NSK's response indicates that, although NSK incurred both fixed and variable technical service expenses, it did not separate these expenses into direct and indirect portions. While we recognize that, in order to achieve this segregation it would be necessary for NSK to trace certain expenses, such as travel and travel-related expenses, to individual customer calls, the difficulty that may be associated with such an exercise does not relieve NSK of its responsibility to provide the Department with actual expense information. Therefore, for these final results we have applied BIA and treated all of NSK's U.S. technical service expenses as direct selling expenses (see, e.g., *AFBs 93–94* at 66486).

Comment 22: Timken contends that Koyo has identified an imported component for a certain TRB, that was further manufactured and sold in the United States during the 1992–93 POR, as an AFB part rather than as a TRB part. Timken contends that the Department must ensure that Koyo is properly identifying its imported TRBs components as TRB parts and is paying the appropriate antidumping duty cash deposit rates on these components. Furthermore, Timken asserts, given Koyo's failure to identify this TRB part as a TRB part in its response, the Department should apply a first-tier BIA rate to all of Koyo's reported U.S. sales

of the model which contains this misidentified component.

Koyo argues that, when calculating its reported further-processing expenses for a particular TRB model, it did improperly identify that component as non-scope merchandise. However, Koyo contends, Timken's contention that the Department should resort to first-tier BIA to calculate the margin for all sales of the model which contained this component is extreme and unwarranted. Koyo claims that the only impact of its error was to slightly inflate its reported material costs. Koyo contends that the Department, therefore, should simply neutralize the impact of the error by making the appropriate offsetting adjustment to the material costs Koyo reported for the TRB model which contains this component prior to deducting the model's further-processing costs from USP.

Department's Position: We agree with Koyo. Not only is this the first time Koyo has submitted its further-processing costs for TRBs further manufactured from forgings and sold in the United States, but there is no evidence on the record to suggest that Koyo intentionally identified the component in question as an AFBs part or that Koyo is paying AFBs antidumping duty cash deposit rates on entries of merchandise subject to the TRBs antidumping duty order or finding. Rather, the record indicates that Koyo made an error when compiling its further-processing costs for the purpose of responding to our questionnaire. Because information on the record allows us to correct this error, and because the correction of the error does not entail a substantial revision to Koyo's response, we have made the appropriate corrections for these final results. *See* the proprietary version of the Department's final results analysis memorandum for Koyo for a detailed description of our corrections.

3. Discounts, Rebates, and Post-Sale Price Adjustments (PSPAs)

Comment 23: Timken argues that, while the Department properly determined that NTN's discounts, Koyo's billing adjustments (BILLADJI), and NSK's return rebates should not be treated as direct selling expenses because they were neither reported on a transaction-specific basis nor granted at a fixed and constant percentage of the sales upon which they were allocated, the Department incorrectly treated these expenses as indirect selling expenses. Timken contends that in *Torrington Company* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996) (*Torrington*), the Court of Appeals for the Federal Circuit (CAFC) emphasized that indirect selling expenses are those types of expenses that are not related to particular sales, but are incurred on all sales, and concluded that expenses that are, by their nature, directly related to particular sales cannot be treated and deducted from FMV as indirect selling expenses. Timken asserts that, although NTN's discount, Koyo's BILLADJI, and NSK's return-rebate reporting methodologies prevent the Department from treating these expenses as direct selling expenses, the record demonstrates that they are nevertheless related to particular sales and are, therefore, direct by their nature. Timken concludes that the Department, in accordance with *Torrington*, cannot treat these expenses as indirect selling expenses; rather, it must deny each adjustment in its entirety.

NTN argues that, because its home market discounts are not related to particular sales and do not vary with the quantity of a particular item sold, *Torrington* does not apply to these discounts and the Department properly adjusted for the expenses as indirect selling expenses.

Koyo argues that Timken has mischaracterized the CAFC's ruling in *Torrington* by contending that the CAFC held that direct expenses may not be allocated to all sales. Koyo argues that the *Torrington* decision was in fact much more limited, deciding only that, because PSPAs were incurred as direct expenses, the Department could not treat them as indirect expenses under the ESP offset provision. Koyo asserts that in *Torrington* the CAFC merely reaffirmed its earlier determination in *Smith Corona Group* v. *United Sates*, 713 F.2d 1568 (Fed. Cir. 1983) (*Smith Corona*), which permits the Department to accept allocated expenses as direct selling expenses, provided that the allocation does not distort the margins. In fact, Koyo contends, contrary to Timken's assertion, there is nothing within the *Torrington* decision which undermines the authority of the Department to treat expenses allocated over scope merchandise as direct expenses. Koyo explains that, because its BILLADJI adjustment was allocated across sales of only scope merchandise, the Department must reject Timken's arguments and adjust FMV for these billing adjustments as direct, rather than indirect, selling expenses.

NSK contends that the evidence on the record clearly demonstrates that its reported return rebates warrant deduction from FMV as direct selling expenses. NSK contends that, in accordance with *Torrington*, these return rebates are direct in nature. Furthermore, NSK states that the evidence on the record also clearly demonstrates that NSK reported these expenses as specifically as its records permitted and calculated the adjustments to avoid inaccuracies or distortions to FMV. NSK concludes that, because the Department allows non-distortive allocations where transaction-specific reporting is not feasible and because its reporting methodology reflects its actual experience, the Department's decision to treat these expenses as indirect selling expenses in its preliminary results was incorrect.

Department's Position: We agree in part with Timken. As a general matter, pursuant to the law in effect prior to January 1, 1995, the Department only accepts claims for discounts, rebates, or other PSPAs as direct adjustments to price if actual amounts are reported for each transaction (see, e.g., *AFBs 93–94* at 66498). One way in which a respondent may report actual adjustment amounts is if the PSPA is reported on a transaction-specific basis. Because allocated price adjustments can have the effect of distorting individual prices by diluting the PSPAs received on some sales, inflating them on other sales, and attributing them to still other sales that did not actually receive any adjustment at all, such allocations do not result in the actual amount of the adjustment being reported for each individual sale. Rather, allocations have the effect of partially averaging prices. Just as we do not allow respondents to report average prices, we do not allow respondents to average direct additions to or subtractions from price. However, if the PSPA is allocated, we consider the actual amount of the adjustment to be reported and will treat the PSPA as a direct selling expense if the respondent demonstrates that the PSPA was granted as a fixed and constant percentage of the sales price of all transactions for which it was reported and to which it was allocated. We do so because such an allocation does not distort the amount of the adjustment the respondent granted because the same percentage adjustment applies to all sales. This policy is consistent with the policy we established and followed in numerous reviews of both the TRBs and AFBs orders (see, e.g., *TRBs 92–93* at 57640 and *AFBs 93–94* at 66498).

In the past, if a respondent allocated a PSPA such that it was limited to scope merchandise, but did not result in the actual amount of the adjustment being reported for each sale (*i.e.*, it was reported on a customer- or product-specific basis) we treated the PSPA as an indirect expense and adjusted FMV accordingly. However, in light of

Torrington, in which the CAFC determined that we cannot treat a PSPA as an indirect selling expense when it is, by its nature, a direct selling expense, we no longer treat improperly allocated home market price adjustments as indirect selling expenses, but instead disallow negative (downward) adjustments in their entirety. However, we will continue to treat positive (upward) home market price adjustments (e.g., positive billing adjustments that increase the final sales price) as direct selling expenses in our analysis. The treatment of positive billing adjustments as direct selling expenses is appropriate because disallowing such adjustments would provide an incentive to a respondent to report positive billing adjustments on an allocated basis in order to minimize their effect on the margin calculations. That is, if we were to disregard positive billing adjustments which would be upward adjustments to FMV, respondents would have no incentive to report these adjustments on a transaction-specific basis (see *AFBs 93–94* at 66498).

We note that this policy is in direct accordance with *Torrington* and *Smith Corona* which hold that we must disallow home market price adjustments that are allocated in a manner that does not allow us to separate expenses incurred on sales of scope merchandise from those incurred on sales of non-scope merchandise. Our policy incorporates this decision in that we do not allow allocated price adjustments except for those granted at a fixed and constant percentage of the sales price on all transactions for which the adjustment was reported. If a respondent grants and reports a PSPA as a fixed percentage of the sales to which it pertains, the fact that this pool of sales may include non-scope merchandise does not distort the amount of the expense the respondent granted and reported on sales of subject merchandise because the same adjustment percentage applied to both scope and non-scope merchandise (see id.).

Therefore, contrary to Koyo's assertion that we have based our policy on an overly narrow interpretation of the CIT and CAFC rulings requiring us to reject allocated PSPAs in all cases, our policy allows for the acceptance of allocated PSPA amounts as direct selling expenses when a respondent demonstrates that no distortion has occurred as a result of its allocation. The only manner in which an allocated PSPA would not result in distortion is if it was granted and reported as a fixed and constant percentage of the sales to which it has been allocated.

For these final results we have applied this policy to NTN's home market discounts, Koyo's home market BILLADJI adjustment, and NSK's return rebates and have made the following determinations:

First, concerning NTN's discounts, NTN did not report these discounts on a transaction-specific basis, but, rather, reported the adjustments on a product- or customer-specific basis. Furthermore, NTN did not grant and report these discounts as a fixed and constant percentage of sales. Therefore, because NTN's discounts are clearly direct in nature (i.e., they are directly related to particular sales rather than related to all sales), but were not allocated appropriately, we have disallowed this adjustment to FMV for these final results (see *AFBs 93–94* at 66501).

Concerning Koyo's BILLADJI adjustment, while Koyo reported this adjustment based on a scope-specific allocation, Koyo did not report it on a transaction-specific basis and we found no evidence that Koyo granted the adjustment as a fixed and constant percentage of the sales for which it was reported. As a result, because this allocation does not result in the actual amount of the adjustment being reported for each transaction, we have, in accordance with our established practice, denied all negative BILLADJI adjustments in their entirety. However, because Koyo also reported positive BILLADJI adjustments, in accordance with our policy stated above, we have treated these as direct selling expense adjustments to FMV.

With respect to NSK's return rebates, we have determined for these final results that NSK's return rebates are promotional expenses, rather than price adjustments, because NSK grants these rebates to promote sales made by distributors. Because NSK demonstrated in its response that it incurred and reported these expenses on a model-specific basis and tied these expenses to subject merchandise, we consider the expenses to be direct selling expenses and have adjusted FMV accordingly.

Comment 24: Timken argues that the Department improperly treated NSK's lump-sum PSPAs as indirect selling expenses. Timken contends that the CIT has clearly stated that the Department may not allow an adjustment to FMV for any rebates allocated on the basis of sales of non-scope merchandise (*Torrington Co.* v. *United States*, 818 F. Supp. 1563 (CIT 1993)). Timken contends that the record demonstrates that NSK did not report its lump-sum PSPAs on the basis of sales of in-scope merchandise only, and, as a result, the Department must deny this adjustment to FMV in its entirety.

Citing *Torrington*, NSK contends that the CAFC has clearly determined that this type of PSPA constitutes a direct selling expense. Furthermore, NSK contends, it has submitted evidence demonstrating that the monthly purchasing patterns of customers receiving these adjustments are relatively stable for purchases of scope and non-scope merchandise. NSK asserts that, because these customers consistently buy about the same percentage of scope and non-scope products from month to month, without any variance, the PSPA granted is fairly apportioned to scope sales and does not distort FMV. Thus, NSK contends, its method for reporting lump-sum PSPAs accurately calculates the per-unit adjustment for sales of scope merchandise and the Department must treat these expenses as direct selling expenses.

Department's Position: We agree with Timken. We have denied this adjustment for these final results because it is a direct price adjustment and NSK failed to tie the PSPA to the particular sales affected by the adjustment. NSK explained in its response that it granted these lump-sum PSPAs as a fixed percentage of a certain group of sales. However, rather than tying the adjustment to the particular transactions for which the adjustment was incurred, NSK allocated the lump-sum PSPAs by dividing the total amount of the lump-sum PSPAs it paid to a customer during the POR by the total sales value of all merchandise (scope and non-scope) sold to the customer during the POR. As a result, NSK allocated the PSPAs across a broader base of sales than those for which it was granted. Accordingly, we have denied this adjustment in its entirety for these final results.

Comment 25: Timken contends that the record demonstrates that NSK's home market early payment discounts are, by their nature, directly related to sales. However, Timken asserts, NSK did not report these discounts on a transaction-specific basis and its allocation of these discounts included non-scope merchandise. Timken argues that, in an effort to eliminate the flaws in NSK's reporting methodology, the Department attempted to recalculate NSK's early payment discounts. However, Timken contends, not only is it unclear how the Department's recalculation methodology accurately established the payment period for each customer receiving such a discount, but, because the recalculation is neither transaction-specific nor limited to scope

merchandise, it also fails to result in the derivation of the actual discount earned on individual transactions of scope merchandise. Therefore, Timken concludes, the Department should abandon its attempts to recalculate NSK's discounts and should deny the adjustment in its entirety for these final results.

NSK argues that, while non-scope merchandise was included in both its original allocation and the Department's recalculation, the record clearly demonstrates that it granted these discounts as a fixed and constant percentage of the sales to which they were allocated. As a result, NSK claims, there is no need for the Department to remove non-scope merchandise from its recalculation. Furthermore, NSK argues, the Department's recalculation accurately assigned the applicable payment period to each customer receiving such a discount. In addition, NSK asserts, because the record demonstrates that customers' payment patterns were stable throughout the POR, the Department's recalculation resulted in accurate per-transaction discount amounts for scope merchandise. As a result, NSK concludes, the Department should not abandon its recalculation methodology and should continue to adjust FMV for these discounts as direct selling expenses.

Department's Position: We agree with NSK. The record demonstrates that NSK granted a discount to those customers who remitted payment earlier than the terms of payment for that particular customer called for. The record also reveals that NSK granted different rates depending upon how early the payment was received. In other words, NSK had in place a rebate schedule which offered a different discount rate on the basis of the payment category, such that when NSK received a payment, for example, zero to thirty days early NSK granted one discount rate, while when NSK received a payment thirty to sixty days early, it granted a different discount rate. The record also indicates that NSK offered the same discounts equally to sales of both scope and non-scope merchandise; thus, regardless of the merchandise, whenever payment was received early, NSK granted the applicable discount rate on the basis of the payment category. In addition, the record demonstrates that NSK periodically changed the discount rates for each payment category throughout the POR such that, even if a customer consistently paid the same number of days early every month in the POR, it received different discount rates during the POR. Finally, the record demonstrates that each customer had a stable payment pattern. In other words, each customer remitted payment within the same number days early each month such that it consistently received the discount rate in effect for the same payment category.

NSK calculated its reported discount amounts by dividing the total discounts paid to a customer during the POR by the total sales value of merchandise sold to that customer during the POR. As a result, even though each customer's payment category remained stable over time, the discount rate NSK reported for a customer reflected an average POR percentage rather than the actual rate granted to the customer at the time the actual transaction was made. In other words, NSK averaged a customer's discount rate and applied that rate to each transaction rather than the actual rate granted. In our preliminary results, based on our review of the information NSK submitted in regard to these discounts, we determined that information on the record enabled us to remove this distortion. Therefore, we recalculated NSK discounts as follows:

First, because a customer's payment category was stable over time, it was mathematically possible to determine the payment category for a customer for a given transaction by dividing the discount amount reported for the transaction by the unit price. By comparing this ratio to the individual POR averages NSK reported for each customer, we were able to ascertain the payment category for that customer. For example, if a customer consistently remitted payment 0–30 days early and the discount rate for this category was 1.5 percent for the first half of the POR and 2.0 percent for the second half of the POR, the average POR rate NSK would have reported for the transaction would be 1.75 percent. If we divided the discount amount reported for a transaction by the unit price of that transaction and arrived at 1.75 percent, we would know that that transaction fell in the zero to thirty day payment category. However, because the discount rate NSK applied to the unit price reported for a transaction reflected the average POR rate for the customer (1.75 percent) and not the actual discount rate granted during the period in which the transaction took place (either 1.5 percent or 2.0 percent), NSK's allocation failed to result in actual transaction-specific discounts. Therefore, after determining the payment category for each transaction, we applied a revised discount rate to that transaction depending upon the date of the transaction and applicable payment category discount rate. In this way, we applied to each transaction the discount rate which actually applied to the sale.

We disagree with Timken that this recalculation suffers from the same flaws as NSK's original methodology. Because NSK granted the same discount rate on sales of all merchandise (*i.e.*, granted the discount as a fixed and constant percentage of all applicable sales prices), the inclusion of non-scope merchandise in our allocation is non-distortive. Furthermore, our methodology clearly results in the application of transaction-specific discounts because we apply the discount rate granted to a customer within a given time period to sales to that customer within the corresponding time period. Therefore, we have not altered our recalculation of NSK early payment discounts for these final results and have continued to treat these discounts, as recalculated, as direct selling expenses.

Comment 26: NSK argues that the record demonstrates that it granted and reported its distributor incentives as a fixed and constant percentage of all applicable sales. Furthermore, NSK asserts that in a recent remand determination the Department determined that, because NSK's distributor incentives were granted and reported as a fixed percentage of all sales, both scope and non-scope, NSK's allocation was reasonable and non-distortive, and the Department subsequently treated the adjustment as a direct selling expense (Final Results of Redetermination Pursuant to Remand, *Torrington Co.* v. *United States*, Court No. 92–07–00483 (CIT 1995), aff'd Slip Op. 96–85 (CIT 1996)). NSK concludes, because there is no difference in the methodology it used in this review and the one at issue in the remand, the Department should treat these distributor incentives as direct selling expenses in these reviews as well.

Timken contends that there is no evidence on the record demonstrating that the sales upon which NSK calculated its incentive rebates included only sales of subject merchandise. Therefore, Timken concludes, because the Department cannot allow the inclusion of non-scope merchandise when calculating adjustments to FMV, the Department should continue to deny this adjustment for these final results.

Department's Position: We disagree with NSK. Based on our reexamination of the record, we have determined that, while NSK granted its distributor incentives as a fixed and constant percentage of its distributors' gross sales, NSK did not allocate these expenses on the basis of this same group of sales. Rather, NSK allocated the

expenses on the basis of its sales to its distributors. Therefore, while NSK may have incurred the expenses as a fixed and constant percentage of its distributors' sales, NSK provided no evidence indicating that the adjustment was granted as a fixed and constant percentage of its sales to its distributors (the sales upon which NSK actually allocated the expense for the purpose of its response). Therefore, we have denied this adjustment in its entirety for these final results.

Comment 27: Fuji argues that the Department incorrectly disallowed its claimed adjustment for home market rebates. First, Fuji explains that it allocated its rebates to scope merchandise using both scope and non-scope merchandise because the rebates were incurred on the basis of both scope and non-merchandise. As a result, Fuji asserts, its records do not provide a separate breakout for TRB rebates alone, and it is unable to provide TRB-specific rebate amounts. However, Fuji adds, under its rebate program the same rebate amounts are paid on scope and non-scope merchandise regardless of whether the merchandise is scope- or non-scope. Therefore, Fuji asserts, its allocation methodology accurately allocates the rebates to TRBs and the Department should adjust FMV for these expenses as direct selling expenses.

Fuji further contends that, even if the Department does not agree that these rebates warrant a direct adjustment to FMV, the Department must nevertheless adjust for these rebates as indirect selling expenses. Fuji asserts that the Department routinely includes the amount of a disallowed rebate within home market indirect selling expenses even in situations where the rebate amount includes both scope and non-scope merchandise.

Timken argues that the Department properly denied Fuji an adjustment for its home market rebates because the record demonstrates that Fuji provided rebates for selected periods of time and, as a result, the POR encompasses several rebate periods. Timken asserts that, while it may be the case that in a given period Fuji granted the same rebate for both scope and non-scope merchandise, the existence of multiple rebate periods indicates that, if the recipient of the rebate sold only non-scope merchandise within a period and earned a large rebate, but in the next period sold both scope and non-scope merchandise, the rebate for the non-scope merchandise would be allocated to all sales even though it was only earned for non-scope merchandise. As a result, Timken concludes, the Department must deny this adjustment as it did in its preliminary results.

Department's Position: We agree in part with Timken. The record indicates that Fuji offered two different types of rebate programs to its dealers. Fuji calculated the rebate amounts it reported for each transaction by dividing the total amount of rebate paid to each dealer during the POR by the total sales to the dealer during the POR. As a result, Fuji reported its rebates on a customer-specific rather than a transaction-specific basis. Therefore, in order for us to accept Fuji's allocation, Fuji must demonstrate that it granted its rebates to each customer at a fixed and constant percentage of its sales of all products, both scope and non-scope. We examined the record to determine if, as Fuji claims, its rebates were granted and reported as a fixed and constant percentage of all sales such that the inclusion of non-scope merchandise in its denominator would not produce distortions. Fuji noted several times that its rebates were granted at a fixed and constant percentage. However, we are unable to find any evidence on the record supporting this contention. Furthermore, it is unclear from Fuji's response whether there are multiple rebate periods in a POR, and, if so, whether the rebate percentage granted to a customer was the same for each period. Given that Fuji calculated an overall POR rebate percentage for each dealer, if we are unable to determine if multiple rebate periods existed within the POR, we are unable to determine whether the POR rebate percentage Fuji reported for each transaction truly reflects the rebate percentage applicable to each transaction. Therefore, because the information Fuji submitted is insufficient for the purpose of determining whether the rebate percentage reported for each dealer reflected the actual rebate percentage applicable to a given transaction to that dealer, we have not treated these rebates as direct selling expenses.

Finally, because the record demonstrates that Fuji's rebates are direct by their nature, in accordance with *Torrington* we cannot treat these rebates as indirect selling expenses. Therefore, for these final results we have continued to deny Fuji's rebate adjustments in their entirety.

4. COP and CV

Comment 28: Timken argues that, in accordance with *Certain Hot-Rolled, Cold-Rolled, Corrosion-Resistant and Cut-to-Length Steel Flat Products from Korea* (58 FR 37176) and *Certain Stainless Steel Wire Rods from France* (58 FR 68865), the Department should exclude from its profit calculation for CV those sales to related parties which were not at arm's length.

NTN argues that nothing in the statute suggests that the Department must examine whether sales were made at arm's length for the purposes of calculating CV. NTN argues that the Department did not exclude such sales in its calculation of CV profit for NTN in the 1992–93 TRBs review and nothing on the record in this review supports any such change.

Koyo argues that, because neither the statute nor case law requires the pool of sales for determining FMV based on price-to-price comparisons to be the same as the pool of sales used to calculate profit for CV, the Department has the authority to base CV profit on all home market sales. Furthermore, Koyo asserts, because section 773(e)(1)(A) of the Act specifies that profit is to be ''equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration,'' the statute clearly requires CV profit to be calculated on the basis of all sales of the general class or kind of merchandise under consideration. Moreover, citing to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 10900, 10922 (February 28, 1995) (*AFBs 92–93*), Koyo contends that the Department does not support the exclusion of all related-party sales that fail the arm's-length test from the CV profit calculation. Thus, Koyo concludes, the fact that sales may fail the arm's-length test does not warrant the automatic exclusion of the sales from the CV profit calculation.

Department's Position: We agree with Timken in part. As explained in numerous reviews of the AFBs orders (see, e.g., *AFBs 93–94* at 66493), section 773(e)(2) of the Act provides that a transaction between related parties may be ''disregarded if, in the case of an element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration.'' Our arm's-length test determines whether prices to related parties are equal to, or higher than, sales prices to unrelated parties in the same market. Therefore, this test is not dispositive of whether an element of profit on related-party sales is somehow not reflective of the amount usually earned on sales of the merchandise under consideration.

Related-party sales that fail the arm's-length test do give rise to the possibility, however, that certain elements of value,

such as profit, may not fairly reflect an amount usually earned on sales of the merchandise. For these final results we considered whether the amount for profit on sales to related parties which failed the arm's-length test was reflective of an amount of profit usually experienced on sales of TRBs. To do so, we compared profit on sales to related parties that failed the arm's-length test to profit on sales to unrelated parties. If the profit on sales to related parties varied significantly from the profit on sales to unrelated parties, we disregarded the related-party sales when calculating profit for CV. Specifically, we first calculated the profit on sales to unrelated parties. If the profit on these sales was less than the statutory minimum of eight percent, we used the eight-percent minimum in the calculation of CV. If the profit on these sales was equal to, or greater than, the eight-percent minimum, we calculated profit on the sales to related parties that failed the arm's-length test and compared it to the profit on sales to unrelated parties as described above. If the profits on such sales to related parties varied significantly from the profits on sales to unrelated parties, we excluded those related-party sales when calculating profit for CV .

We note that this is identical to the steps we took in *AFBs 92–93* at 10922 and *AFBs 93–94* at 66493. However, these TRBs reviews mark the first time since our adoption of this policy that we needed to conduct this analysis in the TRB cases. We did not apply this policy in *TRBs 92–93* because we found that none of the respondents' related-party sales failed the arm's-length test. As a result, the issue was moot for those reviews. Therefore, we do not agree with NTN that, because we have not applied this policy in past TRBs reviews, we have no basis to do so in these instant reviews. Rather, because we found non-arm's-length related-party sales for those firms for which we based FMV on CV (NTN, NSK, and Koyo), we have applied our policy as explained above and made changes, where appropriate, in our respective company-specific analyses.

Comment 29: NSK claims that the Department violated the antidumping law by never establishing the grounds for collecting cost data from related-party suppliers. NSK contends that, pursuant to section 773(e)(3) of the Act, the Department has the right to disregard sales prices NSK paid to related-party suppliers in favor of the supplier's COP only if (1) the Department has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of the input, and (2) the information being requested is for a ''major'' input. NSK argues that, because the language in section 773(e)(3) of the Act is identical to that in section 773(b) of the Act (the provision which grants the Department the authority to conduct cost investigations), the same threshold standard is applicable. In other words, NSK argues that, because the petitioner never alleged that NSK purchased an input from a related supplier at less than COP, and because the Department never alleged or substantiated that transfer prices from related suppliers were less than COP, let alone whether the input was a ''major'' input, reasonable grounds for the collection of this data did not exist.

NSK further contends that the Department has no other statutory authority for requesting related-supplier COP data and that there is no evidence on the record to support the Department's disregard of NSK's related-supplier transfer prices. Therefore, NSK concludes, the Department should not use this illegally-obtained related-supplier information and should strike it from the record of these reviews.

Timken argues that the Department's preliminary results decision regarding NSK's related-supplier transfer prices was justified and in accordance with the law. Timken contends that the standard for analyzing below-cost sales pursuant to section 773(b) of the Act does not require any allegation by domestic parties. Likewise, accepting NSK's position that the identical language of sections 773(e)(3) and 773(b) constitutes the application of the same standard, Timken maintains that there is therefore no requirement that the domestic party has the burden of submitting evidence of below-cost related-party supplier transfer prices. In fact, Timken maintains, the respondent should bear the responsibility of providing such evidence because related-party input transfers are already ''suspect'' and domestic producers simply do not have access to the respondent's books and records, or access to what inputs were purchased from related suppliers. Timken adds that, given the nature of TRB production, it is also nearly impossible to submit data regarding the production costs at every stage of production that might be a transfer point. Furthermore, the petitioner states that to require allegations from the domestic party as a prerequisite for the Department to investigate would effectively curtail the inherent authority of the Department to conduct below-cost sales and related-party transfer price investigations. Timken also maintains that the Department's collection of NSK's related-supplier transfer prices was justified because NSK has engaged in below-cost selling. Timken argues that, given that NSK does sell at below-cost prices, it is reasonable to infer that its losses are passed back to related suppliers which are forced to transfer inputs at a loss. In addition, Timken asserts that there is ample evidence on the record for these reviews supporting the Department's decision to disregard NSK's related-party transfer prices.

Finally, Timken argues, because NSK's arguments were rejected by the CIT in *NSK Ltd.* v. *United States*, 910 F. Supp. 663 (CIT 1995) (*NSK*), the Department should adhere to its preliminary determination and adjust NSK's reported COP and CV to reflect the actual COP of related-party inputs. However, Timken notes, while the Department indicated in its preliminary results that it did adjust NSK's COP and CV to reflect the actual COP of related-party inputs, it is not apparent from the Department's preliminary results computer program that it did so. Timken, therefore, requests that the Department ensure that NSK's COP and CV are properly adjusted for these final results.

Department's Position: We disagree with NSK. As we explained in detail in *TRBs 92–93* at 57643, two separate sections of the Act direct the Department to disregard transfer prices for certain transactions: section 773(e)(2) which directs us to disregard transfer prices if the transfer prices for ''any element of value'' do not reflect their normal market value, and section 773(e)(3) which directs the Department to disregard transactions if the transfer prices for ''major inputs'' are below the COP.

For CV purposes, pursuant to section 773(e)(2) of the Act, in general we determine whether the transfer prices for any element of value were below the normal market value of that element. Pursuant to the statute, we do not use transfer prices between related companies to value any element of value if such prices do not fairly reflect the amount usually reflected in sales of the merchandise under consideration in the market under consideration. This is sometimes referred to as the requirement for an ''arm's-length'' price. To determine whether the transfer prices reflect arm's-length prices, we normally compare the transfer price to (1) the prices related suppliers charge to unrelated parties, or (2) the prices charged by unrelated suppliers to the respondent. If we disregard a transaction because the respondent

cannot demonstrate that the transaction was made at arm's length, and there are no other transactions available for consideration, then we must rely on the ''best evidence available'' to determine the value of the element. In other words, if there are no arm's-length prices for components to compare to transfer prices, ''Commerce generally use[s] the cost of the components as representative of the value reflected in the market under consideration'' (see *Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany et al.*, 54 FR 18992 (1989) (*AFBs LTFV*)). In that situation we must determine whether to use the reported cost data as the ''best evidence available.'' Otherwise, we cannot fulfill our statutory obligation of valuing elements of value for CV purposes.

NSK erroneously argues that, before we can request cost data for inputs, we must have a specific and objective basis for suspecting that the transfer price paid to a particular related supplier for a major input is below the related supplier's COP. NSK's argument is based on the erroneous assumption that we must rely upon section 773(e)(3) of the Act to request information regarding the cost of components parts. As demonstrated above, section 773(e)(3) of the Act simply provides an alternative basis for requesting cost information. However, there also exists a basis for examining whether the transfer prices of major inputs were below cost under section 773(e)(3). We agree with the petitioner's argument that, when a domestic party files a COP allegation, it does not necessarily have the information necessary to allege that a particular input or element of value from a related party is priced below COP. Therefore, the petitioner cannot necessarily make COP allegations regarding specific related-party inputs. As a result, we consider our initiation of a cost investigation concerning home market sales a specific and objective reason to believe or suspect that the transfer price from a related party for any element of value may be below the related suppliers' COP.

In accordance with our standard practice (see, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From France*, 60 FR 10538 (February 27, 1995)), we asked NSK to provide cost data for inputs produced by related parties. NSK complied with our request for information and supplied the transfer prices and cost of production of inputs from its related parties. The record for these reviews demonstrates that in its response NSK also submitted a comparison of the weighted-average transfer prices for those inputs NSK purchased from both related and unrelated suppliers. By this comparison NSK intended to show the arm's-length nature of its transfer prices where inputs were purchased from both related and unrelated suppliers. This comparison, however, was not useful in determining whether related-supplier transfer prices were at arm's length because it listed only a limited number of instances where NSK purchased an identical or similar input from both a related and unrelated supplier. Because we could not rely on NSK's related-party transfer price comparison, we examined in detail the submitted COP and transfer prices for all of NSK's related suppliers. We found that, contrary to NSK's claim, transfer prices from related suppliers were often below the suppliers' COP for that input. Because NSK was unable to demonstrate that elements of value included in its submitted CV calculations were reflective of their normal market value, the submitted related-party cost information was required by law. Hence, we did not strike NSK's reported related-party cost information from the record. On the contrary, for these final results we relied on NSK's submitted related-party cost information if the COP for the input exceeded the transfer price NSK reported for the input.

Furthermore, as indicated by Timken, in *NSK* the CIT upheld our authority to request cost data from a company's related suppliers. The CIT determined that ''1677b(e)(2) does not limit Commerce's authority to request COP data pursuant to 1677b(e)(2) * * * . [T]he purpose of 1677b(e)(3) is to permit Commerce to use the best evidence available when it has reasonable grounds to suspect below cost sales occurred. There is no support in the legislative history of 1677b(e)(3) for the claim that Commerce may not request COP data for other purposes' (see *NSK* at 669).

Finally, concerning Timken's assertion that it is unclear whether our preliminary results computer program for NSK adjusts NSK's reported COP and CV to take into account related-party transfer prices for inputs which were below the COP of the input, we note that our preliminary results computer program for NSK clearly makes this adjustment. We adjusted NSK's reported COP values in lines 79 and 80 and NSK's reported CV values in lines 570 through 591.

Comment 30: NTN argues that, when the Department recalculated NTN's COP and CV values to reflect those related-party inputs for which NTN's transfer prices were less than the COP of the input, the Department applied an inappropriate allocation ratio. NTN asserts that, in an attempt to calculate the ratio for the total excess of COP over transfer price for related-party inputs, the Department used a denominator based on the sum of transfer prices for those related-party inputs where transfer price was below COP rather than the sum of all related-party input transfer prices.

Timken asserts that, while the ratio NTN describes in its comments could be used in the Department's recalculation, the record contains neither the quantity data for those inputs transferred below COP nor the identification of which TRBs included related-party inputs. As a result, Timken claims, the Department is unable to determine the actual sum of the difference between COP and transfer price for all parts purchased by NTN and has, instead, used a reasonable proxy for this absent information.

Department's Position: We agree with NTN. As explained in our preliminary results analysis memorandum for NTN dated April 12, 1996, NTN submitted COP and CV values which reflected the value of related-party inputs based on transfer price. Based on a schedule submitted by NTN's related supplier, we determined that a significant number of inputs were sold to NTN at transfer prices below COP. Therefore, we calculated a percentage adjustment that, when applied to NTN's reported COP and CV values, would increase COP by an amount reflective of the difference between COP and transfer price where transfer price was less than COP. The first step of our calculation of this percentage adjustment involved the derivation of the total difference between COP and transfer price for all related-party inputs where transfer price was below COP, and the expression of this difference as a percentage of transfer price. It is the denominator we used to calculate the amount of COP that exceeded transfer price that NTN objects to based on the assertion that it reflects only a portion of, rather than the total sum of, transfer prices. Based on our reexamination of our calculation for these final results we have determined that the denominator in question is inconsistent with the methodology of our overall COP/CV adjustment calculation and have made the appropriate changes to our calculation for these final results. Please see the proprietary version of our final results analysis memorandum for NTN for a detailed explanation of these changes.

Comment 31: Timken states that in the Department's preliminary results for

Koyo the Department calculated modified home market indirect and direct selling expenses for use in those comparisons where the Department based FMV on CV. Timken argues that, because Koyo's originally-reported CV values included expense amounts different from the revised expense amounts the Department deducted from CV to calculate FMV, the Department should have deducted the originally-reported expense amounts from CV and added its revised expenses amounts to the CV calculation prior to deducting the revised expenses from CV when calculating FMV.

Department's Position: We agree with Timken. As explained in our preliminary results analysis memoranda for Koyo, for those comparisons in which we based FMV on CV we deducted home market direct and indirect selling expense from CV. Because Koyo reported in its response the overall direct selling expense ratio and the overall indirect selling expense ratio it used to calculate its reported COP and CV, we recalculated these ratios to include Koyo's reported home market pre-sale and post-sale inland freight expense and used these recalculated ratios to calculate the amount of direct and indirect expenses to be deducted from CV. We recalculated Koyo's overall ratios because, in accordance with the law in effect prior to January 1, 1995, where we adjust for home market movement expenses under the circumstance-of-sale provision of 19 CFR 352.56 and the ESP offset provision of 19 CFR 353.56 (b)(2), we treated Koyo's reported home market pre-sale freight expenses as indirect selling expenses and Koyo's reported home market post-sale freight expenses as direct selling expenses. Because Koyo's overall direct selling expense ratio did not reflect home market post-sale freight and Koyo's overall indirect selling expense ratio did not include home market pre-sale freight, in order to ensure the proper application of our home market freight expense policy when FMV was based on CV, we determined that it was necessary to recalculate Koyo's reported indirect and direct selling expense ratios to reflect these expenses. However, Koyo's originally reported CV values relied on the ratios Koyo originally reported in its response. As a result, we when we deducted our calculated indirect and direct selling expenses from CV, we adjusted for expenses which were not originally included in CV. This had the effect of artificially lowering CV for our margin calculations. Therefore, for these final results, prior to deducting our calculated home market indirect and direct selling expenses from CV, we first recalculated Koyo's reported CV to reflect its home market pre-sale and post-sale freight expenses.

Comment 32: NTN argues that, when calculating the overall weighted-average ratios for NTN's home market direct and indirect selling expenses, which the Department used to derive the amount of direct and indirect selling expenses to be deducted from CV in those comparisons in which FMV was based on CV, the Department made two errors. First, NTN claims that the ratios the Department calculated in the beginning of its margin calculation computer program, as contained on the first page of the preliminary results computer program printout, are not the same as the ratios the Department used in a subsequent portion of the computer program. Second, NTN claims that the Department calculated a single overall weighted-average indirect selling expense ratio which reflected all home market sales, rather than taking into account exhibit D–11 of NTN's response where NTN calculated three separate ratios reflecting the differences in indirect selling expenses NTN incurred for sales to each of its three home market levels of trade (LOT).

Department's Position: We agree with NTN that, when transferring the results of our calculation of the overall weighted-average ratios for certain of NTN's home market direct and indirect selling expenses (as they appeared on page 1 of our preliminary results margin calculation computer program printouts for NTN) to a subsequent portion of our preliminary results computer program, we incorrectly transcribed these ratios. Therefore, for these final results we have corrected this inadvertent error. However, we do not agree with NTN that the single overall weighted-average ratio we calculated for its home market indirect selling expenses should not have been a single ratio, but, rather, three separate ratios reflecting the difference in indirect selling expenses NTN incurred as a result of the differences in its three home market LOTs. The LOT-specific indirect selling expenses ratios NTN refers to in exhibit D–11 of its response were derived directly from exhibit C–5 of its response, where NTN allocated the indirect selling expenses it incurred in the home market during the POR according to its LOTs. While we agree that NTN had three distinct LOTs in the home market, we do not agree that it incurred its home market indirect selling expenses differently according to LOT due to the difference in its LOTs such that LOT-specific allocations are warranted.

The CIT addressed the issue of LOT-specific expense allocations in the *Timken Company* v. *United States*, 930 F. Supp 621 (CIT 1996) (*Timken*). This decision not only has general relevance, but it is especially significant for the instant reviews because the CIT ruled on the issue of LOT-specific expense allocations specifically with regard to NTN and the 1990–91 and 1991–92 TRBs reviews. Recognizing that there may be a difference between a respondent's methodology for response purposes which allocates expenses to a LOT and how a respondent actually incurs the expenses due to differences when selling to each LOT, the CIT clearly stated that, in order for the Department to accept NTN's LOT-specific expense allocations, NTN's expenses must ''demonstrably vary according to level of trade'' (see *Timken* at 628). In other words, the fact that a respondent allocates according to LOT in an antidumping questionnaire response does not indicate whether a respondent actually incurred the expenses differently due to differences in LOTs. Rather, in order to determine if a respondent's expenses demonstrably varied according to LOT, additional narrative and quantitative evidence must exist which demonstrates that the respondent either performed different activities/functions or performed activities/functions to a different degree when selling to each LOT such that the amount of expenses incurred for the sale of the identical merchandise to different LOTs would vary. Based on our review of the record for this review, we have determined that NTN did not provide any evidence demonstrating that it actually incurred its reported home market indirect selling expenses differently due to differences in LOT. Rather, NTN's sole support for its LOT-specific allocations is the allocations themselves. As a result, the record does not support our using three separate LOT-specific indirect selling expense ratios to derive the home market indirect selling expense amounts in those comparisons where FMV is based on CV.

Furthermore, while we recognize that, for these final results, the issue of LOT-specific allocations appears to be limited to NTN's comments concerning our calculation of indirect selling expense ratios for comparisons in which FMV is based on CV, the CIT's determination in *Timken* that a respondent must demonstrate that the expenses demonstrably vary according to LOT in order to allocate those expenses according to LOT has

implications for other aspects of our analysis of NTN as well.

For example, using the LOT-specific allocations it calculated for its home market indirect selling expenses in exhibit C–5, NTN calculated LOT-specific per-unit indirect selling expense amounts by multiplying its exhibit C–5 LOT-specific allocation ratios by its reported unit prices. As a result, NTN reported for each of its home market transactions indirect selling expense adjustments which varied according to the LOT at which the transaction occurred. Based on our determination for these final results that the record does not contain evidence demonstrating that NTN actually incurred these indirect selling expenses differently due to the differences in LOTs, we cannot accept NTN's reported LOT-specific per-unit indirect selling expense adjustments. Therefore, we have recalculated NTN's home market indirect selling expense allocations such that we derived a single allocation ratio applicable to all sales regardless of LOT. We then applied this ratio to NTN's reported home market unit prices and calculated per-unit adjustment amounts which also did not vary according to LOT.

NTN's exhibit C–5 allocations, however were not limited to only indirect selling expenses. NTN also calculated LOT-specific allocations and per-unit adjustments for its home market pre-sale and post-sale freight expenses. We have examined the record and have found no evidence demonstrating that NTN actually incurred these freight expenses differently due to differences in LOTs. Therefore, as was the case with NTN's indirect selling expenses, for these final results we recalculated a single allocation ratio for each of these freight expenses and applied this single ratio to NTN's reported unit prices so that NTN's allocation ratios and expense adjustments did not vary according to LOT.

The CIT's requirement that LOT allocations must be supported by evidence that a respondent's expenses demonstrably varied according to LOTs applies to U.S. expenses as well. As a result, because NTN allocated several of its reported U.S. expenses according to LOT in exhibit B–8 of its response, and calculated LOT-specific U.S. expense allocation ratios and LOT-specific U.S. per-unit expense amounts, we examined the record to determine if there was any evidence which demonstrated that NTN actually incurred these expenses differently due to differences in LOTs. Based on our review we have determined that there is no evidence that NTN incurred its U.S. direct technical service expenses, freight expenses, indirect advertising expenses, or other indirect selling expenses differently due to the differences in its U.S. LOTs. Therefore, because there is no evidence that these U.S. expenses demonstrably varied according to NTN's U.S. LOTs, we have not allowed NTN's LOT-specific allocations, allocation ratios, and per-unit amounts for these U.S. expenses. Rather, for these final results we have calculated a single allocation ratio for each expense which reflects all U.S. sales and have recalculated NTN's reported U.S. per-unit amounts for these expenses without regard to LOTs.

In addition to the above, we have made one more change to our preliminary results for NTN based on our determination that NTN's home market expenses did not demonstrably vary according to LOT. In this review NTN requested and we preliminarily granted a LOT adjustment based on the differences in certain home market indirect selling expenses between NTN's LOTs whenever we compared U.S. merchandise to such or similar home market merchandise at a home market LOT different than the LOT of the U.S. sale. In accordance with our regulations and policy concerning LOT adjustments pursuant to the law in effect prior to January 1, 1995, NTN bears the burden of demonstrating that it was entitled to an adjustment for differences in LOTs (*see* 19 CFR 353.54) and is required to provide evidence that its claimed adjustment was in fact attributable to differences in LOTs (see, e.g., *NAR S.p.A.* v. *United States*, 707 F. Supp. 553 (CIT 1989), and *Silver Reed et. al.* v. *United States*, 669 F.Supp 291 (CIT 1988)). In our preliminary results, which were published prior to the CIT's determination in *Timken*, we considered NTN's LOT-specific allocations of its home market expenses in exhibit C–5 to indicate that NTN actually incurred these expenses differently due to a difference in LOT. As a result, we considered the LOT differences NTN reported in exhibit C–5 for certain home market indirect selling expenses to constitute quantitative evidence that NTN incurred these indirect selling expenses differently due to the difference in LOTs and subsequently based our calculation of NTN's LOT adjustment on the indirect selling expense differentials in exhibit C–5. However, in light of (1) *Timken*, (2) our determination that NTN failed to provide evidence that its home market expenses demonstrably varied according to LOTs, and (3) our denial of nearly all of NTN's LOT-specific home market and U.S. allocations in these final results, we can not rely on NTN's LOT-specific allocations of certain of its home market indirect selling expenses alone as evidence that NTN actually incurred these expenses differently due to LOT differences. In addition, we can not consider NTN's exhibit C–5 home market indirect selling expense differentials as a reliable basis for a LOT adjustment. Therefore, for these final results we have eliminated from our margin calculation for NTN the LOT adjustment we allowed in our preliminary results.

Comment 33: Timken states that NSK's response indicates that it did not include inventory write-offs and write-downs for damaged or obsolete merchandise in its reported COP. Timken asserts that, because the Department considers inventory write-offs/write-downs as part of COP, the Department should revise NSK's reported COP to include these costs.

NSK contends that its inventory write-off/write-down methodology has been the same for decades and is in accordance with the Japanese Generally Accepted Accounting Principles (GAAP). Furthermore, NSK argues, its inventory write-offs and write-downs have no relation to the cost of producing the subject merchandise. Finally, NSK asserts, even if the Department should agree with Timken, it still should not include these costs in COP because the effect of any such inclusion would be *de minimis*.

Department's Position: We agree with Timken. We regard NSK's inventory write-offs and write-downs as part of the fully-absorbed cost of goods sold which should be included in the calculation of COP (see, e.g., *AFBs 94–95* at 2117). Therefore, for these final results we have included both NSK's inventory write-offs and write-downs in its reported COP.

Comment 34: Timken argues that NSK's response indicates that NSK did not include idled asset depreciation as an element of its production costs. Timken asserts that, because the Department has an established practice of adjusting a respondent's cost data to reflect depreciation on idled assets, if, as under the Japanese GAAP, the respondent does not report this depreciation as an element of its production costs, the Department should revise NSK's reported COP and CV by including an amount for NSK's idled asset depreciation. In addition, Timken contends, because NSK did not report the amount of its idled asset depreciation, the Department should use as BIA the highest idled asset

depreciation reported by any other respondent in the review.

NSK argues that, because it has already accounted for its idled asset depreciation in its reported cost of manufacturing (COM), it is unnecessary for the Department to make any adjustment to its reported COP and CV.

Department's Position: We agree with NSK. It is evident from NSK's response that it included an amount for idle-asset depreciation in its COM. Therefore, for these final results it is unnecessary for us to modify NSK's reported COP and CV to reflect this depreciation.

Comment 35: Timken asserts that, because (1) it is the Department's practice to allow offsetting interest income only if it is related to COP and (2) NSK has failed to demonstrate that its reported interest income is related to normal production, the Department should revise NSK's reported financing expenses by disallowing NSK's claimed interest income offset.

NSK contends that its interest income offset is appropriate because its short-term interest is generated by short-term investment of its working capital. Therefore, NSK argues, in accordance with the Department's policy to accept interest income offsets when the offset is attributed to short-term investments of working capital, the Department should adhere to its preliminary results determination and continue to accept NSK's claimed offset.

Department's Position: We agree with NSK. We have determined in past AFB reviews that NSK's business records do not separately report the short-and long-term nature of the interest income earned by the company and its subsidiaries and that its alternative calculation of its income offset reasonably reflects short-term interest income related to production activities and the investment of working capital (see *AFBs 93–94* at 66495 and *AFBs 94–95* at 2118). Because there is nothing on the record in these TRBs reviews to suggest that NSK has altered its reporting methodology or that its claimed interest income offset is no longer attributed to short-term investments of working capital, we have not altered NSK's reported financing expenses for these final results.

Comment 36: Timken argues that, because NSK failed to include in its reported COP and CV an amount reflecting NSK's losses and gains on the disposal of fixed assets, the Department should revise NSK's reported COP and CV to include these amounts.

NSK argues that, because gains and losses as a result of the disposal of fixed assets are not related to its production, the Department correctly concluded in its preliminary results that these extraordinary losses and gains should not be included in COP.

Department's Position: We regard gains and losses as a result of the disposal of fixed assets as a normal cost of production (see, e.g., *AFBs 94–95* at 2118). Based on our review of NSK's response, we have found no evidence to suggest that NSK's gains and losses were unrelated to the general production activity of NSK overall. Therefore, we have included this amount as a general expense and recalculated NSK's reported COP and CV accordingly.

5. Clerical and Computer Programming Errors

Comment 37: Timken asserts that, as NTN's preliminary margin calculation computer printouts demonstrate, the Department apparently erred when uploading NTN's U.S. database such that the values for several U.S. variables were misaligned. As a result, Timken contends, the U.S. database the Department relied upon to calculate NTN's 1993–94 margin contains variables for which the wrong values have been reported.

Department's Position: We agree with Timken and have corrected these errors for these final results.

Comment 38: Timken argues that, while the Department properly determined that certain of Koyo's sales to related home market customers were not at arm's length, when transcribing the results of its arm's-length test to its margin calculation computer program for Koyo in order to exclude non-arm's-length sales from its analysis, the Department failed to include the codes for all customers who had sales which were not at arm's length.

While Koyo agrees with Timken that the Department incorrectly transcribed the results of its arm's-length test to its margin calculation program, it argues that Timken's proposed method for correcting this error only addresses half of the problem. Koyo asserts that Timken only identifies the error as the Department's failure to exclude those sales to certain customers which did not pass the arm's-length test. However, Koyo argues, the Department also excluded certain customer codes in its margin calculation program which should have been included on the basis that the sales to these customers were found by the Department to be at arm's length. Koyo contends that the Department's errors are apparently due to the Department's transcribing the results of the arm's-length test for the A–588–054 review to the A–588–604 portion of the margin calculation program. In addition, Koyo asserts, the Department also made certain keypunch errors when transferring customer codes from the arm's-length test to the margin calculation computer program and it should correct these errors as well.

Department's Position: We agree with Koyo. For both the 1992–93 and 1993–94 reviews of both TRBs cases we conducted an arm's-length test for Koyo to determine those home market related customers to which Koyo's sales were not at arm's length. In our analysis we determined these customers for each TRBs case in each review period. Because we used computer programs separate from our margin calculation computer programs for Koyo, it was necessary to transcribe the results of the arm's-length tests for each case in each review period to the corresponding portions of our margin calculation programs. However, when doing so, we inadvertently transcribed the arm's-length test results for the 1992–93 A–588–054 review to the 1992–93 A–588–604 portion of our margin calculation computer program. We made the same error for the 1993–94 reviews as well. This resulted in the inaccuracies both Koyo and Timken describe in their comments above. For these final results we have corrected this error by transcribing the results of our arm's-length test for each case in each review period to the appropriate sections of our margin calculation computer programs. In addition, we agree with Koyo that we also made other keypunch errors when entering certain customer codes in our margin calculation programs, and we have corrected these errors for these final results as well.

Comment 39: Koyo argues that, in accordance with the Department's practice of correcting inadvertent errors in a respondent's response, provided that these errors are obvious from the administrative record and the Department is able to verify the correct information, the Department should correct two errors which occurred within Koyo's reported computer databases.

First, Koyo explains, in its 1992–93 and 1993–94 computer tape files for U.S. further-manufactured sales, it erroneously reported a fixed adjustment amount for its ocean freight and marine insurance. Koyo contends that, as a result, it reported the identical ocean freight and marine insurance amount for every transaction contained in this file. Koyo contends that, in its narrative responses, it clearly explained that its intention was to calculate these adjustment amounts by applying its calculated ocean freight allocation ratio to the net weight it reported for each individual transaction and its marine

insurance allocation ratio to the CIF value it reported for each individual transaction. Koyo argues that this methodology would clearly result in a different amount being reported for each transaction. Therefore, Koyo asserts, it is obvious that it made an error in these two adjustments when compiling its U.S. further-manufacturing databases. Furthermore, citing the Department's 1992–93 home market sales verification report dated November 22, 1995, Koyo contends that the Department clearly verified that Koyo's intention was always to calculate these two adjustments using its reported allocation ratios.

Koyo argues that it also inadvertently misreported the nomenclature for one A–588–054 TRB cone which was sold as part of a set in the home market during the 1993–94 POR. Koyo asserts that, after examining the nomenclature of the nine TRBs sets most similar to the TRB set containing this cone, it is apparent that a keypunch error resulted in the incorrect product code being entered into the computer databases for this cone.

Department's Position: Pursuant to the CAFC's decision in *NTN Bearing Corp.* v. *United States*, 74 F.3d 1204 (Fed. Cir. 1995), we will correct alleged clerical errors made by a respondent if the following conditions are met: (1) The error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment, or a substantive error; (2) the Department must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical error allegation, and any corrective documentation, must be submitted to the Department no later than the due date of the respondent's administrative case brief; (5) the clerical error must not entail a substantial revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification (see *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833 (August 19, 1996)).

Concerning Koyo's claim that it erred when reporting its ocean freight and marine insurance adjustments in its U.S. further-manufacturing computer tape sales file, we have determined that, not only is the error obvious from the record in existence prior to Koyo's submission of its pre-hearing case brief, but Koyo's allegation clearly meets each of the six conditions outlined above. Therefore, we have corrected this error for these final results.

In regard to Koyo's nomenclature error, we have examined the argument and documentation submitted by Koyo in its case brief, and have again found that each of the six conditions described above were met. Therefore, we have also corrected this error for these final results.

Comment 40: Timken argues that, when calculating the amount of home market value-added tax (VAT) to be used when calculating NSK's VAT adjustment, the Department used computer programming language which resulted in the calculation of inaccurate home market VAT values.

Department's Position: We agree with Timken and have corrected this error for these final results.

Final Results of Review

Based on our review of the arguments presented above, for these final results we have made changes in our margin calculations for NTN, Koyo, and NSK. All of our *Prelim Results determinations* concerning the application of BIA, no shipments, and the termination of reviews remain unchanged for these final results (*see Prelim Results* at 25201–25202).

As a result of our comparison of USP to FMV, we have determined that the following margins exist for Koyo for the period October 1, 1992, through September 30, 1993:

For the A–588–054 Review

Manufacturer/Exporter and Margin:
Koyo Seiko—38.07%

For the A–588–604 Review

Koyo Seiko—40.12%

In addition, we have determined that the following margins exist for the period October 1, 1993, through September 30, 1994 for the following firms:

For the A–588–054 Review

Manufacturer/Reseller/Exporter and Margin:
Koyo Seiko—35.27%
Nachi—47.63%
NSK—11.25%
Fuji—6.04%
Kawasaki—47.63%
Yamaha—47.63%
MC International—2.36%
Maekawa—47.63%
Toyosha—47.63%
Nigata Converter—47.63%
Suzuki—47.63%

For the A–588–604 Review

NTN—20.80%
Koyo Seiko—41.04%
Nachi-Fujikoshi Corp.—40.37%
NSK—12.78%
Fuji—____[2]
Kawasaki—40.37%
Yamaha—40.37%
MC International—____[2]
Maekawa—40.37%
Toyosha—40.37%
Nigata Converter—40.37%
Suzuki—40.37%
Showa Seiko—____[2]
Daido—40.37%
Ichiyanagi Tekko—40.37%
Kawada Tekkosho—40.37%
Asakawa Screw Co.—40.37%
Isshi Nut—40.37%

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

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, as provided for by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for Kawasaki, Nigata, Suzuki, and Yamaha for the A–588–054 case and Kawasaki, Yamaha, Nigata, and Suzuki for the A–588–604 case are those rates we determined for these firms for our administrative reviews of the October 1, 1994, through September 30, 1995 period for both the TRBs finding and order (see *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997) (*TRBs 1994–95*). The cash deposit rates for Koyo, NSK, Fuji, and MC International in the A–588–054 case and for NTN, NSK, and Koyo in the A–588–604 case are the rates we determined for these firms for our recently published administrative reviews of the October 1, 1995, through September 30, 1996 period for both the TRBs finding and order (*TRBs 1995–96*). The cash deposit rates for all other firms listed above will be the rates outlined above;

(2) For previously reviewed or investigated companies not listed above

[2] No shipments or sales subject to this review. The firm has no rate from any prior segment of this proceeding.

and not listed in *TRBs 1994–95 or TRBs 1995–96*, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in these reviews, a prior review, or the original less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise;

(4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 finding will be 18.07 percent and 36.52 percent for the A–588–604 order (see *Preliminary Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 58 FR 51058 (September 30, 1993)).

The cash deposit rate has been determined on the basis of the selling price to the first unrelated customer in the United States. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate. In the case of Fuji, the Department will calculate an assessment rate in the A–588–054 case which reflects the total value of that merchandise which we deemed to meet the criteria of the ''Roller Chain'' principle.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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). Timely written notification of 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.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 15, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–10570 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, San Diego; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–008. *Applicant:* University of California, San Diego, La Jolla, CA 92093–0359. *Instrument:* Imaging Plate X-ray Detector for Protein Crystallography. *Manufacturer:* MAR Research, Germany. Intended Use: See notice at 63 FR 11870, March 11, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides:

(1) High efficiency detection of molybdenum K_α x-rays at resolution to 0.12nm and (2) exposure time of just 90s allowing use of a single imaging plate under computer control and data readout. The Stanford Synchrotron Radiation Laboratory advised April 15, 1998 (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–10996 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–021. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* Electron Neutralizer. *Manufacturer:* Gammadata-Scienta, Sweden. *Intended Use:* The instrument is intended to be used for the study of the phenomena of superconductivity in high critical temperature materials during angle-resolved experiments. The objective of these investigations is to study the electron structure and physical properties of superconducting materials. In addition, the instrument will be used to train graduate students in their thesis research. Application accepted by Commissioner of Customs: April 7, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–11147 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[C–508–605]

Industrial Phosphoric Acid from Israel; Amended Final Results of Countervailing Duty Administrative Review.

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of amended final results of countervailing duty administrative review.

SUMMARY: On March 20, 1998, the Department of Commerce published in

the **Federal Register** the final results of its administrative review of the countervailing duty order on Industrial Phosphoric Acid from Israel (63 FR 13626) for the period January 1, 1995 through December 31, 1995. This review covers Rotem-Amfert Negev Ltd. Based on the correction of a ministerial error, we are amending the final results of this review. We determine the net subsidies to be 8.77 percent *ad valorem* for the period of review. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: April 27, 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, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1998, the Department of Commerce published in the **Federal Register** the final results of its Administrative Review of the countervailing duty order on Industrial Phosphoric Acid from Israel for the period January 1, 1995 through December 31, 1995 (63 FR 13626) (*Final Results*). On March 23, 1998, the Department received a timely allegation from Rotem-Amfert Negev, Ltd., that the Department had made ministerial errors in its calculation of the benefit rate. The petitioners did not allege the existence of ministerial errors, nor have they commented on respondent's allegations.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act).

Scope of the Order

Imports covered by this order are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and U.S. Customs Service (Customs) purposes. The written description of the scope remains dispositive.

Ministerial Errors in Final Results of Review

The respondent alleges that the Department made two ministerial errors in the final results. First, the respondent contends that the Department incorrectly added the amounts of the grant provided to Rotem in 1989 under project 9 of the Encouragement of Capital Investments Law program. The Department agrees that this is a ministerial error, and we have amended our final results. Second, the respondent alleges that the Department used incorrect data to calculate the gamma in the privatization calculations by using respondent's net worth in nominal shekels and then converting the shekel value into U.S. dollars. Respondents suggest that the Department should use data from Rotem's balance sheets that express the company's net worth in U.S. dollars. We do not consider the nature of respondent's allegation to be ministerial. Therefore, we have not adjusted the gamma calculation. (For further information, see the Decision Memorandum to Maria Harris Tildon, Acting Deputy Assistant Secretary for Import Administration, dated April 15, 1998, which is a public document and is on file in the Central Records Unit, Room B–099 of the main Commerce Building.)

Amended Final Results of Review

For the period January 1, 1995 through December 31, 1995, we determine the net subsidies to be 8.77 percent *ad valorem* after correction of the ministerial error. We will instruct Customs to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in Section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See 19 CFR 355.22(a). Pursuant to 19 CFR 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. See 61 FR 28841. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1995 through December 31, 1995, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Timely written notification of 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 amendment of final results of reviews and notice are in accordance with section 751(f) of the Act (19 U.S.C. 1675(f)) and 19 CFR 355.28(c).

Dated: April 17, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–11002 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pubic Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

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

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Charles L. Cooper, Financial Services Division, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, Maryland 20910, (301) 713–2396.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents will be commercial fishing industry individuals, partnerships, and corporations which wish to apply for compensation for losses of or damage to fishing gear or vessels and resulting economic loss due to oil or gas industry activities on the U.S. Outer Continental Shelf. Program requirements are set forth in 50 CFR Part 296.

II. Method of Collection

The information will be collected on the Fishermen's Contingency Fund application form and a 15-day report form.

III. Data

OMB Number: 0648–0082.

Form Numbers: NOAA Form 88–164 and NOAA Form 88–166.

Type of Review: Regular Submission.

Affected Public: Businesses and other for profit organizations (commercial fishermen, partnerships, and corporations applying for compensation of losses).

Estimated Number of Respondents: 200.

Estimated Time Per Response: 10 hours for applications, 5 minutes for 15-day reports.

Estimated Total Annual Burden Hours: 2,017.

Estimated Total Annual Cost to Public: No capital, operations, or maintenance costs are expected.

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 22, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–11135 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading.

TIME AND DATE: 2:00 p.m., Thursday, April 30, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–11204 Filed 4–23–98; 11:42 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0102]

Submission for OMB Review; Comment Request Entitled Prompt Payment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension to a currently approved information collection requirement concerning Prompt Payment. A request for public comments was published at 63 FR 8442, February 19, 1998. No comments were received.

DATES: Comments may be submitted on or before May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 32 of the Federal Acquisition Regulation (FAR) and the clause at FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount

which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts:

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontractors and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Public Law 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.11* hours 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.

The annual reporting burden is estimated as follows: Respondents, *38,194;* responses per respondent, *11;* total annual responses, *420,134;* preparation hours per response, *.11;* and total response burden hours, *46,215.*

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *34,722;* hours per recordkeeper, *18;* and total recordkeeping burden hours, *624,996.*

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

Dated: April 22, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–11077 Filed 4–24–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Draft Environmental Assessment and Draft Finding of No Significant Impact for the Fielding of the ''Generator, Mechanical Smoke: For Dual Purpose Unit, M56'' and the ''Generator Smoke Mechanical: Mechanized Smoke Obscurant System M58''

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces today the availability of the final draft Environmental Assessment (EA) and draft Finding of No Significant Impact (FNSI) for the Fielding of the ''Generator, Mechanical Smoke: For Dual Purpose Unit, M56'' and the ''Generator Smoke Mechanical: Mechanized Smoke Obscurant System M58'', in accordance with Pub. L. 101–510, as amended. The Army will consider public comments prior to determining whether to sign the FNSI.

The Army needs to field state-of-the-art obscuration systems to maximize operational success by denying enemy detection of friendly units and activities on the battlefield. This fielding will preserve forces and minimize casualties.

This EA has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), its implementing regulations published by the Council on Environmental Quality (CEQ) and Army Regulation 200–2, ''Environmental Effects of Army Actions'' (AR 200–2).

This EA is programmatic in nature, and is designed to identify assess, and disclose to the decision-maker and the public the possible environmental impacts expected to result from the proposed fielding of the M56 and M58 at various installations throughout the United States, as well as the potential impacts associated with reasonable alternatives to the proposed action. The EA analyzes the environmental effects associated with introducing graphite particles into the environment in conjunction with fog oil. The effects of fog oil used without graphite flakes has been assessed previously.

The Army's proposed action is to field the M56 and M58 to Army installations across the Nation for use in visual and infrared training. Alternatives examined in the EA include: Limiting the use graphite flakes; restricting units to training with fog oil with no emission of graphite flakes; consolidating training to limited locations; and prohibiting fielding of the systems within the United States (the no action alternative). The Army's preferred alternative is implementation of the proposed action.

The EA examines the potential impacts of the proposed action and alternatives on resource areas and areas of environmental concern including: human health, threatened and endangered species, air quality, water resources, vegetation, the sociological environment, and cultural resources.

The EA concludes that the implementation of the proposed action will not have a significant impact on the human environment. As a result the Army is proposing to make a FNSI and an Environmental Impact Statement will not be required prior to implementation of the proposed action.

DATES: Comments must be submitted on or before May 27, 1998.

ADDRESSES: A copy of the EA or inquiries into the draft FNSI may be obtained by writing to Commander, U.S. Army Environmental Center, ATTN: SFIM–AEC–PA (Mr. Hankus), Aberdeen Proving Ground, Maryland 21010–5401, or by calling (410) 671–2556.

Dated: April 21, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) (OASA (I,L&E).

[FR Doc. 98–11066 Filed 4–24–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Amendment to notice.

SUMMARY: Notice is hereby given of an amendment to the notice of the National Assessment Governing Board meeting scheduled for May 7–9, 1998, at the Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia, as published in the **Federal Register** on March 20, 1998, Vol. 63, No. 78, page 19477. The following changes have been made in the session schedule for Friday, May 8. The time for the closed meeting of the Subject Area Committee #1 has been extended until 11:30 a.m. Also, an agenda item was added to the afternoon session of the full Board meeting. Between 3:15–4:00 p.m. the Board will hear comments from the test development subcontractors for the Voluntary National Tests. The Friday, May 8 session of the Governing Board meeting will conclude at 4:30 p.m.

Dated: April 22, 1998.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 98–11076 Filed 4–24–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–348–000]

Colorado Interstate Gas Company; Notice of Application

April 21, 1998.

Take notice that on April 13, 1998, Colorado Interstate Gas Company (CIG) P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP98–348–000 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG seeks to construct and operate approximately 6 miles of 3.5-inch diameter fuel gas line from the Cimarron Meter Station on CIG's Fourway-Kit Carson mainline to CIG's Sturgis Compressor Station, all located in Cimarron County, Oklahoma. CIG states that the purpose of the proposed fuel gas line is to provide processed fuel gas from the mainline transmission system to the Sturgis Compressor Station. CIG further states that providing processed gas to the Sturgis Compressor will improve operating efficiency, reliability, and decrease in maintenance requirements.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before May 12, 1998, file with the Federal Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protesters provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant or by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing and original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by the Commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11048 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–17–002]

Dauphin Island Gathering Partners; Notice of Tariff Filing

April 21, 1998.

Take notice that on April 15, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to be effective April 16, 1998:

Second Revised Sheet No. 9
First Revised Sheet No. 9A

DIGP states that the purpose of this filing is to report the name and rate of each person that will begin receiving service at negotiated rates on April 16, 1998, when DIGP will commence service.

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. 98–11058 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–7–23–002]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 21, 1998.

Take notice that on April 16, 1998, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket bear a proposed effective date of April 1, 1998.

As directed by the March 31, 1998, Commission Order in Docket No. TM98–7–23–000, *et al.* ESNG is refiling its Storage Tracker rates, previously filed on March 10, 1998 (as subsequently corrected on April 14, 1998). The first purpose of this filing is to track rate changes attributable to the annual electric power cost adjustment submitted by Columbia Gas Transmission Corporation (Columbia) in Docket No. RP98–152–000. The changes are reflected in the rates applicable to storage service rendered by ESNG under its Rate Schedule CFSS.

ESNG states that the second purpose of this filing is to track recent storage rate changes by Transcontinental Gas Pipe Line Corporation (Transco) to be effective April 1, 1998 under Fransco's Rate Schedules GSS and LSS. The changes are reflected in the rates applicable to storage service rendered by ESNG under its Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's 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. 98–11062 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP98–31–000]

Great Eastern Energy and Development Corporation; Notice of Petition for Dispute Resolution

April 21, 1998.

Take notice that, on March 23, 1998, Great Eastern Energy and Development Corporation (Great Eastern) filed a petition requesting the Commission to resolve a dispute between Great Eastern and Panhandle Eastern Pipe Line Company (Panhandle) as to whether Great Eastern has any Kansas ad valorem tax refund liability to Panhandle on behalf of Patton Oil Company (Patton). The Commission, by order issued September 10, 1997, in Docket No. RP97–369–000 *et al*,[1] on remand from the D.C. Circuit Court of Appeals,[2] required first sellers to refund the Kansas ad valorem tax reimbursements to the pipelines, with interest, for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures, the Commission stated that producers (i.e., first sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed, see 82 FERC ¶ 61,059 (1998). Great Eastern's petition is on file with the Commission and open to public inspection.

Great Eastern contends that it has no Kansas ad valorem tax refund liability to Panhandle for the following reasons: (1) Great Eastern acquired Patton in 1985 and kept it as a wholly-owned subsidiary of Great Eastern, because Patton owed $4,000,000 to Northern Trust of Chicago (Northern Trust); (2) in 1986; Great Eastern negotiated a purchase of the note from Northern Trust, whereupon Great Eastern became the holder of that note; (3) Patton was never merged into Great Eastern; and (4) in 1991, Great Eastern foreclosed on all of the properties that Patton had given to Northern Trust as security for the note, but took title to those properties in lieu of foreclosing, leaving Patton with no assets. Great Eastern adds that Patton no longer operates in the State of Kansas. In view of the above, Great Eastern contends that it should not be held liable for any Kansas ad valorem tax refunds owed by Patton.

Any person desiring to comment on or make any protest with respect to any of the above-referenced petitions should, on or before May 12, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11049 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. R97–301–002]

Overthrust Pipeline Company; Notice of Tariff Filing

April 21, 1998.

Take notice that on April 16, 1998, Overthrust Pipeline Company (Overthrust), tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to become effective October 1, 1997:

Original Volume No. 1

Sixth Revised Sheet No. 2
Substitute Seventeenth Revised Sheet No. 6
Third Revised Sheet No. 7
First Revised Sheet No. 7A
Third Revised Sheet No. 16

First Revised Volume No. 1–A

First Revised Second Revised Sheet No. 1

Substitute Second Revised Sheet No. 4
Third Revised Sheet No. 5
First Revised Sheet No. 11
First Revised Fourth Revised Sheet No. 30
First Revised Substitute Original Sheet No. 34A
Second Revised Sheet No. 35
Fifth Revised Sheet No. 70
Original Sheet No. 70A

Overthrust asserts that the purpose of this filing is to comply with the Commission's order dated April 1, 1998, in Docket Nos. RP97–301–000 and 001.

Overthrust states on April 1, 1998, the Commission approved a comprehensive settlement filed on October 1, 1997, in Docket No. RP97–301, but directed Overthrust to make interruptible shippers eligible for excess IT revenue credits to the extent the discounts interruptible shipper receive are not greater than the rate effect achieved by crediting revenues to interruptible service. The proposed tariffs sheets implement the October 1, 1997 settlement and make interruptible shippers eligible for excess IT revenue credits under certain conditions.

Overthrust states that a copy of this filing has been served upon its customers and the Public Service Commission of Wyoming.

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 Pubic Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11057 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–183–001]

Questar Pipeline Company; Notice of Tariff Filing

April 21, 1998.

Take notice that on April 15, 1998, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute First Revised Sheet No. 12, to be effective May 8, 1998. Questar states that it is also withdrawing First Revised Sheet No. 10 to First Revised Volume No. 1, which was inadvertently filed on April 8, 1998, in Docket No. RP98–183.

Questar states further that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

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. 98–11061 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–70–001]

Southern Natural Gas Company; Notice of Compliance Filing

April 21, 1998.

Take notice that on April 15, 1998, Southern Natural Gas Company (Southern) tendered for filing certain information concerning the impact of its revised cashout mechanism.

Southern states that its filing is in compliance with the Commission's December 30, 1997 order directing Southern to file information explaining the cashout imbalances and system management costs incurred for storage gas cost gains or losses in order to further evaluate the effectiveness of the revised cashout mechanism.

Southern states that copies of the filing will be served upon all parties designated on the official service list compiled by the Secretary in these proceedings.

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 on or before April 28, 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 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. 98–11060 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–011]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 21, 1998.

Take notice that on April 15, 1998, Tennessee Gas Pipeline Gas Company (Tennessee) tendered for filing to its FERC Gas tariff, Fifth Revised Volume No. 1, Twentieth Revised Sheet No. 30. Tennessee proposes that the revised tariff sheet be made effective on April 1, 1998.

Tennessee states that the above tariff sheet is being filed to reflect that Tennessee's negotiated rate agreements with QST Energy Trading, Inc., AlaTenn Energy Marketing Co. and Columbia Energy Services are no longer in effect.

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. 98–11056 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–56–003]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

April 21, 1998.

Take notice that on April 15, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Sixth Revised Tariff Sheet No. 405C, with an effective date of May 15, 1998, in order to comply with the Commission's Order on Rehearing, issued in the above-referenced docket, on April 1, 1998 (April 1 Order). Tennessee Gas Pipeline Company, 83 FERC ¶ 61,002 (1998).

In compliance with April 1 Order, Tennessee states that the revised tariff sheet provides for the use, in open seasons to award capacity, of the commodity rate bid to break ties between bids with equal net present values, regardless of whether the bids are for new capacity or for meter amendments.

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. 98–11059 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of Licenses

April 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Licenses.

b. *Project Nos:* 96–028, 137–022, 233–066, 619–075, 803–044, 1121–045, 1333–029, 1354–021, 1962–026, 1988–023, 2105–069, 2107–005, 2130–025, 2310–093.

c. *Date Filed:* April 3, 1998.

d. *Applicant:* Pacific Gas & Electric Company.

e. *Name of Projects:* Kerchoff 1 & 2, Mokelumne; Pit 3, 4,& 5, Bucks Creek; De Sabia-Centerville, Battle Creek, Tule River; Crane Valley, Rock Creek-Cresta; Haas-Kings River; Upper NF Feather River; Poe; Spring Gap-Stanislaus; Drum-Spaulding.

f. *Location:* All in the State of California and, San Joaquin River in Madera and Fresno Counties; Mokelumne River in Amador and Calaveras Counties; North Fork Feather River in Plumas County; Pit River in Shasta County; West Branch River, Butte Creek in Butte County; Battle Creek in Shasta and Tehama Counties; North Fork of the Middle Fork Tule River in Tulare County; Willow Creek and San Joaquin River in Madera and Fresno Counties; North Fork Feather River in Plumas and Butte Counties; North Fork Kings River in Fresno County; North Fork Feather River in Butte County; Stanislaus River in Calaveras and Tuolumne Counties; South Yuba, American, and Bear Rivers in Nevada and Placer Counties.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r)

h. *Applicant Contact:* Terry Morford, Manager, Hydro Generation Department, Pacific Gas and Electric Company, P.O. Box 7700000, Mail Code N11C, San Francisco, CA 94177, (415) 973–7145.

i. *FERC Contact:* J.W. Flint (202) 219–2667.

j. *Comment Date:* June 1, 1998.

k. *Description of Application:* PG&E proposes to delete non-jurisdictional transmission lines and their associated facilities from their licenses. Studies of PG&E's transmission system shows that the lines proposed for deletion carry energy from other electric generating sources and are no longer primary lines. Removing these lines from the project license will not result in any physical change to these transmission facilities or to their operation.

The Commission is presently processing applications for new licenses for four of the projects: Mokelumne (137–022), Rock Creek-Cresta (1962–026), Crane Valley (1354–021), and Hass-Kings River (1988–023). We request comments regarding primary/non-primary status of the subject transmission lines under section 3 (11) of the Federal Power Act and Subpart H, Section 4.30 of our regulations.

1. The notice also consists of the following standard paragraphs: B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST'' or ''MOTION TO INTERVENE,'' as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Any motion to intervene must also be served upon each representative of the applicant specified in the particular notice.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–11050 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters

April 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 1494–160.

c. *Date Filed:* March 30, 1998.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola.

f. *Location:* The Pensacola Project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mary E. Von Drehle, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256–5545.

i. *FERC Contact:* Jon Cofrancesco, (202) 219–0079.

j. *Comment Date:* May 25, 1998.

k. *Description of Project:* Grand River Dam Authority, licensee for the Pensacola Project, requests Commission authorization to issue a permit to Gene Gregg, d/b/a Tera Miranda Marina (permittee), for the improvement and enlargement of an existing commercial marina facility located near Monkey Island. Specifically, the permittee proposes to replace an existing jetty and breakwater with two new breakwaters and to add 5 new boat docks with a total of 116 slips to the existing facility. The existing facility contains 20 boat docks with a total of 129 slips.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11051 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

April 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 2620–006.

c. *Date Filed:* March 13, 1998, supplemented on March 31, 1998 and April 8, 1998.

d. *Applicant:* Lockhart Power Company.

e. *Name of Project:* Lockhart.

f. *Location:* Broad River in Union, York, Chester, and Cherokee Counties, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Leslie S. Anderson, P.O. Box 10, Lockhart, SC 29364, (803) 545–2211.

i. *FERC Contact:* J.W. Flint (202) 219–2667.

j. *Comment Date:* May 29, 1998.

k. *Description of Application:* The licensee proposes a non-capacity amendment for this project. Turbine runners for units 1 through 4 were replaced between July 1989 and May 1991. The new turbines increased the maximum hydraulic capacity from 3,643 cfs to 4,567 cfs.

In mid-1997 the licensee installed 17,400 kilovars of capacitors at five different locations on its distribution system. Since the installation of the capacitors, the licensee has been able to generate at a unity power factor allowing them to take advantage of the full rating of the generators. (15,200 kW). No changes were made to the plant's generators.

1. The notice also consists of the following standard paragraphs: B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST'' or ''MOTION TO INTERVENE,'' as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Any motion to intervene must also be served upon each representative of the applicant specified in the particular notice.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11052 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing With The Commission

April 21, 1998.

Take notice that the following hydroelectric application has been accepted for filing and the Commission

has established a deadline for interventions and protests:

a. *Type of application:* New Major License.

b. *Project No.:* 2659–011.

c. *Dated filed:* February 25, 1998.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Powerdale Hydroelectric Project.

f. *Location:* On the Hood River, near the town of Hood River, in Hood River County, Oregon. The project boundary does not occupy any federal lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Randy Landolt, Director, Hydro Resources, PacifiCorp, 920 SW Sixth Avenue, Portland, Oregon 97204, (503) 464–5339.

i. *FERC Contact:* Bob Easton at (202) 219–2782.

j. *Deadline for Interventions and Protests:* July 10, 1998.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Brief Description of the Project:* The existing project consists of: (1) A 206-foot-long and 10-foot-high diversion dam; (2) 80-foot by 60-foot concrete intake structure; (3) an approximately 16,000-foot-long water conveyance system; (4) an 86-foot-wide by 51-foot-long concrete powerhouse; (5) one turbine generator unit with a rated capacity of 6.35 megawatts; (6) a 135-foot-long rock-lined tailrace; and (7) other appurtenances.

m. This notice also consists of the following standard paragraphs: B1 and E1.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' OR ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–11053 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

April 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major Relicense.

b. *Project No.:* 2666–007.

c. *Date filed:* March 28, 1997.

d. *Applicant:* Bangor Hydro Electric Company.

e. *Name of Project:* Medway Hydroelectric Project.

f. *Location:* On the West Branch of the Penobscot River in Penobscot County, Maine.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kathleen C. Billings, Director, Environmental Services & Compliance, Bangor Hydro Electric Company, 33 State Street, Bangor, Maine 04401, (207) 941–6636.

i. *FERC Contact:* David A. Turner at (202) 219–2844.

j. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* See attached paragraph D10.

k. *Status of Environmental Analysis:* The application is now ready for environmental analysis—see attached paragraph D10.

l. *Description of Project:* The existing project consists of: (1) A 343-foot-long, 20-foot-high (exclusive of 4-foot, 10-inch-high flash boards) concrete gravity dam, with a permanent crest elevation of 254.5 feet (referenced to National Geodetic Vertical Datum-NGVD); (2) a 120-acre impoundment at elevation 259.3 feet (normal impoundment level); (3) a 64-foot-long concrete gravity forebay; (4) a 170-foot-long, 34-foot-wide, 71-foot-high brick powerhouse containing five generating units with a total installed capacity of 3.44 MW; (5) an approximate 144-foot-long, 3-kilovolt (kv) underground transmission line, and (6) appurtenant facilities.

The applicant proposes to continue to operate the project in a run-of-river mode.

m. *This notice also consists of the following standard paragraphs:* D10.

n. *A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at:* 888 First St., N.E., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and

the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11054 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of Article 2

April 21, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of article 2.

b. *Project No:* 4052–008.

c. *Date Filed:* February 24, 1998.

d. *Applicant:* Koyle Hydro, Inc.

e. *Name of Project:* Koyle Ranch Power Project.

f. *Location:* Big Wood River, near Gooding, in Gooding County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Koyle, Koyle Hydro, Inc., 1774 So. 1500 E., Gooding, ID 83330, (208) 934–4060.

i. *FERC Contact:* Diana Shannon, (202) 208–7774.

j. *Comment Date:* May 28, 1998.

k. *Description of Proposed Action:* Koyle Hydro Inc., exemptee for the Koyle Ranch Power Project, requests article 2 be modified to require the release of a minimum flow of five cfs throughout the year. Currently, article 2 requires a release of five cfs from June 16 through March 31 and 80 cfs from April 1 through June 15.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–11055 Filed 4–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

April 22, 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 29, 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; 697th Meeting—April 29, 1998; Regular Meeting (10:00 a.m.)

CAH–1.
  OMITTED
CAH–2.
  OMITTED
CAH–3.
  DOCKET#
  P–2395, 007, FRASER PAPERS, INC.
  OTHER#S P–2390, 006, NORTHERN STATES POWER COMPANY (WISCONSIN)
  P–2421, 007, FRASER PAPERS, INC.
  P–2473, 006, FRASER PAPERS, INC.
  P–2475, 013, NORTHERN STATES POWER COMPANY (WISCONSIN)
  P–2640, 014, FRASER PAPERS, INC.
CAH–4.
  DOCKET# P–2494, 010, PUGET SOUND ENERGY, INC.
CAH–5.
  DOCKET# P–7481, 089, NYSD LIMITED PARTNERSHIP
CAH–6.
  DOCKET# P–2113, 091, WISCONSIN VALLEY IMPROVEMENT COMPANY
CAH–7.
  DOCKET# P–2149, 070, PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY,

WASHINGTON

CONSENT AGENDA—ELECTRIC

CAE–1.
DOCKET# ER98–1209, 000, WISCONSIN POWER & LIGHT COMPANY
CAE–2.
DOCKET# ER98–1787, 000, DUKE ENERGY CORPORATION
CAE–3.
DOCKET# ER98–2045, 000, CONECTIV ENERGY SUPPLY, INC.
CAE–4.
DOCKET# ER98–2048, 000, ALLEGHENY POWER SERVICE CORPORATION, ON BEHALF OF MONOGAHELA POWER COMPANY, THE POTOMAC EDISON COMPANY AND WEST PENN POWER COMPANY
CAE–5.
DOCKET# ER98–2157, 000, WESTERN RESOURCES, INC.
CAE–6.
DOCKET# OA97–25, 000, NORTHERN STATES POWER COMPANY (MINNESOTA) AND NORTHERN STATES POWER COMPANY (WISCONSIN)
OTHER#S EL98–40, 000, NORTHERN STATES POWER COMPANY (MINNESOTA) AND NORTHERN STATES POWER COMPANY (WISCONSIN)
ER98–1890, 000, NORTHERN STATES POWER COMPANY (MINNESOTA) AND NORTHERN STATES POWER COMPANY (WISCONSIN)
ER98–2060, 000, NORTHERN STATES POWER COMPANY (MINNESOTA AND NORTHERN STATES POWER COMPANY (WISCONSIN)
OA97–606, 000, NORTHERN STATES POWER COMPANY (MINNESOTA) AND NORTHERN STATES POWER COMPANY (WISCONSIN)
CAE–7.
DOCKET# ER98–2159, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
CAE–8.
DOCKET# ER98–2075, 000, CSW ENERGY SERVICES, INC.
OTHER#S ER98–542, 002, CENTRAL AND SOUTH WEST SERVICES, INC.
CAE–9.
DOCKET# ER98–2184, 000, AES HUNTINGTON BEACH, L.L.C.
OTHER#S ER98–2185, 000, AES ALAMITOS, L.L.C.
ER98–2186, 000, AES REDONDO BEACH, L.L.C.
CAE–10.
DOCKET# ER98–2087, 000, PACIFIC GAS AND ELECTRIC COMPANY
OTHER#S ER97–2358, 000, PACIFIC GAS AND ELECTRIC COMPANY
CAE–11.
DOCKET# ER98–2113, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
OTHER#S ER98–2291, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98–2294, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98–2295, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–12.
DOCKET# ER98–2160, 000, SAN DIEGO GAS & ELECTRIC COMPANY
OTHER#S ER98–496, 000, SAN DIEGO GAS & ELECTRIC COMPANY
CAE–13.
DOCKET# ER97–987, 000, WESTERN SYSTEMS POWER POOL
OTHER#S OA97–220, 000, WESTERN SYSTEMS POWER POOL
OA97–672, 000, WESTERN SYSTEMS POWER POOL
CAE–14.
DOCKET# ER98–852, 000, THE WASHINGTON WATER POWER COMPANY
CAE–15.
DOCKET# ER98–2076, 000, HAWKEYE POWER PARTNERS, L.L.C.
CAE–16.
DOCKET# ER96–1580, 000, MINNESOTA POWER & LIGHT COMPANY
CAE–17.
DOCKET# ER95–590, 000, MIDWEST ENERGY, INC.
OTHER#S ER96–1497, 001, MIDWEST ENERGY, INC.
OA96–155, 000, MIDWEST ENERGY, INC.
CAE–18.
DOCKET# ER93–498, 000, CENTRAL LOUISIANA ELECTRIC COMPANY, INC.
OTHER#S EL93–33, 000, LOUISIANA ENERGY AND POWER AUTHORITY V. CENTRAL LOUISIANA ELECTRIC COMPANY, INC.
CAE–19.
DOCKET# ER98–1981, 000, LG&E ENERGY MARKETING, INC.
CAE–20.
DOCKET# EL97–59, 001, OKLAHOMA MUNICIPAL POWER AUTHORITY V. PUBLIC SERVICE COMPANY OF OKLAHOMA AND CENTRAL AND SOUTH WEST SERVICES, INC.
CAE–21.
DOCKET# EL94–10, 001, CONNECTICUT VALLEY ELECTRIC COMPANY, INC. V. WHEELABRATOR CLAREMONT COMPANY, L.P. AND WHEELABRATOR ENVIRONMENTAL SYSTEMS, INC., ET AL.
OTHER#S EL94–62, 001, CAROLINA POWER & LIGHT COMPANY V. STONE CONTAINER CORPORATION
EL96–1, 001, NIAGARA MOHAWK POWER CORPORATION V. PENNTECH PAPERS, INC.
QF85–102, 006, CAROLINA POWER & LIGHT COMPANY V. STONE CONTAINER CORPORATION
QF86–177, 002, CONNECTICUT VALLEY ELECTRIC COMPANY, INC. V. WHEELABRATOR CLAREMONT COMPANY, L.P. AND WHEELABRATOR ENVIRONMENTAL SYSTEMS, INC., ET AL.
QF86–722, 004, NIAGARA MOHAWK POWER CORPORATION V. PENNTECH PAPERS, INC.
CAE–22.
DOCKET# NJ97–4, 001, NEW YORK POWER AUTHORITY
CAE–23.
OMITTED
CAE–24.
DOCKET# EC90–10, 008, NORTHEAST UTILITIES SERVICE COMPANY (RE PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE)
OTHER#S ER93–294, 001, NORTHEAST UTILITIES SERVICE COMPANY
CAE–25.
DOCKET# ER90–373, 004, NORTHEAST UTILITIES SERVICE COMPANY
OTHER#S ER90–374, 003, NORTHEAST UTILITIES SERVICE COMPANY
ER90–390, 004, NORTHEAST UTILITIES SERVICE COMPANY
CAE–26.
DOCKET# ER85–477, 010, SOUTHWESTERN PUBLIC SERVICE COMPANY
CAE–27.
DOCKET# EL97–19, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY OF PLYMOUTH AND CITY OF REEDSBURG, ET AL. V. WISCONSIN POWER & LIGHT COMPANY
OTHER#S SC97–3, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY OF PLYMOUTH AND CITY OF REEDSBURG, ET AL. V. WISCONSIN POWER & LIGHT COMPANY
CAE–28.
DOCKET# EL98–14, 000, MAINE PUBLIC ADVOCATE V. MAINE

YANKEE ATOMIC POWER COMPANY
OTHER#S EL98–15, 000, MAINE PUBLIC UTILITIES COMMISSION V. MAINE YANKEE ATOMIC POWER COMPANY
ER98–570, 000, MAINE YANKEE ATOMIC POWER COMPANY
CAE–29.
OMITTED
CAE–30.
DOCKET# EL98–26, 000, TRANSMISSION AGENCY OF NORTHERN CALIFORNIA V. PACIFIC GAS AND ELECTRIC COMPANY

CONSENT AGENDA—GAS AND OIL

CAG–1.
DOCKET# RP98–168, 000, ANR PIPELINE COMPANY
CAG–2.
OMITTED
CAG–3.
DOCKET# RP98–174, 000, GAS TRANSPORT, INC.
OTHER#S RP98–174, 001, GAS TRANSPORT, INC.
RP98–174, 002, GAS TRANSPORT, INC.
CAG–4.
DOCKET# RP98–175, 000, ANR PIPELINE COMPANY
OTHER#S RP98–175, 001, ANR PIPELINE COMPANY
CAG–5.
DOCKET# RP98–178, 000, ANR PIPELINE COMPANY
OTHER#S RP98–178, 001, ANR PIPELINE COMPANY
CAG–6.
DOCKET# RP97–287, 016, EL PASO NATURAL GAS COMPANY
CAG–7.
DOCKET# RP98–113, 000, COLORADO INTERSTATE GAS COMPANY
OTHER#S RP98–113, 001, COLORADO INTERSTATE GAS COMPANY
CAG–8.
DOCKET# RP98–164, 000, WYOMING INTERSTATE COMPANY, LTD.
OTHER#S RP98–164, 001, WYOMING INTERSTATE COMPANY, LTD.
CAG–9.
DOCKET# RP98–165, 000, WILLIAMS GAS PIPELINES CENTRAL, INC
OTHER#S RP89–183, 078, WILLIAMS GAS PIPELINES CENTRAL, INC
RP89–183, 079, WILLIAMS GAS PIPELINES CENTRAL, INC
RP98–165, 001, WILLIAMS GAS PIPELINES CENTRAL, INC
CAG–10.
DOCKET# RP98–179, 000, WILLIAMS GAS PIPELINES CENTRAL, INC
CAG–11.
OMITTED
CAG–12.
DOCKET# RP97–52, 000, COLUMBIA GULF TRANSMISSION COMPANY
OTHER#S RP97–52, 004, COLUMBIA GULF TRANSMISSION COMPANY
CAG–13.
DOCKET# RP97–343, 002, SEA ROBIN PIPELINE COMPANY
CAG–14.
DOCKET# RP97–373, 000, KOCH GATEWAY PIPELINE COMPANY
CAG–15.
DOCKET# RP98–169, 000, KERN RIVER GAS TRANSMISSION COMPANY
CAG–16.
DOCKET# SA98–9, 000, MERLEYN A. CALVIN
CAG–17.
DOCKET# RP98–123, 003, EQUITRANS, L.P.
OTHER#S RP97–346, 016, EQUITRANS, L.P.
CAG–18.
DOCKET# RP98–83, 001, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–19.
DOCKET# MG98–3, 001, EAST TENNESSEE NATURAL GAS COMPANY
OTHER#S MG98–2, 001, MIDWESTERN GAS TRANSMISSION COMPANY
MG98–4, 001, TENNESSEE GAS PIPELINE COMPANY
CAG–20.
DOCKET# CP96–492, 005, CNG TRANSMISSION CORPORATION
CAG–21.
DOCKET# CP96–517, 001, ALGONQUIN LNG, INC.
CAG–22.
DOCKET# CP98–28, 000, COLUMBIA GULF TRANSMISSION COMPANY
CAG–23.
DOCKET# CP98–119, 000, WILLIAMS NATURAL GAS PIPELINES CENTRAL, INC.
CAG–24.
DOCKET# CP98–249, 000, FLORIDA GAS TRANSMISSION COMPANY
CAG–25.
DOCKET# CP98–254, 000, RICHFIELD GAS STORAGE SYSTEM
OTHER#S CP98–252, 000, DUKE ENERGY FIELD SERVICES, INC.
CAG–26.
DOCKET# CP95–735, 000, MURPHY EXPLORATION & PRODUCTION COMPANY V. QUIVIRA GAS COMPANY
OTHER#S CP95–735, 001, MURPHY EXPLORATION & PRODUCTION COMPANY V. QUIVIRA GAS COMPANY
CAG–27.
DOCKET# OR89–2, 013, TRANS ALASKA PIPELINE SYSTEM
OTHER#S OR96–14, 003, EXXON COMPANY, U.S.A., A DIVISION OF EXXON CORPORATION, V. AMERADA HESS PIPELINE COMPANY, ET AL.

HYDRO AGENDA

H–1.
RESERVED

ELECTRIC AGENDA

E–1.
RESERVED

OIL AND GAS AGENDA

I. PIPELINE RATE MATTERS

PR–1.
DOCKET# RP97–149, 003, GAS RESEARCH INSTITUTE
OTHER#S RM97–3, 001, RESEARCH, DEVELOPMENT AND DEMONSTRATION FUNDING
RP97–149, 004, GAS RESEARCH INSTITUTE
RP97–391, 001, GAS RESEARCH INSTITUTE
RP97–391, 002, GAS RESEARCH INSTITUTE ORDER ON SETTLEMENT.

II. PIPELINE CERTIFICATE MATTERS

PC–1.
DOCKET# CP96–152, 003, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
OTHER#S CP96–152, 002, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
CP96–152, 004, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
CP96–152, 005, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
CP96–152, 007, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
CP97–738, 002, TRANSOK, INC.
CP97–738, 004, TRANSOK, INC.
PR94–3, 004, KANSOK PARTNERSHIP
PR94–3, 005, KANSOK PARTNERSHIP
PR94–3, 008, KANSOK PARTNERSHIP
RP95–212, 004, KANSOK PARTNERSHIP, KANSAS PIPELINE PARTNERSHIP AND RIVERSIDE PIPELINE COMPANY, L.P.
RP95–212, 005, KANSOK PARTNERSHIP, KANSAS PIPELINE PARTNERSHIP AND RIVERSIDE PIPELINE COMPANY, L.P.
RP95–212, 007, KANSOK PARTNERSHIP, KANSAS

PIPELINE PARTNERSHIP AND RIVERSIDE PIPELINE COMPANY, L.P.

RP95–395, 004, WILLIAMS NATURAL GAS COMPANY V. KANSAS PIPELINE OPERATING COMPANY, KANSAS PIPELINE PARTNERSHIP AND KANSOK PARTNERSHIP, ET AL.

RP95–395, 005, WILLIAMS NATURAL GAS COMPANY V. KANSAS PIPELINE OPERATING COMPANY, KANSAS PIPELINE PARTNERSHIP AND KANSOK PARTNERSHIP, ET AL.

RP95–395, 007, WILLIAMS NATURAL GAS COMPANY V. KANSAS PIPELINE OPERATING COMPANY, KANSAS PIPELINE PARTNERSHIP AND KANSOK PARTNERSHIP, ET AL., ORDER ON REHEARING AND COMPLIANCE FILING.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–11205 Filed 4–23–98; 11:46 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6004–3]

Agency Information Collection Activities: Proposed Collection; Comment Request Non-Road Compression-ignition Engine and On-Road Heavy Duty Engine Application for Emission Certification, and Participation in the Averaging, Banking, and Trading Program; Reporting and Recordkeeping Requirements for Non-Road Spark-ignition Engine Selective Enforcement Auditing; Exclusions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB): Non-road Compression-ignition Engine and On-road Heavy Duty Engine Application for Emission Certification, and Participation in the Averaging, Banking, and Trading Program, EPA ICR Number 1851.01, Previous OMB Control Number 2060–0104, expiration date: 08–31–98, renewal; Exclusion Determinations for New Non-road Spark-ignited Engines at and Below 19 Kilowatts and Compression-ignited Engines at or Above 37 Kilowatts, New Marine Engines, and On-road Heavy Duty Engines, EPA ICR Number 1852.01, Previous OMB Control Number 2060–0124, expiration date: 07–31–98, renewal; Reporting and Record Keeping Requirements for Non-road Spark-ignition Engine Selective Enforcement Auditing, EPA ICR Number 1674.01, OMB Control Number 2060–0295, expiration date: 01–01–98, reinstatement. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 26, 1998.

ADDRESSES: Office of Mobile Sources, Engine Programs and Compliance Division, EPA Headquarters (6304J), Washington, D.C. 20460. Interested persons may request a copy of the ICR, without charge from the contact person below.

FOR FURTHER INFORMATION CONTACT: Nydia Y. Reyes-Morales, Tel.: (202) 564-9264; Fax: (202) 565–2057; e-mail: reyes-morales.nydia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which manufacture engines.

Title: Non-road Compression-ignition Engine and On-road Heavy Duty Engine Application for Emission Certification, and Participation in the Averaging, Banking, and Trading Program, EPA ICR Number 1851.01, Previous OMB Control Number 2060–0104, expiration date: 08–31–98.

Abstract: Under Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*; CAA or the Act), EPA is charged with issuing certificates of conformity for those engines which comply with applicable emission standards. Such a certificate must be issued before engines may be legally introduced into commerce. To apply for a certificate of conformity, manufacturers are required to submit descriptions of their planned production line, including detailed descriptions of the emission control system, and test data. This information is organized by ''engine family'' groups expected to have similar emission characteristics. There are also recordkeeping and labeling requirements.

Those manufacturers electing to participate in the Averaging, Banking, and Trading Program for Non-road CI engines at or below 37 kilowatts and for On-road heavy duty engines are also required to submit information regarding the calculation of projected and actual generation and usage of credits in an initial report, end-of-the-year report and final report. These reports are used for certification and enforcement purposes. Manufacturers will also maintain records for eight years on the engine families included in the program.

Title: Exclusion Determination for New-Nonroad Spark-ignited Engines At and Below 19 Kilowatts and Compression-ignited Engines at or Above 37 Kilowatts, New Marine Engines, and On-road Heavy Duty Engines, EPA ICR Number 1852.01, Previous OMB Control Number 2060–0124, expiration date: 07–31–98.

Abstract: Some types of engines are excluded from compliance with current regulations. A manufacturer may make an exclusion determination by itself; however, manufacturers and importers may routinely request EPA to make such determination to ensure that their determination does not differ from EPA's. Only needed information such as engine type, horsepower rating, intended usage, etc., is requested to make an exclusion determination.

Title: Reporting and Record Keeping Requirements for Non-road Spark-ignition Engine Selective Enforcement Auditing, EPA ICR Number 1674.01, OMB Control Number 2060–0295, expiration date: 01–01–98.

Abstract: As part of the Non-road SI Selective Enforcement Auditing (SEA) Program, authorized by section 213 (d) of the CAA, manufacturers are required to submit periodic reports and information from Selective Enforcement Audits. This information is evaluated to determine if production non-road engines comply with the Act.

All the information requested by these collections is required for various programs implementation and activities, and is collected by the Engine Compliance Programs Group, Engine Programs and Compliance Division, Office of Mobile Sources, Office of Air and Radiation. Information submitted by manufacturers is held as confidential until the specific engine to which it pertains is available for purchase. Confidentiality to proprietary information is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

BURDEN STATEMENT

	Burden hours	Cost/engine family	Annual frequency	Number of respondents (Number engine families)
Emission Certification:				
On Road HDE	214	$12,840	1	14 (130)
Non Road Large CI	194	11,640	1	46 (310)
Average, Banking and Trading Program:				
On Road HDE	398	23,880	1	7 (48)
Non Road Large CI	518	30,568	1	5 (25)
Exclusions:				
Marine	1.5	57	1	60 (1)
Small SI	1.5	57	1	60 (1)
Large CI	1.5	57	1	60 (1)
On Road HDE	1.5	57	1	60(1)
Small SI SEA	1091.8	56,598	1	7 (7)

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 20, 1998.

Richard D. Wilson,

Acting Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 98–11142 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6004–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS for Sewage Treatment Plant Incineration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart O, Sewage Treatment Plant Incineration, OMB control Number 2060–0035, expires June 30, 1998. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 27, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No.1063.07

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart O: Sewage Treatment Plant Incineration, OMB Control Number 2060–0035, ICR 1063.07, expiring June 30, 1998. This is a request for extension of a currently approved collection.

Abstract: This ICR contains record keeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60.150, *et seq.*, Subpart O, New Source Performance Standards (NSPS) for sewage sludge treatment plant incinerators. This information notifies EPA when a source becomes subject to the regulations, informs the Agency if a source is in compliance when it begins operation, and informs the Agency if the source remained in compliance during any period of operation. In the Administrator's judgment, particulate matter emissions from sewage treatment plant incinerators cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

The control of emissions of particulate matter from sewage treatment plant incinerators requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Particulate matter emissions from sewage treatment plant incinerators are the result of the physical and chemical characteristics of the sludge feed and fuel use, the excess air rate, the temperature profile within the incinerator, the pressure drop across the control device, and operating procedures. These standards rely on the reduction of particulate matter emissions by wet scrubbers.

In order to ensure compliance with these standards, adequate record keeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards, that are protective of public health, are being met on a continuous basis, as required by the Clean Air Act.

The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions. The standards also require reports on initial performance tests.

Under the standard, the data collected by the affected industry is retained at the facility for a minimum of two (2) years and made available for inspection by the Administrator.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 2, 1997 (62 FR 63703–63712); No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection is estimated to average 40 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators Sewage Sludge Treatment Plant Incinerators

Estimated No. of Respondents: 114

Frequency of Response: 2/year

Estimated Total Annual Burden on Respondents: 9,089 hours.

Estimated Total Annualized Cost Burden: $4,690,000

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1063.07, and OMB Control Number 2060–0035, in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, PPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 21, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–11140 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6002–9]

Peer-Review Meeting for EPA's Inventory of Sources of Dioxin in the United States

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of a Public Meeting for the Scientific Peer-Review of EPA's revised external review draft titled, Inventory of Sources of Dioxin in the United States.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a public, scientific peer-review meeting on June 3 and 4, 1998, from 8:30 a.m. to 5:00 p.m. each day, to review the revised external review draft, Inventory of Sources of Dioxin in the United States.

DATES: The scientific peer-review meeting will be held June 3 and 4, 1998. The public is invited to attend the peer-review meeting. There is no charge for attending the meeting; however, seating is limited so advance reservations are suggested.

ADDRESSES: The scientific peer-review meeting will be held at the Ramada Plaza Hotel Old Town, 901 North Fairfax Street, Alexandria, Virginia. To make hotel reservations, please call the hotel directly at (703) 683–6000 by May 12, 1998. Reference the ''EPA Dioxin Meeting'' to receive the group rate. The Ramada Plaza Hotel Old Town is located two miles south from Ronald Reagan National Airport, Washington, D.C. Members of the public wishing to register to attend the meeting may contact EPA's contractor, Eastern Research Group, Inc. (ERG), by calling the ERG conference registration line at (781) 674–7374.

The peer-review materials will be available on or about April 17, 1998. These materials include a document entitled, Inventory of Sources of Dioxin in the United States (EPA/600/P–98/002Aa, April 1998) and an external review draft electronic database on Compact Disk (CD–ROM) entitled, Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States (EPA/600/P–98/002Ab, April 1998). To obtain copies of the revised external review draft document and/or CD–ROM, interested parties should contact the ORD Publications Center, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone (513) 569–7562; fax (513) 569–7566. When ordering, please provide your name, mailing address, and the document title and EPA number listed above.

The revised external review draft document and CD–ROM also will be available for public inspection at the ORD Public Information Shelf, EPA Headquarters Library, 401 M Street, S.W., Washington, DC 20460, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays. In addition, an electronic version of the document, Inventory of Sources of Dioxin in the United States (EPA/600/P–98/002Aa, April 1998) will be posted on the Internet on or about April 17 at the following URL: http://www.epa.gov/ncea/dioxin.htm. However, the CD–ROM containing the Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States (EPA/600/P–98/002Ab, April, 1998) will not be posted on the Internet due to the size of the database, i.e., over 100 Megabytes.

FOR FURTHER INFORMATION CONTACT: EPA has contracted with Eastern Research Group, Inc., (ERG) to manage the peer review and prepare a summary report to EPA. To attend the meeting, contact ERG's conference registration line at (781) 674–7374, by May 20, 1998, and reference the ''EPA Dioxin Inventory Review.'' Members of the public who cannot attend the meeting may submit brief written comments for consideration by the Panel. Written comments should be submitted by no later than Friday, May 29, 1998, to: Susan Brager Murphy, Attn: Dioxin Inventory Review, Eastern Research Group, Inc., 110 Hartwell Ave., Lexington, MA 02173–3134. A limited amount of time will be set aside for members of the public to present brief oral comments to the peer-review panel on the first day of the meeting. Oral presentations will be limited to a maximum of 5 minutes, and the number of people giving oral comment may be limited by the time available. Opportunity for making oral comment

will be provided on a first-come, first-served basis; therefore the public is encouraged to register in advance to present oral comments by contacting ERG's conference registration line at (781) 674–7374.

For questions about the overall dioxin exposure assessment, contact John Schaum, National Center for Environmental Assessment—Washington Office, Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC 20460; telephone (202) 564–3237, Facsimile number: (202) 565–0076; e-mail: schaum.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

In 1992, EPA's Office of Research and Development (ORD) began an effort to reassess the exposure and health effects associated with dioxin. As originally conceived and drafted, the exposure portion of the Reassessment did not include an emissions inventory component. ORD was concerned that there were inadequate test data to construct an inventory, and that the time and resources needed to conduct an extensive testing program were outside the scope of the Reassessment. In 1992, special workshops were held to provide expert review and comment on early drafts of both the exposure and health components of the Reassessment. Reviewers of these early drafts strongly urged EPA to attempt an emissions inventory using the available data. Responding to this suggestion an inventory was developed and first published in September 1994 as part of the overall draft Reassessment. The draft Reassessment underwent reviews by both the public and EPA's Science Advisory Board (SAB). The SAB supported the general approach used to produce the draft inventory, but suggested several changes. Most notably, they recommended that the inventory be specific about the time frame it represents. The SAB did not suggest that any of the exposure chapters including the emissions inventory be resubmitted for SAB review. In addition to the SAB comments, EPA received a number of public comments regarding the emissions inventory. In response to all of these comments and the availability of additional data, a number of changes have been made to the inventory since the 1994 draft. These changes have resulted in significant revisions to both the inventory structure and actual emission estimates. Consequently ORD has decided it would be prudent to conduct an additional round of peer review of the revised inventory before incorporating it into the final Reassessment.

Dated: April 10, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–10864 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6004–4]

Announcement of Stakeholders Meeting on Treatment Technology Lists for Small Drinking Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of stakeholders meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a two-day public meeting on EPA's treatment technology lists for Small Drinking Water Systems. The purpose of this meeting is to have a dialogue with stakeholders and the public at large on the process of determining Compliance Technologies and Variance Technologies for Small Drinking Water Systems. EPA published a list of small system compliance technologies for the Surface Water Treatment Rule (SWTR) in August 1997. Section 1412(b)(4)(E)(iii) of the amended Safe Drinking Water Act (SDWA) requires EPA to publish the list of affordable small system compliance technologies for all other regulated contaminants by August 6, 1998. EPA is also required to publish a list of small system variance technologies, for those contaminants where appropriate, by August 6, 1998. The first day of the stakeholder meeting will focus on the eligibility criteria for variance technologies, including national-level affordability. The second day will focus on treatment technology performance, including an evaluation of Point-Of-Use and Point-Of-Entry devices as potential compliance technologies. At the upcoming meeting, EPA is seeking input from national, state, Tribal, municipal, and individual stakeholders and other interested parties on the lists of technologies for small systems.

DATES: The stakeholders meeting on Technologies for Small Drinking Water Systems will be held on May 18–19, 1998. The meeting will run from 8:30 a.m to 5:00 p.m. EDT on Monday, May 18 and from 8:30 a.m. to 5:00 p.m. EDT on Tuesday, May 19.

ADDRESSES: The meeting will be held at RESOLVE, 1255 23rd Street, N.W., Suite 275, Washington, D.C. 20037. For additional information, please contact the Safe Drinking Water Hotline, at phone: (800) 426–4791, fax: (703) 285–1101, or by e-mail at <hotline-sdwa@epamail.epa.gov>. Members of the public wishing to attend the meeting may register by phone by contacting the Safe Drinking Water Hotline by May 10, 1998. Those registered for the meeting by May 8 will receive background materials prior to the meeting. Members of the public who cannot attend the meeting in person may participate via conference call and should register with the Safe Drinking Water Hotline by May 8 as well. Members of the public who cannot participate via conference call or in person may submit comments in writing by July 15, 1998, to Tara Cameron, at the U.S. Environmental Protection Agency, 401 M Street, S.W. (4607), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information about the meeting logistics, please contact the Safe Drinking Water Hotline, at phone: (800) 426–4791, fax: (703) 285–1101, or by e-mail at: <hotline-sdwa@epamail.epa.gov>. For other information on Technologies for Small Drinking Water Systems, please contact Jeffrey Kempic, at the U.S. Environmental Protection Agency, Phone: (202) 260–9567, Fax: (202) 260–3762.

SUPPLEMENTARY INFORMATION:

A. Background

The SDWA, as amended in 1996, required that EPA publish a Compliance Technology List for Small Systems that meet the SWTR. EPA published a Small System Compliance Technology List for the SWTR in August 1997 and will be updating this document in August 1998. EPA is also required to publish a list of affordable small system compliance technologies for all other regulated contaminants by August 6, 1998. The 1996 Amendments specifically direct EPA to focus on three small system population size categories: systems serving 10,000–3,301; 3,300–501; and 500–25. EPA is also required to publish a list of small system variance technologies, for those contaminants where appropriate, by August 6, 1998. When variance technologies are listed, EPA will also publish any assumptions used in determining that there were no affordable compliance technologies for a particular system size category and source water quality combination.

B. Request for Stakeholder Involvement

The upcoming meeting deals specifically with EPA's efforts to compile the lists of compliance and

variance technologies for the National Primary Drinking Water Regulations. The meeting will be divided into two parts. The first part involves getting ideas and insights from stakeholders on approaches to the national level affordability criteria that will be used to determine which pathway (compliance technology or a variance) a system will proceed along and which technologies would be available for the system. The second part will focus on treatment technology performance, including an evaluation of Point-Of-Use and Point-Of-Entry devices as potential compliance technologies.

Dated: April 22, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–11143 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30453; FRL–5785–6]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by May 27, 1998.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30453] and the file symbols to: Public Information and Records Intregrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs (7511W) listed in the table below:

Regulatory action leader	Office location/telephone number	Address
Rita Kumar	5th Floor, CS1 #1, 703–308–8291, e-mail: kumar.rita@epamail.epa.gov.	2800 Crystal Drive, Arlington, VA 22202
Sharlene Matten	5th Floor, CS #1, 703–605–0514, e-mail: matten.sharlene@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 70115–R. Applicant: GML Industries, LLC, 2701 Texoma Drive, P.O. Box 87, Denison TX 75020. Product Name: A Natureza Flea Shampoo. Active ingredient: Coocamide DEA at 10.0 percent. Proposed classification/Use: None. Controls fleas on dogs and cats. (Rita Kumar)

2. File Symbol: 62388–R. Applicant: Bio-Care Technology Pty Ltd., 3085 South Myers Rd., Geneva, OH 44041. Product Name: NoGall. Microbial Agent/Bacterial Inoculant. Active ingredient: *Agrobacterium radiobacter*, strain K1026 at 0.25 percent. Proposed classification/Use: General. Controls crown gall disease organisms on non-food and non-bearing plants only. (Sharlene Matten)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30453] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30453]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: April 18, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–11138 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181062; FRL 5787–1]

Glyphosate; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide glyphosate [*N*-(Phosphonomethyl)glycine] (CAS 1071–83–6), formulated as Roundup Ultra and Ultra RT (both are 41% active ingredient) to treat up to 19,685 acres of dry peas, lentils, and chickpeas to control Canada Thistle. The growing areas in Washington to be treated are Adams, Benton, Columbia, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties. Most application will occur in Whitman county followed by Spokane county. This is the fourth year this use has been requested, and it has been allowed under section 18 for the past 3 years. Since this request proposes a use which has been requested or granted in any three previous years, and a complete application for registration and petition for tolerance has not yet been submitted to the Agency, EPA is soliciting public comment before making the decision whether or not to grant the exemption, in accordance with 40 CFR 166.24(a)(6).

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

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181062,'' should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instruction under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted or any comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be included in the public record by EPA without prior notice.

The public docket is available for public inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jackie Mosby-Gwaltney, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Rm. 274, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–6792); e-mail: gwaltney.jackie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of glyphosate on dry peas, lentils, and chickpeas to control Canada thistle. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, Canada thistle is a severe threat to Eastern Washington croplands due to a combination of weather and environmental conditions that encouraged its excessive spread and growth. There had been an increase in Canada thistles in the fall of 1997 because of irregular growing conditions which resulted in poor timing of glyphosate applications. The long wet spring of 1997 delayed seeding and applications to kill Canada thistles until late in the season. This period was followed by a long period of dry heat (drought) which made chemical applications less effective, and a large crop of Canada thistles went to seed. The warm weather conditions in 1997 encouraged early thistle growth. The weather and environmental conditions in 1997 threaten a severe outbreak of the weed in 1998. This occurrence would greatly and negatively impact dry pea, lentil, and chickpea yields and would have a residual effect on wheat yields in subsequent years.

The use of glyphosate has been allowed under section 18 for the past 3 years, and the Applicant states that alternative controls are not adequate to prevent significant economic losses due to damage and contamination problems from Canada thistles. Under the proposed exemption, glyphosate would be applied at a rate of two – three quarts of formulated product per acre, which is 2–3 lbs., active ingredient (a.i.) per acre. The maximum number of applications allowed is one, and the total number of acres to be treated is 19,685. At the maximum rate and maximum acreage, 14,764 gallons of formulation could potentially be used.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing a use which has been requested or granted in any three previous years, and a complete application for registration and or tolerance petition has not been submitted to the Agency [40 CFR 166.24 (a)(6)]. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP-181062] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

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

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in

WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181062]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Washington Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: April 17, 1998

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–11137 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6004–2]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Queen Street Dump Site, BOSCAWEN, NH

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into a settlement agreement to address certain claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* Notification is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve certain liabilities under CERCLA of the Town of Boscawen, New Hampshire for costs incurred, and to be incurred, by EPA in response activities at the Queen Street Dump Site (the ''Site'') in Boscawen, New Hampshire.

DATES: Comments must be provided on or before May 27, 1998.

ADDRESSES: Comments should be addressed to Ms. MaryAnne Gavin, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts 02203, and should refer to: In the Matter of the Queen Street Dump Site, Town of Boscawen, New Hampshire, U.S. EPA Docket Number CERCLA I–98–1018.

FOR FURTHER INFORMATION CONTACT: Steve Novick, U.S. Environmental Protection Agency, Office of Site Remediation and Restoration, J.F.K. Federal Building, Mailcode HBR, Boston, Massachusetts 02203, (617) 573–9671.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notification is hereby given of a proposed settlement agreement under section 122(h) of CERCLA, 42 U.S.C. 9622(h), concerning the Queen Street Dump Site in Boscawen, New Hampshire. The settlement has been approved by EPA Region I, subject to review by the public pursuant to this document. The Town of Boscawen, NH has executed a signature page committing it to participate in the settlement. Under the proposed settlement, the Town will conduct certain time-critical removal activities at the Queen Street site, and permanently close a related site called the Corn Hill Landfill. The value of these activities is currently estimated at a total of $1,987,000. EPA also intends to conduct certain time-critical work at the Queen Street site, in accordance with an Action Memorandum issued on March 13, 1998. EPA's work is currently valued at approximately $550,000. In addition, EPA's past costs for this site are estimated at $37,000. The settlement provides the Town with a covenant not to sue for all past costs, and for future costs not to exceed $550,000.

EPA is entering into the covenant not to sue portion of the agreement under the authority of CERCLA section 122(h), 42 U.S.C. 9622(h), which provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA, 42 U.S.C. 9607, for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. Written approval of this settlement by the U.S. Department of Justice is required, pursuant to section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1). EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this document.

A copy of the proposed administrative settlement may be obtained in person or by mail from Steve Novick, U.S. Environmental Protection Agency, Office of Site Remediation and Restoration, Mailcode HBR, Boston, Massachusetts 02203, (617) 573–9671.

The Agency's response to any comments received will be available for public inspection with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts (U.S. EPA Docket No. CERCLA I–98–1018).

Dated: March 24, 1998.

Harley F. Laing,

Director of the Office of Site Remediation and Restoration.

[FR Doc. 98–11141 Filed 4–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

April 20, 1998

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments June 26, 1998.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0827.

Title: Request for Radio Station License Update.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households; business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 172,000.

Estimated Time Per Response: 30 minutes.

Total Annual Burden: 86,000 hours.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: The information obtained will be used to update the Commission's databases to ensure that each license reflects the correct administrative and technical data. The request also reminds licensees of the requirements to file applications for modification, if needed, to submit invalid licenses for cancellation and to keep the Commission informed of any changes in mailing address. This verification and collection of information is being done at this time in preparation of the conversion to the Universal License System. It is the Commission's goal to have the most accurate, up-to-date information available prior to conversion of data.

OMB Approval Number: 3060–XXXX.

Title: Notice of Proposed Rulemaking - MDS and ITFS Two-Way Transmissions.

Form No.: FCC Form 304 and FCC Form 330.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 3,550.

Frequency of Response: On occasion reporting requirement.

Estimated Time Per Response: 5 - 55 hours.

Total Annual Burden: 17,750 hours.

Cost to Respondents: $8,155,000.

Needs and Uses: The Commission has adopted a Notice of Proposed Rulemaking (NPRM) in MM Docket No. 97–217 and has published in the Federal Register a summary (62 FR 60025, 11/6/97) of this rulemaking to determine whether, and if so, how, to amend its rules to promote the ability of MDS and ITFS licensees to provide two-way digital services. The objective of this proceeding is to encourage the efficient use of the spectrum allotted to MDS and ITFS by simplifying our current two-way licensing system and providing greater flexibility in the use of the allotted spectrum where such flexibility would best serve the needs of the public. In addition, we intend to enhance the competitiveness of the wireless cable industry and the resultant choices available to consumers, and to increase Internet access for educational institutions and their students via ITFS frequencies.

OMB Approval Number: 3060–XXXX.

Title: Application for Transfer of Control of Multipoint Distribution Service Authorization.

Form No.: FCC Form 306.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions.

Number of Respondents: 20.

Frequency of Response: On occasion reporting requirement.

Estimated Time Per Response: 58 hours (2.0 hours-licensee; 15.2 hours-transferor; 40.8 hours-transferree).

Total Annual Burden: 110 hours.

Cost to Respondents: $211,190.

Needs and Uses: The Commission has developed a new FCC Form 306 application which streamlines the application process for transfer of control of a Multipoint Distribution Service (''MDS'') authorization. This new form will replace FCC Form 704 (3060–0048) for MDS facilities governed by 47 CFR Part 21. The new FCC Form 306 will collect only the information required to evaluate a proposed transferee's qualifications to become a Commission MDS licensee. This new form has been developed to accommodate electronic filing of a transfer of control of an authorization for MDS applicants.

FCC Form 306 is to be used to apply for authority to transfer control of an MDS authorization pursuant to 47 CFR Sections 21.11, 21.38, and 21.39. The data is used by FCC staff in determining if the applicant is qualified to become a Commission licensee or permittee and to carry out the statutory provisions of Section 310(d) of the Communications Act of 1934, as amended.

OMB Approval Number: 3060–0010.

Title: Ownership Report.

Form No.: FCC Form 323.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10,020.

Frequency of Response: On occasion and annual reporting requirement.

Estimated Time Per Response: 1 –7 hours (1 hour certifications (0.5 hours-respondent/0.5 hours attorney); 7 hours annual reports and all other reports (1 hour-respondent/6 hours attorney)).

Total Annual Burden: 9,106 hours.

Cost to Respondents: $10,258,410.

Needs and Uses: Each permittee of a commercial AM, FM, TV and international broadcast station shall file an Ownership Report (FCC Form 323) within 30 days of the date of grant by the FCC of an application for an original construction permit or the consummation, pursuant to Commission consent, of a transfer of control or an assignment of license. A permittee is also required to file another report or to certify that it has reviewed its current Report on file and that it is accurate, in lieu of filing a new report, when the permittee applies for a station license. Each licensee of a commercial AM, FM and TV broadcast station shall file a Report annually. Each licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. The data is used by FCC staff to determine whether the licensee/permittee is abiding by the multiple ownership requirements as set down by the Commission's Rules and is in compliance with the Communications Act.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–11099 Filed 4–24–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Approved by Office of Management and Budget

April 20, 1998

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Jerry Cowden, Federal

Communications Commission, (202) 418–0447.

Federal Communications Commission.

OMB Control No.: 3060–0253.
Expiration Date: 04/30/2001.
Title: Part 68 - Connection of Telephone Equipment to the Telephone Network (Sections 68.106, 68.108, 68.110).
Form Number: Not applicable.
Estimated Annual Burden: 3,270 hours; 0.057 hour (average) per respondent; 57,540 respondents.
Description: These collections are designed to prevent harm to the telephone network when customer-provided equipment is connected to telephone company lines and assures that customers will not overload the telephone lines with excessive equipment which would degrade service to the customers and others. Telephone companies and persons connecting certain equipment to the network are the affected public.
OMB Control No.: 3060–0320.
Expiration Date: 04/30/2001.
Title: Section 73.1350 - Transmission System Operation.
Form Number: Not applicable.
Estimated Annual Burden: 209 hours; 0.5 hour per respondent; 417 respondents.
Description: Section 73.1350 requires licensees of broadcast stations to notify the Commission whenever a transmission system control point is established at a location other than the main studio or transmitter. The data is used by FCC staff to maintain operating information regarding licensees in the event that FCC field staff needs to contact a station about interference.
OMB Control No.: 3060–0627.
Expiration Date: 04/30/2001.
Title: Application for AM Broadcast Station License.
Form Number: FCC 302–AM.
Estimated Annual Burden: 4,400 hours; 12.57 hours (average) per response; 350 respondents.
Description: FCC 302–AM is used by licensees when applying for a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit. Data is then extracted for inclusion in the subsequent license to operate the station.
OMB Control No.: 3060–0634.
Expiration Date: 04/30/2001.
Title: Section 73.691 - Visual Modulation Monitoring.
Form Number: Not applicable.
Estimated Annual Burden: 70 hours; 1 hour per response; 35 respondents (2 notifications per respondent).
Description: Section 73.691 requires TV stations to enter into the station log the date and time of initial technical problems that make it impossible to operate TV station in accordance with timing and carrier level tolerance requirements. If variance will exceed 10 days, notification must be sent to FCC. Notification must also be sent to FCC upon restoration of normal operations. Data is used by FCC staff to maintain technical information about station operation in the event a complaint is received from the public regarding station operations.

Federal Communications Commission.
William F. Caton,
Deputy Secretary.
[FR Doc. 98–11100 Filed 4–24–98; 8:45 am]
BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2270]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

April 21, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed May 12, 1998. See § 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Streamlining Broadcast EEO Rules and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules To Include EEO Forfeiture Guidelines (CC Docket No. 96–16)

Number of Petitions Filed: 1.

Subject: Implementation of Section 703(e) of the Telecommunications Act of 1996; Amendment of the Commission's Rules and Policies Governing Pole Attachments (CC Docket 97–151).

Number of Petitions Filed: 9.

Federal Communications Commission.
William F. Caton,
Deputy Secretary.
[FR Doc. 98–11011 Filed 4–24–98; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies; Report to Congressional Committees

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Report to the Committee on Banking and Financial Services of the U.S. House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the United States Senate Regarding Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies.

SUMMARY: This report has been prepared by the FDIC pursuant to Section 37(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(c)). Section 37(c) requires each federal banking agency to report to the Committee on Banking and Financial Services of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate any differences between any accounting or capital standard used by such agency and any accounting or capital standard used by any other such agency. The report must also contain an explanation of the reasons for any discrepancy in such accounting and capital standards and must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, telephone (202) 898–8906.

SUPPLEMENTARY INFORMATION: The text of the report follows:

Report to the Committee on Banking and Financial Services of the U.S. House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the United States Senate Regarding Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies

A. Introduction

This report has been prepared by the Federal Deposit Insurance Corporation (FDIC) pursuant to Section 37(c) of the Federal Deposit Insurance Act, which requires the agency to submit a report to specified Congressional Committees describing any differences in regulatory

capital and accounting standards among the federal banking and thrift agencies, including an explanation of the reasons for these differences. Section 37(c) also requires the FDIC to publish this report in the **Federal Register**. This report covers differences existing during 1997 and developments affecting these differences.

The FDIC, the Board of Governors of the Federal Reserve System (FRB), and the Office of the Comptroller of the Currency (OCC) (hereafter, the banking agencies) have substantially similar leverage and risk-based capital standards. While the Office of Thrift Supervision (OTS) employs a regulatory capital framework that also includes leverage and risk-based capital requirements, it differs in several respects from that of the banking agencies. Nevertheless, the agencies view the leverage and risk-based capital requirements as minimum standards and most institutions are expected to operate with capital levels well above the minimums, particularly those institutions that are expanding or experiencing unusual or high levels of risk.

The banking agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have developed uniform Reports of Condition and Income (Call Reports) for all commercial banks and FDIC-supervised savings banks. Effective with the March 31, 1997, report date, the FFIEC and the banking agencies adopted generally accepted accounting principles (GAAP) as the reporting basis for the balance sheet, income statement, and related schedules in the Call Report. Prior to 1997, the reporting standards for the bank Call Report were substantially consistent with GAAP. In the limited number of cases where the bank Call Report standards differed from GAAP, the regulatory reporting requirements were intended to be more conservative than GAAP. Adopting GAAP as the reporting basis for recognition and measurement purposes in the basic schedules of the Call Report was designed to eliminate these differences, thereby producing greater consistency in the information collected in bank Call Reports and general purpose financial statements and reducing regulatory burden.

The OTS requires each savings association to file the Thrift Financial Report (TFR), the reporting standards for which are consistent with GAAP. Thus, through year-end 1996, the reporting standards applicable to the bank Call Report differed in some respects from the reporting standards applicable to the TFR. However, with the banking agencies' move to GAAP for Call Report purposes in 1997, the most significant differences in reporting standards among the agencies that were cited in previous reports have been eliminated.[1]

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803) requires the banking agencies and the OTS to conduct a systematic review of their regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate inconsistencies. It also directs the four agencies to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. The results of these efforts must be ''consistent with the principles of safety and soundness, statutory law and policy, and the public interest.'' The four agencies' efforts to eliminate existing differences among their regulatory capital standards as part of the Section 303 review are discussed in the following section.

B. Differences in Capital Standards Among the Federal Banking and Thrift Agencies

B.1. Minimum Leverage Capital

The banking agencies have established leverage capital standards based upon the definition of Tier 1 (or core) capital contained in their risk-based capital standards. These standards require the most highly-rated banks (i.e., those with a composite rating of ''1'' under the Uniform Financial Institutions Rating System (UFIRS)) to maintain a minimum leverage capital ratio of at least 3 percent if they are not anticipating or experiencing any significant growth and meet certain other conditions. All other banks must maintain a minimum leverage capital ratio that is at least 100 to 200 basis points above this minimum (i.e., an absolute minimum leverage ratio of not less than 4 percent).

The OTS has a 3 percent core capital and a 1.5 percent tangible capital leverage requirement for savings associations. However, the OTS' Prompt Corrective Action rule requires a savings association to have a 4 percent leverage capital ratio (or a 3 percent leverage capital ratio if it is rated a composite ''1'' under the UFIRS) in order for the association to be considered ''adequately capitalized.'' Consequently, the 4 percent leverage capital ratio is, in effect, the controlling leverage capital standard for savings associations other than those rated a composite ''1.''

As a result of the agencies' Section 303 review of their regulatory capital standards, the agencies issued a proposal for public comment on October 27, 1997, that, among other provisions, would establish a uniform leverage requirement. As proposed, institutions rated a composite 1 under the Uniform Financial Institutions Rating System would be subject to a minimum 3 percent leverage ratio and all other institutions would be subject to a minimum 4 percent leverage ratio. This change would simplify and streamline the agencies' leverage rules and make them uniform. The comment period for the proposal ended on December 26, 1997.

B.2. Interest Rate Risk

Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 mandates that the agencies' risk-based capital standards take adequate account of interest rate risk. In August 1995, each of the banking agencies amended its capital standards to specifically include an assessment of a bank's interest rate risk, as measured by its exposure to declines in the economic value of its capital due to changes in interest rates, in the evaluation of bank capital adequacy. In June 1996, the banking agencies issued a Joint Agency Policy Statement on Interest Rate Risk which provides guidance on sound practices for managing interest rate risk. This policy statement does not establish a standardized measure of interest rate risk nor does it create an explicit capital charge for interest rate risk. Instead, the policy statement identifies the standards that the banking agencies will use to evaluate the adequacy and effectiveness of a bank's interest rate risk management.

In 1993, the OTS adopted a final rule which adds an interest rate risk component to its risk-based capital standards. Under this rule, savings associations with a greater than normal interest rate exposure must take a deduction from the total capital available to meet their risk-based capital requirement. The deduction is equal to one half of the difference between the institution's actual measured exposure and the normal level of exposure. The OTS has partially implemented this rule by formalizing the review of interest rate risk; however, no deductions from capital are being made. As described above, the approach adopted by the banking agencies differs from that of the OTS.

[1] In the following areas, differences in reporting standards between the banking agencies and the OTS were eliminated in 1997: sales of assets with recourse, futures and forward contracts, excess servicing fees, offsetting of assets and liabilities, and in-substance defeasance of debt.

B.3. Subsidiaries

The banking agencies generally consolidate all significant majority-owned subsidiaries of the parent bank for regulatory capital purposes. The purpose of this practice is to assure that capital requirements are related to all of the risks to which the bank is exposed. For subsidiaries which are not consolidated on a line-for-line basis, their balance sheets may be consolidated on a pro-rata basis, bank investments in such subsidiaries may be deducted entirely from capital, or the investments may be risk-weighted at 100 percent, depending upon the circumstances. These options for handling subsidiaries for purposes of determining the capital adequacy of the parent bank provide the banking agencies with the flexibility necessary to ensure that institutions maintain capital levels that are commensurate with the actual risks involved.

Under the OTS' capital guidelines, a statutorily mandated distinction is drawn between subsidiaries engaged in activities that are permissible for national banks and subsidiaries engaged in ''impermissible'' activities for national banks. For regulatory capital purposes, subsidiaries of savings associations that engage only in permissible activities are consolidated on a line-for-line basis, if majority-owned, and on a pro rata basis, if ownership is between 5 percent and 50 percent. For subsidiaries that engage in impermissible activities, investments in, and loans to, such subsidiaries are deducted from assets and capital when determining the capital adequacy of the parent.

B.4. Servicing Assets and Intangible Assets

The banking agencies' rules permit mortgage servicing assets and purchased credit card relationships to count toward capital requirements, subject to certain limits. These two categories of assets are in the aggregate limited to 50 percent of Tier 1 capital. In addition, purchased credit card relationships alone are restricted to no more than 25 percent of an institution's Tier 1 capital. Any mortgage servicing assets and purchased credit card relationships that exceed these limits, as well as all other intangible assets such as goodwill and core deposit intangibles, are deducted from capital and assets in calculating an institution's Tier 1 capital.

The OTS's capital treatment of servicing assets and intangible assets is generally consistent with the banking agencies' rules. However, the OTS rule grandfathers core deposit intangibles acquired before February 1994 up to 25 percent of core capital and all purchased mortgage servicing rights acquired before February 1990.

B.5. Capital Requirements for Recourse Arrangements

B.5.a. Leverage Capital Requirements—With certain exceptions, the banking agencies required full leverage capital charges on assets sold with recourse through December 31, 1996. This leverage capital treatment applied to most assets sold with recourse because the banking agencies' pre-1997 regulatory reporting rules generally did not permit such assets to be removed from a bank's balance sheet. As a result, assets sold with recourse were included in the asset base used to calculate a bank's leverage capital ratio.

As a result of the adoption of GAAP as the reporting basis for bank Call Reports in 1997, banks have now joined savings associations in being able to remove assets transferred with recourse from their balance sheets if the transfers qualify for sale treatment under GAAP. Thus, banks, like savings associations, are not required to hold leverage capital against assets sold with recourse and this difference in capital standards was eliminated in 1997.

B.5.b. Senior-Subordinated Structures—Some asset securitization structures involve the creation of senior and subordinated classes of securities. When a bank originates such a transaction and retains the subordinated interest, the banking agencies generally require that the bank maintain risk-based capital against the entire amount of the asset pool unless the low-level recourse rule applies.[2] However, when a bank acquires a subordinated interest in a pool of assets that it did not own, the banking agencies assign the investment in the subordinated security to the 100 percent risk weight category.

In general, the OTS requires a thrift that holds the subordinated interest in a senior-subordinated structure to maintain capital against the entire amount of the underlying asset pool regardless of whether the subordinated interest has been retained or has been purchased.

On November 5, 1997, the banking and thrift agencies issued a proposal that, among other provisions, generally would treat both retained and purchased subordinated interests similarly for risk-based capital purposes, i.e., banks and thrifts would be required to hold capital against the subordinated interest plus all more senior interests unless the low-level recourse rule applies. The proposal also includes a multi-level approach to capital requirements for asset securitizations. The multi-level approach would vary the risk-based capital requirements for positions in securitizations, including subordinated interests, according to their relative risk exposure. For positions that are traded, the risk-based capital treatment would be based on credit ratings from nationally recognized rating agencies. For positions that are not traded, the proposal presents three alternative approaches for determining the risk-based capital requirements. In general, these alternative approaches would use ratings from two rating agencies, benchmark guidelines developed by the banking and thrift agencies, and statistical evaluations of historical loss data. The comment period for the proposal ended on February 3, 1998.

B.5.c. Recourse Servicing—The right to service loans and other financial assets may be retained when the assets are sold. This right also may be acquired from another entity. Regardless of whether servicing rights are retained or acquired, recourse is present whenever the servicer must absorb credit losses on the assets being serviced. The banking agencies and the OTS require risk-based capital to be maintained against the full amount of assets upon which a selling institution, as servicer, must absorb credit losses. Additionally, the OTS applies a capital charge to the full amount of assets being serviced by a thrift that has purchased the servicing from another party and is required to absorb credit losses on the assets being serviced.

The agencies' November 1997 risk-based capital proposal would require banking organizations that purchase loan servicing rights which provide loss protection to the owners of the serviced loans to begin to hold capital against those loans, thereby making the risk-based capital treatment of these servicing rights uniform for banks and savings associations.

B.6. Collateralized Transactions

The FRB and the OCC assign a zero percent risk weight to claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. Government or the central governments of countries that are members of the Organization of

[2] When assets are sold with limited recourse, the banking and thrift agencies' risk-based capital standards limit the amount of capital that must be maintained against this exposure to the lesser of the amount of the recourse retained (e.g., through the retention of a subordinated interest) or the amount of risk-based capital that would otherwise be required to be held against the assets, i.e., the full effective risk-based capital charge. This is known as the ''low-level recourse'' rule.

Economic Cooperation and Development (OECD), provided a positive margin of collateral protection is maintained daily.

The FDIC and the OTS assign a 20 percent risk weight to claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. Government or OECD central governments.

As part of the Section 303 review of their capital standards, the banking and thrift agencies issued a joint proposal in August 1996 that would permit collateralized claims that meet criteria that are uniform among all four agencies to be eligible for a zero percent risk weight. In general, this proposal would allow institutions supervised by the FDIC and the OTS to hold less capital for transactions collateralized by cash or U.S. or OECD government securities. The proposal would eliminate the differences among the agencies regarding the capital treatment of collateralized transactions.

B.7. Presold Residential Construction Loans

The four agencies assign a 50 percent risk weight to loans that a builder has obtained to finance the construction of one-to-four family residential properties. These properties must be presold, and the lending relationship must meet certain other criteria. The OTS and the OCC rules indicate that the property must be presold before the construction loan is made in order for the loan to qualify for the 50 percent risk weight. The FDIC and FRB permit loans to builders for residential construction to qualify for the 50 percent risk weight once the property is presold, even if that event occurs after the construction loan has been made.

As a result of their Section 303 review, the agencies' previously mentioned October 27, 1997, regulatory capital proposal includes a provision under which the OTS and the OCC would adopt the treatment of presold residential construction loans followed by the FDIC and the FRB. This would make the agencies' rules in this area uniform.

B.8. Junior Liens on One-to-Four Family Residential Properties

In some cases, a bank may make two loans on a single residential property, one secured by a first lien, the other by a second lien. In this situation, the FRB and the OTS view both loans as a single extension of credit secured by a first lien and assign the combined loan amount a 50 percent risk weight if this amount represents a prudent loan-to-value ratio. If the combined amount exceeds a prudent loan-to-value ratio, the loans are assigned to the 100 percent risk weight category. The FDIC also combines the first and second liens to determine the appropriateness of the loan-to-value ratio, but it applies the risk weights differently than the FRB and the OTS. If the combined loan amount represents a prudent loan-to-value ratio, the FDIC risk weights the first lien at 50 percent and the second lien at 100 percent; otherwise, both liens are risk-weighted at 100 percent. This combining of first and second liens is intended to avoid possible circumvention of the capital requirement and to capture the risks associated with the combined loans.

The OCC treats all first and second liens separately. It assigns the loan secured by the first lien, if it has been prudently underwritten, to the 50 percent risk weight category; otherwise, it assigns the loan to the 100 percent risk weight category. In all cases, the OCC assigns the loan secured by the second lien to the 100 percent risk weight category.

As a result of the Section 303 review of their capital standards, the agencies' October 27, 1997, proposal would extend the OCC's treatment of junior liens on one-to-four family residential properties to all four agencies and thereby eliminate this difference among the agencies.

B.9. Mutual Funds

The banking agencies assign the entire amount of a bank's holdings in a mutual fund to the risk category appropriate to the highest risk asset that a particular mutual fund is permitted to hold under its operating rules. Thus, the banking agencies take into account the maximum degree of risk to which a bank may be exposed when investing in a mutual fund because the composition and risk characteristics of the fund's future holdings cannot be known in advance. In no case, however, may a risk-weight of less than 20 percent be assigned to an investment in a mutual fund.

The OTS applies a capital charge appropriate to the riskiest asset that a mutual fund is actually holding at a particular time, but not less than 20 percent. In addition, both the OTS and the OCC guidelines also permit, on a case-by-case basis, investments in mutual funds to be allocated on a pro rata basis. However, the OTS and the OCC apply the pro rata allocation differently. While the OTS applies the allocation based on the actual holdings of the mutual fund, the OCC applies it based on the highest amount of holdings the fund is permitted to hold as set forth in its prospectus.

As part of the agencies' Section 303 review of their regulatory capital standards, one provision of their October 27, 1997, proposal would apply the banking agencies' treatment of mutual funds to all institutions. However, the proposal also would permit institutions, at their option, to adopt the OCC's pro rata allocation alternative for risk weighting investments in mutual funds. This proposal would make the agencies' risk-based capital rules in this area uniform, thereby eliminating this capital difference.

B.10. Noncumulative Perpetual Preferred Stock

Under the banking and thrift agencies' capital standards, noncumulative perpetual preferred stock is a component of Tier 1 capital. The FDIC's capital standards define noncumulative perpetual preferred stock as perpetual preferred stock where the issuer has the option to waive the payment of dividends and where the dividends so waived do not accumulate to future periods and do not represent a contingent claim on the issuer. Under the FRB's capital standards, perpetual preferred stock is noncumulative if the issuer has the ability and legal right to defer or eliminate preferred dividends. For these two agencies, for a perpetual preferred stock issue to be considered noncumulative, the issue may not permit the accruing or payment of unpaid dividends in any form, including the form of dividends payable in common stock. Thus, if the issuer of perpetual preferred stock is required to pay dividends in a form other than cash when cash dividends are not or cannot be paid, the issuer does not have the option to waive or eliminate dividends and the stock would not qualify as noncumulative. The OCC's capital standards do not explicitly define noncumulative perpetual preferred stock, but the OCC normally has not considered perpetual preferred stock issues with this type of dividend requirement to be noncumulative.

The OTS defines as noncumulative those issues of perpetual preferred stock where the unpaid dividends are not carried over to subsequent dividend periods. This definition does not address the issuer's ability to waive dividends. As a result, the OTS has permitted perpetual preferred stock issues that require the payment of dividends in the form of stock in the issuer when cash dividends are not paid to qualify as noncumulative.

B.11. Limitation on Subordinated Debt and Limited-Life Preferred Stock

Consistent with the Basle Accord, the banking agencies limit the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of Tier 2 capital to an amount not to exceed 50 percent of Tier 1 capital. In addition, all maturing capital instruments must be discounted by 20 percent in each of the last five years before maturity. The banking agencies adopted this approach in order to emphasize equity versus debt in the assessment of capital adequacy.

The OTS has no limitation on the ratio of maturing capital instruments as part of Tier 2 capital. Also, for all maturing instruments issued on or after November 7, 1989 (those issued before are grandfathered with respect to the discounting requirement), thrifts have the option of using either (a) the discounting approach used by the banking regulators, or (b) an approach which allows for the full inclusion of all such instruments provided that the amount maturing in any one year does not exceed 20 percent of the thrift's total capital.

B.12. Privately-Issued Mortgage-Backed Securities

The banking agencies, in general, place privately-issued mortgage-backed securities in either the 50 percent or 100 percent risk-weight category, depending upon the appropriate risk category of the underlying assets. However, privately-issued mortgage-backed securities, if collateralized by government agency or government-sponsored agency securities, are generally assigned to the 20 percent risk weight category.

The OTS assigns privately-issued high-quality mortgage-related securities to the 20 percent risk weight category. These are, generally, privately-issued mortgage-backed securities with AA or better investment ratings.

B.13. Other Mortgage-Backed Securities

The banking agencies and the OTS automatically assign to the 100 percent risk weight category certain mortgage-backed securities, including interest-only strips, principal-only strips, and residuals. However, once the OTS' interest rate risk amendments to its risk-based capital standards take effect, stripped mortgage-backed securities will be reassigned to the 20 percent or 50 percent risk weight category, depending upon these securities' characteristics. Residuals will remain in the 100 percent risk weight category.

B.14. Nonresidential Construction and Land Loans

The banking agencies assign loans for nonresidential real estate development and construction purposes to the 100 percent risk weight category. The OTS generally assigns these loans to the same 100 percent risk category. However, if the amount of the loan exceeds 80 percent of the fair value of the property, the excess portion is deducted from capital.

B.15. ''Covered Assets''

The banking agencies generally place assets subject to guarantee arrangements by the FDIC or the former Federal Savings and Loan Insurance Corporation in the 20 percent risk weight category. The OTS places these ''covered assets'' in the zero percent risk-weight category.

B.16. Pledged Deposits and Nonwithdrawable Accounts

Instruments such as pledged deposits, nonwithdrawable accounts, Income Capital Certificates, and Mutual Capital Certificates do not exist in the banking industry and are not addressed in the banking agencies' capital standards.

The OTS' capital standards permit savings associations to include pledged deposits and nonwithdrawable accounts that meet OTS criteria, Income Capital Certificates, and Mutual Capital Certificates in regulatory capital.

B.17. Agricultural Loan Loss Amortization

In the computation of regulatory capital, those banks accepted into the agricultural loan loss amortization program pursuant to Title VIII of the Competitive Equality Banking Act of 1987 may defer and amortize certain losses related to agricultural lending that were incurred on or before December 31, 1991. These losses must be amortized over seven years. The unamortized portion of these losses is included as an element of Tier 2 capital under the banking agencies' risk-based capital standards.

Thrifts were not eligible to participate in the agricultural loan loss amortization program established by this statute.

Because the banking agencies' agricultural loan loss amortization program ends on December 31, 1998, this difference will disappear on that date.

C. Differences in Accounting Standards Among the Federal Banking and Thrift Agencies

C.1. Push Down Accounting

Push down accounting is the establishment of a new accounting basis for a depository institution in its separate financial statements as a result of a substantive change in control. Under push down accounting, when a depository institution is acquired in a purchase (but not in a pooling of interests), yet retains its separate corporate existence, the assets and liabilities of the acquired institution are restated to their fair values as of the acquisition date. These values, including any goodwill, are reflected in the separate financial statements of the acquired institution as well as in any consolidated financial statements of the institution's parent.

The banking agencies require push down accounting when there is at least a 95 percent change in ownership. This approach is generally consistent with accounting interpretations issued by the staff of the Securities and Exchange Commission.

The OTS requires push down accounting when there is at least a 90 percent change in ownership.

C.2. Negative Goodwill

Under Accounting Principles Board Opinion No. 16, ''Business Combinations,'' negative goodwill arises when the fair value of the net assets acquired in a purchase business combination exceeds the cost of the acquisition and a portion of this excess remains after the values otherwise assignable to the acquired noncurrent assets have been reduced to zero.

The banking agencies require negative goodwill to be reported as a liability on the balance sheet and do not permit it to be netted against goodwill that is included as an asset. This ensures that all goodwill assets are deducted in regulatory capital calculations consistent with the internationally agreed-upon Basle Accord.

The OTS permits negative goodwill to offset goodwill assets on the balance sheet.

Dated at Washington, D.C., this 21th day of April, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–11028 Filed 4–24–98; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of a Matter To Be Withdrawn From Consideration at an Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the following matter will be withdrawn from the ''Discussion Agenda'' at the Federal Deposit Insurance Corporation's Board of Directors open meeting scheduled to be held at 10:00 a.m. on Tuesday, April 28, 1998:

Memorandum re: General Counsel Opinion Regarding Interest Charges by Interstate State Banks.

Dated: April 22, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–11196 Filed 4–23–98; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Early Hearing Detection and Intervention Teleconference meetings

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following bi-monthly meetings.

Name: Teleconference meetings of the Ad Hoc Group for Early Hearing Detection and Intervention (EHDI).

Times and Dates: 2 p.m.–3 p.m., May 5, 1998; 2 p.m.–3 p.m., July 7, 1998; 2 p.m.–3 p.m., September 1, 1998; 2 p.m.–3 p.m., November 3, 1998; 2 p.m.–3 p.m., January 5, 1999' 2 p.m.–3 p.m., March 2, 1999.

Place: National Center for Environmental Health, Division of Birth Defects and Developmental Disabilities, Room 2103A, Building 101, 4770 Buford Highway, NE, Atlanta, Georgia 30341, telephone 770/488–7400.

Status: Open for participation by anyone with an interest in EHDI. All participants in the bi-monthly conference calls are, by definition, members of the Ad Hoc Group for Early Hearing Detection and Intervention. Persons wishing to participate must e-mail (ehdi@cdc.gov) or fax (770/488–7361) their request. Within one week of each teleconference, participants will be notified of the toll-free teleconference phone number, a caller code and the agenda. Each participant will have the responsibility to call in to connect to the conference call.

Purpose: This meeting will provide a forum for persons associated with EHDI programs to report and review relevant activities. Each conference call will be comprised of a series of scheduled presentations. Each presentation will be followed by a brief question and answer period. The agenda for the conference call will be determined by the Division of Birth Defects and Developmental Disabilities in collaboration with the Office on Disability and Health, NCEH; the National Institute on Deafness and Communicative Disorders, National Institutes of Health; the Bureau of Maternal and Child Health, Health Resources and Services Administration; Office of Special Education and Rehabilitative Services, Department of Education; and others interested in early hearing detection programs. Suggestions and feedback are invited by the conference call planners. Participants requesting to be on the agenda or to make written comments can send their requests or comments to the e-mail address or fax numbers noted above.

Matters to be Discussed: Topics to be discussed during the meetings include progress on State and National activities to implement EHDI programs; progress on establishing State and National data systems on EHDI; and guidelines for establishing screening, diagnosis, and intervention protocols.

Contact Person for More Information: June Holstrum, Ph.D., Division of Birth Defects and Developmental Disabilities, NCEH, CDC, 4770 Buford Highway, NE, M/S F–15, Atlanta, Georgia 30341, telephone 770/488–7401, e-mail ehdi@cdc.gov, fax 770/488–7361.

Dated: April 21, 1998.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–11065 Filed 4–24–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastrointestinal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastrointestinal Drugs 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 May 28 and 29, 1998, 9 a.m. to 5 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 419–259–6211, or John B. Schupp (HFD–21), 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12538. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 28, 1998, the committee will discuss biologics license application, 98–0012, Centocor, Inc.'s, *Avakine*™ (Infliximab), for treatment of patients with Crohn's disease. An indication is sought to: (1) Reduce signs and symptoms in patients with moderate to severe disease activity in whom conventional therapies are inadequate, and (2) close entercutaneous fistulas. On May 29, 1998, the committee will hold a general discussion on guidance for the study of drugs to treat Crohn's disease.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 21, 1998. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.m., on May 28, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 21, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 17, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–11087 Filed 4–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042098F]

Endangered Species; Permits

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

ACTION: Notice of receipt of application for a scientific research permit (1144).

SUMMARY: Notice is hereby given that Bruce D. Peery, Micheal J. Bresette, and Jonathan C. Gorham have applied in due form for a scientific research permit (1144) to take listed sea turtles.

DATES: Written comments or requests for a public hearing on this application must be received on or before May 27, 1998.

ADDRESSES: The application and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

Written comments, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: Bruce D. Peery, Micheal J. Bresette, and Jonathan C. Gorham request a scientific research permit under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

The applicants request a one-year scientific research permit to take listed sea turtles. Up to 100 green (*Chelonia mydas*) and 50 loggerhead (*Caretta caretta*) turtles will be taken in large mesh tangle nets for the purposes of assessing the population densities and dynamics, and to attain growth rates of sea turtles that utilize the southern Indian River Lagoon System, Florida. Captured turtles will be weighed, photographed, measured, tagged, and released.

Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: April 21, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–11018 Filed 4–24–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–379]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* The Financial Statement of Debtor and Supporting regulation 42 CFR 405.376; *Form No.:* HCFA–379, OMB #0938–0270; *Use:* This form is used to collect financial information which is needed to evaluate requests from physician/suppliers to pay indebtness under extended repayment schedule, or to compromise a debt for less than the full amount. *Frequency:* As needed; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 20, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–11124 Filed 4–24–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–118]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement without change of a previously approved collection for which approval has expired; *Title of Information Collection:* Peer Review Organization Contracts; Solicitation Statements of Interest from In-State Organizations, General Notice; *Form No.:* HCFA–R–118; *Use:* This notice is a solicitation of sources sought for the procurement of medical review services. This information is required for potential contractors to demonstrate that they meet the statutory requirements as a Peer Review Organization; *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Total Annual Hours:* 1.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or E-mail your request, including your address

and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 20, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–11125 Filed 4–24–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–211]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request. Reinstatement, with change of a previously approved collection for which approval has expired; *Title of Information Collection:* State Child Health Plan and Supporting Information Collection Requirements Referenced in Title XXI of the Social Security Act; *Form No.:* HCFA–R–211, OMB #0938–0707; *Use:* This revised Model template will enable states to apply for funds under Title XXI of the Social Security Act, to initiate and expand the provision of child health insurance to uninsured, low income children in a effective and efficient manner that is coordinated with other sources of health coverage for children; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 8,960.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 20, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–11126 Filed 4–24–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Long WAP Promoter in Mammary Tissue of Transgenic Animals

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 07/943,246, filed September 10, 1992, entitled ''Expression of Active Protein C in Mammary Tissue of Transgenic Animals Using a Long WAP Promoter'' to the American Red Cross having a place of business in Rockville, Maryland. The patent rights in these inventions have been assigned to the United States of America.

The field of use will be the use of the invention for the production in transgenic animals of factor VIII, factor IX, fibrinogen, Protein C, and von Willebrand factor.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 26, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852–3804; Telephone: (301) 496–7735, ext. 223; Facsimile: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The patent application claims a transgenic, non-human mammal containing an exogenous DNA sequence that has the 5′ 4.2 kb promoter fragment of the mouse whey acid protein (WAP) gene, or a variant thereof, operably linked to a DNA sequence encoding an active polypeptide and a signal peptide, such that the WAP promoter is specifically active in mammary cells and the signal peptide is effective in directing the secretion of the polypeptide into the milk of the transgenic animal. The invention goes on to describe a process for the production of the polypeptide by using the promoter and the signal peptide to produce the desired polypeptide in the milk of the transgenic animal, collecting the milk, and isolating the polypeptide therefrom.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 17, 1998.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–11112 Filed 4–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Short WAP Promoter in Mammary Tissue of Transgenic Animals

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 08/246,259, filed May 19, 1994, entitled ''Transgenic Animals Secreting Desired Proteins Into Milk'' to the American Red Cross having a place of business in Rockville, Maryland. The patent rights in these inventions have been assigned to the United States of America.

The field of use will be the use of the invention for the production in transgenic animals of factor VIII, factor IX, fibrinogen, Protein C, and von Willebrand factor.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 26, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852–3804; Telephone: (301) 496–7735, ext. 223; Facsimile: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The patent application claims a transgenic, non-human mammal containing a gene that encodes a protein, the gene being under the transcriptional control of a mammalian milk protein promoter which does not naturally control the transcription of the gene, the DNA sequence further including DNA enabling secretion of the protein. The promoter can be that of a milk serum protein, which includes the whey acid protein (WAP) or a casein protein. The invention permits the production of a desired protein in a living domesticated mammal, which is capable not only of producing the desired protein, but preferably of passing on the ability to do so to its female offspring. The present invention specifically includes an exogenous DNA sequence that has the 5′ 2.6 kb promoter fragment of the mouse whey acid protein (WAP) gene.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 17, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–11115 Filed 4–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Long WAP Promoter in Mammary Tissue of Transgenic Animals

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 07/943,246, filed September 10, 1992, entitled ''Expression of Active Protein C in Mammary Tissue of Transgenic Animals Using a Long WAP Promoter'' to Genzyme Transgenics Corporation, having a place of business in Framingham, Massachusetts. The patent rights in these inventions have been assigned to the United States of America.

The field of use will be the use of the invention for the production in transgenic animals of alpha interferon, alpha-1 proteinase inhibitor, angiogenin, antithrombin III, beta interferon, calf intestine alkaline phosphatase, cystic fibrosis transmembrane regulator, Factor X, glutamic acid decarboxylase, human growth hormone, human serum albumin, insulin, lactoferrin, longer acting tissue plasminogen activator, myelin basic protein, pro-insulin, prolactin, soluble CD4 HIV receptor, tissue plasminogen activator, the recombinant monoclonal antibody against Lewis Y antigen designated BR96, and the monoclonal antibody designated CTLA4 Ig.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 26, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852–3804; Telephone: (301) 496–7735, ext. 223; Facsimile: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The patent application claims a transgenic, non-human mammal containing an exogenous DNA sequence that has the 5′ 4.2 kb promoter fragment of the mouse whey acid protein (WAP) gene, or a variant thereof, operably linked to a DNA sequence encoding an active polypeptide and a signal peptide, such that the WAP promoter is specifically active in mammary cells and the signal peptide is effective in directing the secretion of the polypeptide into the milk of the transgenic animal. The invention goes on to describe a process for the production of the polypeptide by using the promoter and the signal peptide to produce the desired polypeptide in the milk of the

transgenic animal, collecting the milk, and isolating the polypeptide therefrom.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 17, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–11113 Filed 4–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Short WAP Promoter in Mammary Tissue of Transgenic Animals

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 08/246,259, filed May 19, 1994, entitled ''Transgenic Animals Secreting Desired Proteins Into Milk'' to Genzyme Transgenics Corporation, having a place of business in Framingham, Massachusetts. The patent rights in these inventions have been assigned to the United States of America.

The field of use will be the use of the invention for the production in transgenic animals of alpha interferon, alpha-1 proteinase inhibitor, angiogenin, antithrombin III, beta interferon, calf intestine alkaline phosphatase, cystic fibrosis transmembrane regulator, Factor X, glutamic acid decarboxylase, human growth hormone, human serum albumin, insulin, longer acting tissue plasminogen activator, myelin basic protein, pro-insulin, prolactin, tissue plasminogen activator, soluble CD4 HIV receptor, the recombinant monoclonal antibody against Lewis Y antigen designated BR96, and the monoclonal antibody designated CTLA4 Ig.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 26, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852–3804; Telephone (301) 496–7735, ext. 223; Facsimile: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The patent application claims a transgenic, non-human mammal containing a gene that encodes a protein, the gene being under the transcriptional control of a mammalian milk protein promoter which does not naturally control the transcription of the gene, the DNA sequence further including DNA enabling secretion of the protein. The promoter can be that of a milk serum protein, which includes the whey acid protein (WAP) or a casein protein. The invention permits the production of a desired protein in a living domesticated mammal, which is capable not only of producing the desired protein, but preferably of passing on the ability to do so to its female offspring. The present invention specifically includes an exogenous DNA sequence that has the 5' 2.6 kb promoter fragment of hte mouse whey acid protein (WAP) gene.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 17, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–11114 Filed 4–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Spectroscopic Imaging Device Employing Imaging Quality Spectral Filters

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(I) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in U.S. Patent Number 5,377,003 and U.S. Patent Application Number 08/996,497, entitled ''Spectroscopic Imaging Device Employing Imaging Quality Spectral Filters'', to Spectral Dimensions, Inc., having a place of business in Boston, Massachusetts. The patent rights in this application have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 and may be limited to the field of use of veterinary and human clinical diagnosis.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 26, 1998 will be considered.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments, and other materials relating to the contemplating license should be directed to: John Fahner-Vihtelic, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7735 ext. 270; Fax: 301/402–0220; e-mail: jf36z@nih.gov. A signed Confidentiality Agreement will be required to review copies of the patent application.

SUPPLEMENTARY INFORMATION: The present technology is a novel imaging device and methodology which integrates both light microscopy and spectroscopy. This invention allows for the cost-effective development of high-resolution spatial, chemical, and spectral images. It provides a rapid means for examining and collecting large format images from vibrational and visible spectra in a three-dimensional sample. It is superior to current equipment because it has no moving parts. This device may be used as a tool for the characterization of polymers, semiconductors, contamination studies, analysis of diffusion and failure mechanisms, and has potential as a diagnostic tool of clinical analysis of histologic materials.

The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license.

Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 17, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–11111 Filed 4–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–00–B097; CACA 38636]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 5.00 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, Bureau of Land Management, California State Office, 2135 Butano Drive, Sacramento, California 95825, (916) 978–4677.

Mount Diablo Meridian

T. 33 N., R. 9 W.,
Sec. 17, E½SE¼NW¼NW¼.
County—Trinity
As Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: April 17, 1998.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 98–11063 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–985–0777–66; WY–142430]

Proposed Lease of Public Lands Under the Recreation and Public Purposes Act in Washakie County, Wyoming, Bighorn Basin Resource Area

ACTION: Notice of realty action.

SUMMARY: The following public lands near the community of Worland, Washakie County, Wyoming, have been examined and found suitable for classification for lease under the provisions of the Recreation and Public Purposes Act, as amended (43 United States Code 849 *et seq.*) The Washakie County Fair Board proposes to use the lands for an Olympic-style cross-country horse track and associated jumping facilities.

Sixth Principal Meridian

T. 48 N., R. 93 W.,
Sec. 8, S½SE¼SE¼NE¼, NE¼SE¼.
Sec. 9, E½W½SW¼NW¼,
E½SW¼NW¼, NW¼SW¼,
NW¼SW¼SW¼NW¼,
W½NW¼NW¼SE¼,
E½NE¼NE¼SW¼.

Containing 127.5 acres more or less.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Worland District Office, Steven R. Till, Realty Specialist, P.O. Box 119, Worland Wyoming 82401–0119, or telephone (307) 347–5100.

SUPPLEMENTARY INFORMATION: The lands are not needed for federal purposes. Lease of the lands would be consistent with current BLM land use planning and would be in the public interest.

The lease would be subject to the following terms and conditions:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights (for example, rights-of-way, permits and leases). Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Worland District, 101 S. 23rd Street, Worland, Wyoming.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed classification of the lands to the District Manager, Worland District Office, P.O. Box 119, Worland WY 82401–0119.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a cross-country horse track and associated jumping facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with state and federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper

administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a cross-country horse track and associated jumping facilities

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Comments, including names and street addresses of respondents will be available for public review at the Worland District Office, 101 South 23rd Street, Worland, Wyoming during regular business hours (7:30 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: April 20, 1998.

David Atkins,

Bighorn Basin Assistant Area Manager.

[FR Doc. 98–11067 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Discretionary Authority for Royalty Relief on Nonproducing Leases on the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice.

SUMMARY: The Deep Water Royalty Relief Act of 1995 (Act) granted the Secretary of the Interior (Secretary) the authority to reduce or eliminate royalties on producing or nonproducing leases in the Central and Western Gulf of Western Gulf of Mexico. On January 24, 1997, MMS published a Notice (62 FR 3714) seeking public input on whether and how MMS should implement that authority for nonproducing leases. This Notice summarizes comments received and presents the MMS decision not to implement the authority at this time.

FOR FURTHER INFORMATION CONTACT: Larry Maloney, Department of the Interior, Minerals Management Service; Mail Stop 4230; 1849 C Street NW; Washington, DC 20240; telephone number, (202) 208–5461; E-mail address, larry.maloney@mms.gov.

SUPPLEMENTARY INFORMATION:

Background

The Act (Pub. L. 104–58) authorized the Secretary to modify the royalty terms of certain exiting leases and to offer new leases subject to royalty suspension volumes in water depths of 200 meters or more in parts of the Gulf of Mexico. Most of the Act addresses mandatory royalty relief programs for leases in water depths of 200 meters or more. We implemented these provisions in rules covering new leases (63 FR 2626, January 16, 1998) and existing leases (63 FR 2605, January 16, 1998). The latter rule also established a royalty relief program for producing leases in all water depths and in all OCS areas.

The Act also provides for a discretionary royalty relief program. In part, section 302 of the Act amends section 8(a) of the OCS Lands Act by adding subparagraph (3)(B), which applies to all leases in the Gulf of Mexico west of 87 degrees, 30 minutes West longitude (i.e., the Central and Western Gulf of Mexico Planning Areas and the portion of the Eastern Gulf of Mexico Planning Area lying offshore Alabama). In this area, the Secretary may reduce or eliminate any royalty or net profit share in order to promote development, increase production, or encourage production of marginal resources on producing or nonproducing leases. This provision applies to active leases, not to the terms under which new leases are offered.

On January 24, 1997, MMS published a Notice seeking public input on whether and how MMS should implement that authority for nonproducing leases. We requested specific proposals, including information on the types of situations warranting royalty relief that cannot be addressed through existing programs; what criteria should be used in evaluating proposals; and, for any relief program recommended, specific information on its expected effects, including levels and costs of exploration, development, and production, and the volume of additional resources that may be recovered.

Comments Received

The following briefly summarizes the main points in comments submitted by the nine respondents to the January 24, 1997 **Federal Register** Notice.

- Five respondents (one oil and gas firm, one offshore service firm and three trade associations) strongly supported a program of royalty relief for nonproducing leases in the Central and Western Gulf, but did not offer comments on how MMS should implement such a program.
- One oil and gas firm supported the concept of royalty relief for OCS nonproducing leases. They believed that application of royalty relief should be based upon such factors as drill depth, pressure, and subsalt. The firm also stated that certainty of royalty relief early in the life of a project, before investment decisions are made, decreases the risk associated with evaluating business alternatives and increases the likelihood that the intent of the Deep Water Royalty Relief Act will be carried out.
- One trade association supported royalty relief for nonproducing leases. The association recommended that tracts not leased after initially being placed on the indicated hydrocarbon list be offered with a reduced royalty rate (i.e., from one-sixth to one-eighth the next time MMS offered the tracts for leasing.
- One oil and gas firm indicated that any royalty relief program established under this authority should grant relief only on a case-by-case basis using the same basic methodology established under the earlier program of royalty relief for existing deep water leases.
- Another trade association said that it might be wiser if MMS developed its thinking as to how such a program should be structured but defer implementation until market conditions signal a need for stimulative incentives. The association noted that conditions in the Gulf of Mexico are very robust and healthy and that the level of activity is so high that the infrastructure of tools, equipment, and trained personnel cannot meet all the demands placed on it.

Decision

After carefully considering public input and other information, we have decided not to implement, at this time, the statutory authority to reduce royalty rates on nonproducing leases in the Central and Western Gulf of Mexico. Our decision is based primarily on the fact that, in spite of lower oil prices, the oil and gas industry in the Gulf of Mexico is healthy and in little need of financial incentives at the present time.

Industry interest in acquiring relinquished leases is high. More than 50 percent of relinquished leases in the Gulf are re-leased within 3 years. In total, more than 80 percent of leases

relinquished have been re-leased. Thus, leases that may be uneconomic at today's oil and gas prices can be re-leased and developed later as economic, geologic, or technological conditions changes. In this case, allowing market conditions and future discoveries to determine the best time to explore and develop tracts is preferable to offering financial incentives for current development.

In addition, we considered other issues that would have impacts on implementing a sound program of royalty relief for nonproducing leases.

Auction and Tract Evaluation Process Impacts

Reducing royalties on nonproducing leases could distort the auction process because some losing bidders may have submitted higher bids had they known that lease royalty rates could be reduced. Also, the program would complicate fair market value determinations because lease stipulated royalty rates could change before the start of production.

Workload Impacts

The potential workload associated with a relief program could become burdensome and drain MMS resources from other important jobs. Even a program of categorical relief (i.e., one based on predetermined qualifying criteria such as drill depth or pressure) could create a significant new workload. Although certain criteria may have substantial impact on project costs, many factors ultimately determine a project's economic viability. The effort to develop comprehensive qualifying criteria and keep them up to date may actually create more of a workload for MMS than accepting applications on a case-by-case basis.

Revenue Impacts

We considered the proposal to offer certain relinquished tracts at a lower royalty rate. However, the relinquishment of a tract, even if it is on the indicated hydrocarbons list, and its failure to be re-leased at the next lease sale, are not absolute determinants of its current or future economic viability. Tracts in the Central and Western Gulf may be offered time and again. As noted earlier, tracts that are uneconomic at one time may be re-leased and developed with changes in oil and gas prices or advances in technology that reduce drilling and production costs or enhance ultimate resource recovery. In these cases, the government would receive royalties at the regular royalty rate plus any bonus received on re-leasing.

In summary, the economic climate for the oil and gas industry in the Gulf of Mexico does not warrant taking action at this time. We will continue to monitor activities in the Central and Western Gulf and will move to exercise the authority if changed conditions require it.

We welcome all comments on issues related to this Notice and will consider them in determining the nature and timing of future actions.

Dated: April 21, 1998.

Walter Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 98–11012 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico, Oil and Gas Lease Sale 171

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the proposed notice of sale.

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of the Proposed Notice of Sale for Proposed Oil and Gas Lease Sale 171 in the Western Gulf of Mexico. This Notice of Availability is published pursuant to 30 CFR 256.29(c), as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice of Sale for proposed Sale 171 may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone at (504) 736–2529.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 1998.

Dated: April 20, 1998.

Cynthia Quarterman,

Director, Minerals Management Service.

[FR Doc. 98–11019 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Buffalo National River, Arkansas; Concession Contract Negotiations

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing the continued overnight accommodations, food service facilities and vending machine services for the public at Buffalo National River for a period of five (5) years from January 1, 1999, through December 31, 2003.

EFFECTIVE DATE: June 26, 1998.

ADDRESSES: Interested parties should contact National Park Service, Buffalo National River, P.O. Box 1173, Harrison, Arkansas 72602–1173, or phone (870) 741–5443 to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which will expire by limitation of time on December 31, 1998, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat, 969; 16 U.S.C. 20, *et seq.*), is entitled to be given preference in the renewal of the contract and in the negotiation of a new proposed contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner. If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary of the Interior will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the

Superintendent of Buffalo National River no later than 4:30 p.m. CST (Central Standard Time) on July 6, 1998. For further information, please contact George Frederick, Chief, Concessions Management at Midwest Regional Office, 1709 Jackson, Omaha, NE 68102 or phone 402–221–3612.

Dated: April 20, 1998.

Catherine Damon,

Acting Regional Director, Midwest Region.

[FR Doc. 98–11083 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Draft Environmental Impact Statement, Capitol Reef National Park, UT

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of draft environmental impact statement and general management plan for Capitol Reef National Park.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement and General Management Plan (DEIS/GMP) for Capitol Reef National Park, Utah.

DATES: The DEIS/GMP will remain available for public review through July 1, 1998. If any public meetings are held concerning the DEIS/GMP, they will be announced at a later date.

ADDRESSES: Comments on the DEIS/GMP should be sent to the Superintendent, Capitol Reef National Park, HC 70 Box 15, Torrey, UT 84775. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Capitol Reef National Park, Telephone: (435) 425–3791 x101.

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80228, Telephone: (303) 969–2851.

Office of Public Affairs, National Park Service, Department of Interior, 8th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: The DEIS/GMP analyzes four alternatives to future direction of park resources management, to adaptive use of the Sleeping Rainbow Ranch, to interpretation of the Fruita Rural Historic District, and to amount of visitor services. Alternative A (preferred) is designed to protect and preserve exceptional resources, the quality of visitor experience, and the wilderness characteristics of certain portions of the park. Alternative B focuses on removing many existing developments to restore and enhance natural and historic resources and the wilderness qualities of the park. Alternative C continues actions identified in the 1982 General Management Plan which emphasizes visitor services and facilities, including development in some backcountry areas. Alternative D, the No Action Plan, would maintain visitor services and resource protection at current limited levels throughout the life of the plan.

The DEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on vegetation and wildlife, endangered species, scenic values, archeological and historic resources, visitor services, and economy of adjacent communities.

FOR FURTHER INFORMATION CONTACT: Contact Superintendent, Capitol Reef National Park, at the above address and telephone number.

Dated: April 8, 1998.

John E. Cook,

Director, Intermountain Region, National Park Service.

[FR Doc. 98–11082 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Plan of Operations and Environmental Assessment for Proposed Three Dimensional Seismic Testing at Jean Lafitte National Historical Park and Preserve, Barataria Preserve Unit, Louisiana

SUMMARY: Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Burlington Resources a Plan of Operations for the Couba Island 3–D Seismic Prospect encompassing a portion of the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve, located within Jefferson Parish, Louisiana.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the office of the Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana and will be sent upon written request.

DATES: This seismic operation is anticipated to take place during the months of April, May, or June and will last approximately six weeks within the park.

FOR FURTHER INFORMATION CONTACT: Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana 70130, Telephone: (504) 589–3882.

SUPPLEMENTARY INFORMATION: In compliance with 36 CFR Part 9B ''Non-federal Oil and Gas Rights,'' Burlington Resources Corporation is proposing to conduct a three dimensional seismic survey encompassing approximately 50 square miles in Jefferson and St. Charles Parishes, Louisiana. A portion of this proposed survey occupies an area of 5,760 acres within the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve. A Plan of Operation and Environmental Assessment has been prepared cooperatively by Burlington Resources and the National Park Service. This documents the actions required to accomplish the three dimensional seismic survey while avoiding and minimizing adverse environmental impact to park resources.

Dated: March 10, 1998.

Danielle Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 98–11084 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore, South Wellfleet, MA, Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 15, 1998.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 9:30 a.m. at Headquarters, Marconi Station,

Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meetings 01/23/98, 03/20/98
3. Reports of Officers
4. Report of Nickerson Subcommittee
5. Special Report: Pathways Project
6. Superintendent's Report
   Hatches Harbor, Airport
   Highlands Center for the Arts & Environment
   General Management Plan
   News from Washington
   New ORV Regulation
7. Old Business—Advisory Commission Handbook
   —Use & Occupancy Subcommittee status, extension or sunset
8. New Business
9. Agenda for next meeting
10. Date for next meeting
11. Public comment
12. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: April 17, 1998.

Maria Burks,

Superintendent.

[FR Doc. 98–11081 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Mississippi River Coordinating Commission Meeting

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE, TIME, AND ADDRESS: Wednesday, May 6, 1998; 2:00 p.m.; Council Chambers, Metropolitan Council, 230 East Fifth Street, St. Paul, Minnesota.

An agenda for the meeting will include discussion of the functions of the Mississippi River Coordinating Commission and the range of alternatives for accomplishing those functions after the Commission sunsets. Public statements about matters related to the Mississippi National River and Recreation Area (MNRAA) will be taken.

FOR FURTHER INFORMATION CONTACT: Superintendent JoAnn Kyral, MNRAA, 175 East Fifth Street, Suite 418, St. Paul, Minnesota 55101 (612–290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Pub. L. 100–696, dated November 18, 1988.

Dated: April 15, 1998.

Alan M. Hutchings,

Acting Regional Director, Midwest Region.

[FR Doc. 98–11078 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Agenda for the May 28th, 1998 Public Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park

Public Meeting, Fort Mason, Building F, 10:00 am–12:45 pm

10:00 am
   Welcome—Neil Chaitin, Chairman
   Opening Remarks—Neil Chaitin, Chairman, William G. Thomas, Superintendent
10:15 am
   Update—General Management Plan, Phase II Implementation, William G. Thomas
10:30 am
   Update—Haslett Warehouse, William G. Thomas, Superintendent
10:45 am
   Update—SAFR Space needs for: Haslett Warehouse, Building E, Space Update: Alameda Building Leasing Project
   Status—Port of Oakland, Bay Ship & Yacht, Drydock, Tom Mulhern, Museum Services Manager
11:00 am
   Status—Fiscal Year 98 Budget/Projects, Jeanne Haugh, Administrative Officer
11:15 am
   Status—Ship Preservation Update, Wayne Boykin, Ships Manager & Staff
11:45 am
   Update—Disaster Plan
   Status—Comprehensive Interpretive Plan, Marc Hayman, Chief IRM
12:00 pm
   Update—National Maritime Museum Association Projects, Kathy Lohan, Chief Executive Officer
12:15 pm
   Status—Associates of the National Maritime Museum Library—Programs/Projects, Ted Rausch, President
12:30 pm
   Public Comments and Questions
12:45 pm
   Agenda items/Date for next meeting

William G. Thomas,

Superintendent.

[FR Doc. 98–11079 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Clay County, SD in the Possession of the South Dakota State Archaeological Research Center, Rapid City, SD

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Clay County, SD 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 Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma and the Otoe-Missouria Tribe of Oklahoma.

In 1987, human remains representing one individual from the Vermillion Bluff Village (39CL1), Clay County, SD were identified in SARC collections during inventory procedures. No known individuals were identified. The two associated funerary objects include a lunate flint knife and a projectile point embedded in the scapula.

Between 1920-1930, ten individuals and funerary objects were donated to the Dakota Museum, University of South Dakota-Vermillion (now the W.H. Over Museum) by private property owners following their discovery during homes construction at the Vermillion Bluff Village site. These human remains and funerary objects were transferred to the SARC in 1974. In 1982, six of these individuals, identified as Sioux, were repatriated to Frank Fools Crow of the Oglala Sioux Tribe of the Pine Ridge Reservation. In 1986, four individuals were reburied in South Dakota by the

SARC. In 1987, additional remains and funerary objects from one individual included in the 1986 reburial were found in SARC collections.

Based on the associated funerary objects and cranial morphology, these human remains have been determined to be Native American. Based on manner of interments and material culture, the Vermillion Bluff Village has been identified as an occupation site with two archeological components, Oneota (1000 A.D.- contact period) and Historic (post-1800 A.D.). The cranial morphology of this individual exhibits physical characteristics consistent with people associated with the Oneota Aspect, such as the Ioway.

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 two 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 Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma and the Otoe-Missouria Tribe of Oklahoma.

This notice has been sent to officials of the Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma and the Otoe-Missouria Tribe of Oklahoma. 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, South Dakota State Archaeological Reserch Center, P.O. Box 1257, Rapid City, SD 57709-1257; telephone: (605) 394-1936, before May 27, 1998. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma and the Otoe-Missouria Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: April 21, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–11104 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Todd County, SD in the Possession of the South Dakota State Archaeological Research Center, Rapid City, SD

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Todd County, SD 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 Blackfeet Nation of Montana.

In 1989, following the notification of the SARC by the landowner, Clifford Klein, human remains representing one individual were recovered from the eroding bank of a stock dam in Todd County (39TD52), SD by James Haug, South Dakota State Archeologist, SARC. No known individuals were identified. No associated funerary objects were present.

Based on cranial morphology and dentition, this individual has been identified as Native American. Crainometric measurements of these human remains indicate they are consistent with present-day Blackfeet people. Consultation evidence including oral tradition provided by Blackfeet Nation representatives indicate that south-central South Dakota was part of their original territory, and they often conducted exchanges and trade in the area. Historical documents also mention Blackfeet travelling parties near the Black Hills with Gros Ventre (Atsina); and associations with Arapaho and Cheyenne in places as distant as the South Plains.

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 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Blackfeet Nation of Montana.

This notice has been sent to officials of the Blackfeet Nation of Montana. 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, South Dakota State Archaeological Research Center, P.O. Box 1257, Rapid City, SD 57709-1257; telephone: (605) 394-1936, before May 27, 1998. Repatriation of the human remains to the Blackfeet Nation of Montana may begin after that date if no additional claimants come forward.

Dated: April 21, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–11103 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Pierre, SD in the Possession of the South Dakota State Archaeological Research Center, Rapid City, SD

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Pierre, SD 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 Three Affiliated

Tribes of North Dakota and the Pawnee Tribe of Oklahoma.

In 1995, human remains representing one individual were placed in the vehicle of James A. Vanderloo, a volunteer firefighter by person(s) unknown during a fire call near Pierre, SD. These human remains were turned over to the SARC by Mr. Vanderloo during the same year. No known individuals were identified. No associated funerary objects are present.

Based on cranial morphology, these human remains have been determined to be Native American. Crainometric measurements indicate these human remains are consistent with Pawnee or Mandan populations. Further, based on etchings on the remains indicative of plant roots, the manner of interment is consistent with the inhumation of traditional Mandan practice. Consultation with representatives of the Three Affiliated Tribes indicates their aboriginal lands included northern South Dakota and southern North Dakota along the Missouri River.

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 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Three Affiliated Tribes of North Dakota.

This notice has been sent to officials of the Pawnee Tribe of Oklahoma and the Three Affiliated Tribes of North Dakota. 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, South Dakota State Archaeological Research Center, P.O. Box 1257, Rapid City, SD 57709-1257; telephone: (605) 394-1936, before May 27, 1998. Repatriation of the human remains to the Three Affiliated Tribes of North Dakota may begin after that date if no additional claimants come forward.

Dated: April 21, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–11105 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for the Procedures and Criteria for Approval or Disapproval of State Program Submissions at 30 CFR Part 732.

DATES: Comments on the proposed information collection must be received by June 26, 1998, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 732. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0024.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR Part 732.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The Information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: On occasion and annually.

Description of Respondents: 24 State regulatory authorities.

Total Annual Responses: 65.

Total Annual Burden Hours: 8,965.

Dated: April 21, 1998.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 98–11073 Filed 4–24–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy at 28 CFR 50.7, notice is hereby given that on April 8, 1998, a proposed consent decree in *United States* v. *AMOCO Oil Company,* Civil Action No. G98–173, was lodged with the United States District Court for the Southern District of Texas, simultaneously with the filing of a complaint by the United States. The complaint seeks injunctive relief and civil penalties for violations by defendant AMOCO of Sections 111, 112 and 114 of the Clean Air Act, 42 U.S.C. 7411, 7412 and 7414, including the National Emission Standards for Hazardous Air Pollutants (''NESHAPS'') for benzene, New Source Performance Standards (''NSPS''), and related reporting requirements, in connection with the operation of its petroleum refining complex in Texas City, Texas. Under the proposed consent decree, AMOCO agrees to pay a civil penalty of

$850,000.00 for these violations and to implement specific projects designed to reduce the benzene content of its waste streams and to bring the facility into compliance with the applicable regulatory requirements.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive written comments relating to the proposed consent decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *AMOCO Oil Company*, DOJ #90–5–2–1–2131.

The proposed consent decree may be examined at the offices of the United States Attorney for the Southern District of Texas, c/o U.S. Marshall Service, U.S. Courthouse, 515 Rusk, Houston, Texas, 77002 and at the office of the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202 (Attention: Rusty Herbert, Assistant Regional Counsel). A copy of the consent decree may also be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the decree may be obtained in person or by mail from the Consent Decree Library. Such requests should be accompanied by a check in the amount of $7.25 (25 cents per page reproduction charge) payable to ''Consent Decree Library''. When requesting copies, please refer to *United States* v. *AMOCO Oil Company*, DOJ #90–5–2–1–2131.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–11131 Filed 4–24–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that on April 14, 1998, a proposed *De Minimis* Consent Decree in *United States* v. *CertainTeed Corporation, et al.*, Civil Action No. 98–71586, was lodged with the United States District Court for the Eastern District of Michigan, Southern Division. This consent decree represents a settlement of claims of the United States against CertainTeed Corporation D/B/A Wolverine Technologies, Inc., United Paint & Chemical Corporation, and Brazeway, Inc., for reimbursement of response costs and injunctive relief in connection with the Metamora Landfill Superfund Site (''Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*

Under this settlement with the United States, CertainTeed Corporation will pay $841,612, United Paint & Chemical Corporation will pay $313,707, and Brazeway, Inc. will pay $388,761, for a total of $1,544,080, in reimbursement of response costs incurred by the United States Environmental Protection Agency at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *CertainTeed, et al.*, D.J. Ref. 90–11–3–289J.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, Southern Division, 211 West Fort Street, Suite 2300, Detroit, MI 48226, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $6.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–11133 Filed 4–24–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed Consent Decree (''Decree'') in *United States* v. *Sunbeam Outdoor Products*, Civil Action No. 96–0474–CV–W–2, was lodged on April 6, 1998, with the United States District Court for the Western District of Missouri.

The complaint alleges that defendant Sunbeam Outdoor Products (''Sunbeam'') violated Missouri Air Pollution Control Rule 10 CST 10–6.060(5) (''the Rule'') by constructing and then continuing to operate a paintline at each of its two Neosho, Missouri manufacturing plants without first obtaining the permits required by the Rule. EPA approved the Rule under Section 110 of the Clean Air Act (''CAA''), 42 U.S.C. 7410, making it federally enforceable under Section 113 of the CAA, 42 U.S.C. 7413. The complaint sought injunctive relief enjoining Sunbeam from further violations of the Rule, and civil penalties of up to $25,000 per day for each day Sunbeam violated the Rule.

Under the proposed Decree, Sunbeam shall pay the United States a civil penalty of $829,825.00, and refrain from further violating the CAA. Sunbeam further agrees to operate one or both of two powder paintlines that Sunbeam built at its Neosho plants as a result of this enforcement action for at least one year after the effective date of the proposed Decree. These powder paintlines, which cost Sunbeam approximately $8 million, were not necessary for Sunbeam to achieve compliance with the CAA. While the Decree remains in effect, Sunbeam shall not replace the paintlines, which substantially reduce the generation of air pollution from Sunbeam's Neosho plants, with other technology without express written permission from EPA.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Sunbeam Outdoor Products*, DOJ Ref. #90–5–2–1–2066.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Missouri, 1201 Walnut, Suite 2300, Kansas City, MO 64106–2149, (816) 426–3131; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7010; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a

check in the amount of $6.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–11132 Filed 4–23–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 150–98]

Privacy Act of 1974; Altered System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify and publish as a separate system of records, Subsystem N. of the Immigration and Naturalization Service Index System, Justice/INS–001, which was published on October 5, 1993 (58 FR 51347). Subsystem N. was previously entitled ''Property Issued to Employees.'' As a new and separate system of records, it is now retitled ''The Asset Management Information System (AMIS), Justice/INS–004,'' and is otherwise modified as follows.

1. To remove, in their entirety, the exemptions applied to the INS–001 system.
2. To remove 10 routine use disclosure provisions which are inapplicable to these records.
3. Of those routine uses retained, to modify two, i.e., routine uses identified as C. and F.
4. To add one routine use, identified as routine use D.
5. To add information regarding the issuance of firearms, including qualification scores; and
6. To computerize all of the information in this system. (This effort is now in process.)

The republication of Subsystem N. as AMIS is part of a long-term INS initiative to redescribe, where appropriate, the subsystems in the INS–001 system as separate systems of records. The objective of this effort is to improve reporting accuracy and clarity, in particular with respect to applicable routine use disclosures and exemptions.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the proposal.

Therefore, please submit any comments by May 27, 1998. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: April 8, 1998.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–004

SYSTEM NAME:

The Asset Management Information System (AMIS).

SYSTEM LOCATION:

Headquarters, Regional and District offices, Administrative Centers, Border Patrol Sector Headquarters, Sub-Offices, Stations, and satellite offices of the Immigration and Naturalization Service (INS) in the United States and Foreign Countries as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the INS, contract personnel, and temporarily detailed personnel of other Government agencies who have been assigned responsibility for government-owned or controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains property management records which include information on government-owned or controlled personal property (e.g., personal computers, firearms, etc.), and communications equipment (e.g. radios, radar, telephones, etc.), in the personal custody of the individuals covered by this system and used in the performance of their official duties. Information includes the name of such individual, property issued, serial number of the item, dates property issued and returned and the individual/supervisor's initials. In addition, records on firearms include a qualifications roster, and firearm qualifications scores of each officer authorized to use and carry a firearm, and an individual qualifications history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 40 U.S.C. 486; (2) 41 CFR part 101; and (3) 41 CFR part 128.

PURPOSE:

Information in this system is used to manage assets in the custody of the INS in compliance with statutes and regulations governing property management. The records are used to issue, track location thereof, and maintain accountability for government owned or controlled property, including firearms. The system also is used to assess and determine firearm qualifications on an ongoing basis to ensure that firearms are issued only to qualified and authorized personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. Where the record, either on its face or in conjunction with other information, indicates a violation or potential violation of law (whether civil, criminal or regulatory in nature) to the appropriate agency, (whether federal, state, local or foreign) charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

B. To a Federal, State, local or foreign government agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

C. To a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information such as current licenses if disclosure is necessary to obtain information relevant to an INS decision concerning the retention of an employee, the issuance of a firearm and/or a security clearance, the letting of a contract or the issuance of a license or other benefit.

D. In a proceeding before a Court or adjudicative body before which INS or the Department of Justice (DOJ) is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS or DOJ to be arguably relevant to the litigation: The DOJ component or subdivision thereof; any DOJ employee in his/her official capacity; any DOJ employee in his/her individual capacity where the DOJ has agreed to represent the employee; or the United States where INS or the DOJ determines that the litigation is likely to affect it or any of its subdivisions.

E. To a Member of Congress, or staff acting upon the Member's behalf, when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

F. To the General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of a personal privacy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A. Paper records and cards are stored in manually-operated index machines, file drawers and boxes; other information is stored manually as paper records in file folders.

B. Electronic records are stored in a database on magnetic disk.

RETRIEVABILITY:

These records are retrieved by last name and social security number of the record subject.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to the premises is by official identification. All records are stored in a space which is locked outside of normal office hours. In addition, paper records are stored in locked cabinets or machines. Access to the automated system is controlled by restricted password for use at remote terminals in secured areas.

RETENTION AND DISPOSAL:

General property management records are maintained in accordance with General Records Schedules 3 and 4. The following INS proposal for retention and disposal of records on firearms is pending approval by the Archivist of the United States. Records on returned firearms will be maintained for three years, archived to the Department of Justice Data Center (DOJDC), Dallas, Texas, and then destroyed when seven years old. Records on lost/stolen firearms will be maintained for three years, archived to the DOJDC and destroyed when 20 years old. (Paper records will be destroyed as they are computerized.)

SYSTEM MANAGERS AND ADDRESS:

Chief, Property Section; Logistics Policy, Planning and Evaluation Branch; 425 I Street NW, Room 2214, Washington, DC 20536.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the Freedom of Information and Privacy Act (FOIA/PA) Officer at the INS office where the record is maintained or to the FOIA/PA Officer at 425 I Street NW, Washington, DC 20536.

RECORD ACCESS PROCEDURES:

Requests for access to records in this system shall be in writing and should be addressed to the appropriate FOIA/PA Officer as indicated above. Such request may be submitted either by mail or in person. If a request for access is made by mail, clearly mark the envelope and letter ''Privacy Access Request.'' To identify a record relating to an individual, a requester should provide full name, date of birth, verification of identity (in accordance with 8 CFR 103.21(b)), a description of the general subject matter and, if known, the related Property Control Number. The requester shall also provide a return address for transmitting the records to be released.

CONTESTING RECORD PROCEDURES:

An individual desiring to contest or amend information maintained in the system should direct his or her request to the appropriate FOIA/PA officer as indicated above. The request should state clearly what information is being contested, the reasons for contesting and the proposed amendment to the information.

RECORD SOURCES CATEGORIES:

Records are generated from property purchase orders; acquisition, transfer and disposal data; and employee locator documentation, or otherwise from the record subject.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–11134 Filed 4–24–98; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–142]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* ICR's contained in BPD–339, Examination and Treatment for Emergency Medical Conditions and Women in Labor, 42 CFR 488.18, 489.20, and 489.24; *Form No.:* HCFA–R–142, OMB # 0938–0667; *Use:* The information collection requirements contained in BPD–393, Examination and treatment for Emergency Medical Conditions and Women in Labor contains requirements for hospitals to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate and protect the public. This information is not contained elsewhere in regulations; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Individuals or Households, not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours:* 1.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John

Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 16, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–10830 Filed 4–24–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Sunshine Act Meeting

[F.C.S.C. Meeting Notice No. 8–98]

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Monday, May 4, 1998, 9:00 a.m.

Subject Matter: (1) Proposed Decisions on claims against Albania; and (2) Hearings on the Record on Objections to Proposed Decisions on claims against Albania, as follows:

1. Claim No. ALB–005–Mile Mide Kasem
2. Claim Nos. ALB–099, ALB–130, ALB–131, ALB–132, ALB–167—Peter Panajoti, et al.
3. Claim No. ALB–102—Anthimo Suli
4. Claim No. ALB–103—Sotir Suli
5. Claim No. ALB–157—Victoria Gallani
6. Claim No. ALB–220—Gjergi Koli Gjeli

Status: Open.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC, April 22, 1998.

Judith H. Lock,

Administrative Officer.

[FR Doc. 98–11189 Filed 4–23–98; 9:47 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 21, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Petition for North American Free Trade Agreement (NAFTA) Transitional Adjustment Assistance.

OMB Number: 1205–0342 (Extension).

Form Number: ETA–9042 and ETA–9042–1.

Frequency: On occasion.

Affected Public: Individuals or households; business or other for-profit.

Number of Respondents: 1,000.

Total Responses: 1,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 330 hours.

Description: This petition is used by American workers applying for adjustment assistance benefits in accordance with the provisions of Subchapter D of the North American Free Trade Agreement Implementation Act, amending Chapter 2 of the Title II of the Trade Act of 1974.

Agency: Women's Bureau.

Title: Conference Evaluation.

OMB Number: 1225–0NEW.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Nuber of Respondents: 1,000

Total Responses: 5,000.

Estimated Time per Respondent: 1.5 minutes.

Total Burden Hours: 125 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Women's Bureau will use the information to evaluate their conferences and sponsored meetings to determine if information about women's issues are being effectively disseminated to those who attend the conference or meeting.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–11039 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,070 & 070D]

The American Fabrics Company; Tylertown, MI and New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 5, 1998, applicable to all workers of The American Fabrics Company, located in Tylertown, Mississippi. The notice was published in the **Federal Register** on March 23, 1998 (63 FR 13879).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the New York, New York location of The American Fabrics Company. The New York, New York location provides support function services, sales, and administration for The American Fabrics Company's production facilities located throughout Mississippi, Louisiana and New Jersey. The workers produce embroidery and lace fabrics.

The intent of the Department's certification is to include all workers of The American Fabrics Company who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of The American Fabrics Company, New York, New York.

The amended notice applicable to TA–W–34,070 is hereby issued as follows:

All workers of The American Fabrics Company, Tylertown, Mississippi (TA–W–34,070), and New York, New York (TA–W–34,070D) who became totally or partially separated from employment on or after November 18, 1996 through March 5, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of April 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11036 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33, 463]

Champion Products, Incorporated, Perry, NY, Including Workers of Unicco Security Services, Rochester, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 5, 1997, applicable to all workers of Champion Products, Incorporated, located in Perry, New York. The notice was published in the **Federal Register** on June 27, 1997 (62 FR 34711).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers produce athletic apparel. New information provided by the company shows that some workers separated from employment at Champion Products, Incorporated had their wages reported under a separate unemployment insurance (UI) tax account at Unicco Security Services. Workers from Unicco Security Services provided security guard detail for the Perry, New York location of Champion Products, Incorporated. Worker separations will occur at Unicco Security Services as a result of closing the Perry, New York facility of Champion Products, Incorporated in June, 1998.

Accordingly, the Department is amending the certification to reflect this matter.

The intent of the Department's certification is to include all workers of Champion Products, Incorporated adversely affected by imports.

The amended notice applicable to TA–W–33,463 is hereby issued as follows:

All workers of Champion Products, Incorporated, Perry, New York engaged in employment related to the production of athletic apparel and all workers of Unicco Security Services, Rochester, New York that provided security guard detail for Champion Products, Incorporated, Perry, New York who became totally or partially separated from employment on or after April 17, 1996 through June 5, 1999 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of April, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11038 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,761, TA–W–33,761G]

CNG Transmission Corporation Headquartered in Clarksburg, WV; Hope Gas, Incorporated Clarksburg, WV; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 10, 1997, applicable to all workers of CNG Transmission Corporation, headquartered in Clarksburg, West Virginia. The notice was published in the **Federal Register** on December 10, 1997 (62 FR 65097).

At the request of the company and State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of natural gas. The findings show that Hope Gas, Incorporated, also located in Clarksburg, West Virginia, is a subsidiary of CNG Transmission Corporation. The company reports that worker separations have occurred at Hope Gas, Incorporated. Accordingly, the Department is amending the certification to include these workers.

The intent of the Department's certification is to include all workers of CNG Transmission Corporation who were adversely affected by increased imports of natural gas.

The amended notice applicable to TA–W–33,761 is hereby issued as follows:

All workers of CNG Transmission Corporation, headquartered in Clarksburg, West Virginia (TA–W–33,761), and Hope Gas, Incorporated (TA–W–33,761G) who became totally or partially separated from employment on or after September 26, 1997 through November 10, 1999 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington D.C. this 15th day of April, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11035 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,056, TA–W–34,056B]

Crown Pacific Gilchrist, OR, Crescent Creek Logging Gilchrist, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 10, 1998, applicable to all workers of Crown Pacific, Gilchrist, Oregon. The notice was published in the **Federal Register** on March 6, 1998 (63 FR 12831).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Crescent Creek Logging, Gilchrist, Oregon when it closed February 26, 1998. The workers provided logging services to support the production of lumber at Crown Pacific. Accordingly, the Department is

amending the certification to cover workers at Crescent Creek Logging, Gilchrist, Oregon.

The intent of the Department's certification is to include all workers of Crown Pacific adversely affected by increased imports.

The amended notice applicable to TA–W–34,056 is hereby issued as follows:

All workers of Crown Pacific, Gilchrist, Oregon (TA–W–34,056), and Crescent Creek Logging, Gilchrist, Oregon (TA–W–34,056B) who became totally or partially separated from employment on or after November 18, 1996 through February 10, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of April, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11033 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,229]

Kleinerts Inc. of Alabama, Greenville, AL; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked March 27, 1998, the petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility for workers of the subject firm to apply for worker adjustment assistance. The denial notice was signed on March 19, 1998 and was published in the **Federal Register** on April 4, 1998 (63 FR 16574).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner's request for reconsideration asserts that the workers at Kleinerts's Greenville, Alabama plant sewed T-shirts and sweat-shirts. The petitioner's request for reconsideration acknowledges that the contract for the production of T-shirts was awarded to another domestic manufacturer, but asserts that the production of sweat-shirts was shifted to Honduras. The petitioners state that Kleinert's machines and equipment have been shipped to Honduras. The petitioners attribute job losses and the plant closure to these facts.

The petition investigation for workers of the subject firm showed that the primary output at the Greenville plant was T-shirts. The Department's denial of TAA for workers of the subject firm was based on the fact that the ''contributed importantly'' test of the group Eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the subject firm's customers. The Department of Labor surveyed the major customer of the subject firm regarding their purchases of imported T-shirts. The respondent reported no import purchases of T-shirts in 1996 or 1997.

In response to the petitioners allegation regarding the shift of machines and equipment from Alabama to Honduras, the sale or shift of such items to a foreign country does not form the basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 15th day of April 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11037 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,300]

McDonnell Douglas Corporation Douglas Aircraft Company (DAC) a/k/a Boeing Company, Long Beach, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 14, 1997, applicable to workers of McDonnell Douglas Corporation, Douglas Aircraft Company (DAC) located in Long Beach, California. The notice will soon be published in the **Federal Register**.

At the request of the United Automobile, Aerospace and Agriculture Implement Workers of America, Local 148, and the State agency, the Department reviewed the certification for workers of the subject firm producing commercial jet transport aircraft. The findings show that the Boeing Company purchased the subject firm plant on August 1, 1997. Accordingly, some of the workers separated from employment at the Long Beach facility have had their wages reported under the unemployment insurance (UI) tax account for the Boeing Company. Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the Long Beach, California plant adversely affected by increased imports.

The amended notice applicable to TA–W–33,300 is hereby issued as follows:

All workers of McDonnell Douglas Corporation, Douglas Aircraft Company (DAC), also known as the Boeing Company (as of August 1, 1997), Long Beach, California, who became totally or partially from employment on or after March 23, 1997 through August 14, 1999, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of April 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–11034 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Wagner-Peyser Act Final Planning Allotments for Program Year (PY) 1998

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning allotments for Program Year (PY) 1998 (July 1, 1998 through June 30, 1999) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: John R. Beverly III, Director, U.S.

Employment Service, 200 Constitution Avenue, NW, Room N–4470, Washington, DC 20210. Telephone: (202) 219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Section 6(b)(5) of the Wagner-Peyser Act, 29 U.S.C. 49e(b)(5), the Employment and Training Administration is publishing final planning allotments for each State for Program Year (PY) 1998 (July 1, 1998, through June 30, 1999). Preliminary planning estimates were provided to each State on March 9, 1998. Funds are distributed in accordance with formula criteria established in Section 6(a) and (b) of the Wagner-Peyser Act. Civilian labor force (CLF) and unemployment data for Calendar Year 1997 are used in making the formula calculations.

The total amount of funds currently available for distribution is $761,735,000. The Secretary of Labor shall set aside up to 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required by Section 6(b)(4) of the Act, 29 U.S.C. 49e(b)(4). In accordance with this provision, $22,312,050 is set aside for administrative formula allocation. These funds are included in the total planning allotment. The funds that are set aside are distributed in two steps to States which have lost in relative share of resources from the prior year. In Step 1, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. The remainder is distributed in Step 2 to all other States losing in relative share from the prior year but which do not meet the size and density criteria for Step 1.

Postage costs incurred by States during the conduct of employment service (ES) activities are billed directly to the Department of Labor by the U.S. Postal Service. The total final planning allotment reflects $18,000,000, or approximately 2.36 percent of the total amount available, withheld from distribution to finance postage costs associated with the conduct of ES business. Pursuant to Section 7(b) of the Act, 29 U.S.C. 49f(b), ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public ES offices; services for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Diffeences between preliminary planning estimates and final planning allotments are caused by the use of Calendar Year 1997 data as opposed to the earlier data (12 months ending September 1997) used for preliminary planning estimates.

Signed at Washington, DC, this 21st day of April, 1998.

Raymond J. Uhalde,

Acting Assistant Secretary.

BILLING CODE 4510–30–M

Appendix

U. S. Department of Labor
Employment and Training Administration

Employment Service (Wagner-Peyser)
Final PY 1998 Allotments to States

Total	$761,735,000
Alabama	10,904,988
Alaska	8,084,754
Arizona	11,228,540
Arkansas	6,227,159
California	88,905,040
Colorado	9,784,731
Connecticut	8,930,038
Delaware	2,077,382
District of Columbia	3,642,843
Florida	35,300,419
Georgia	18,914,021
Hawaii	3,235,516
Idaho	6,736,039
Illinois	31,010,058
Indiana	14,696,445
Iowa	7,192,993
Kansas	6,432,030
Kentucky	9,884,161
Louisiana	10,953,683
Maine	4,005,859
Maryland	14,019,052
Massachusetts	16,120,095
Michigan	24,465,828
Minnesota	11,943,566
Mississippi	6,664,539
Missouri	13,842,304
Montana	5,504,726
Nebraska	6,615,599
Nevada	5,351,173
New Hampshire	3,027,304
New Jersey	21,660,373
New Mexico	6,177,271
New York	48,090,328
North Carolina	17,828,463
North Dakota	5,605,458
Ohio	27,977,493
Oklahoma	8,582,231
Oregon	9,129,679
Pennylvania	30,591,648
Puerto Rico	10,191,467
Rhode Island	2,694,219
South Carolina	9,573,468
South Dakota	5,180,731
Tennessee	13,880,470
Texas	50,590,207
Utah	10,971,336
Vermont	2,426,951
Virginia	16,404,786
Washington	15,355,452
West Virginia	5,929,859
Wisconsin	13,359,794
Wyoming	4,019,463
State Total	741,922,032
Guam	348,011
Virgin Islands	1,464,957
Postage	18,000,000

U. S. Department of Labor
Employment and Training Administration

Employment Service (Wagner-Peyser)
Final PY 1998 Allotments to States

State	Basic Formula	3% Distribution Step 1*	Step 2**	Total	Total Allotment
Alabama	10,904,988	0	0	0	10,904,988
Alaska	7,057,457	1,027,297	0	1,027,297	8,084,754
Arizona	10,577,371	0	651,169	651,169	11,228,540
Arkansas	6,164,602	0	62,557	62,557	6,227,159
California	86,657,653	0	2,247,387	2,247,387	88,905,040
Colorado	9,529,153	0	255,578	255,578	9,784,731
Connecticut	8,669,827	0	260,211	260,211	8,930,038
Delaware	2,014,908	0	62,474	62,474	2,077,382
District of Columbia	3,284,176	0	358,667	358,667	3,642,843
Florida	34,931,978	0	368,441	368,441	35,300,419
Georgia	18,914,021	0	0	0	18,914,021
Hawaii	3,235,516	0	0	0	3,235,516
Idaho	5,880,118	855,921	0	855,921	6,736,039
Illinois	30,015,894	0	994,164	994,164	31,010,058
Indiana	13,947,857	0	748,588	748,588	14,696,445
Iowa	6,958,526	0	234,467	234,467	7,192,993
Kansas	6,286,127	0	145,903	145,903	6,432,030
Kentucky	9,884,161	0	0	0	9,884,161
Louisiana	10,866,298	0	87,385	87,385	10,953,683
Maine	3,496,851	509,008	0	509,008	4,005,859
Maryland	14,019,052	0	0	0	14,019,052
Massachusetts	15,230,149	0	889,946	889,946	16,120,095
Michigan	23,612,480	0	853,348	853,348	24,465,828
Minnesota	11,619,457	0	324,109	324,109	11,943,566
Mississippi	6,642,673	0	21,866	21,866	6,664,539
Missouri	13,688,878	0	153,426	153,426	13,842,304
Montana	4,805,263	699,463	0	699,463	5,504,726
Nebraska	5,774,981	840,618	0	840,618	6,615,599
Nevada	4,671,221	679,952	0	679,952	5,351,173
New Hampshire	2,817,663	0	209,641	209,641	3,027,304
New Jersey	21,129,800	0	530,573	530,573	21,660,373
New Mexico	5,392,350	784,921	0	784,921	6,177,271
New York	48,090,328	0	0	0	48,090,328
North Carolina	17,447,162	0	381,301	381,301	17,828,463
North Dakota	4,893,195	712,263	0	712,263	5,605,458
Ohio	27,752,144	0	225,349	225,349	27,977,493
Oklahoma	7,737,241	0	844,990	844,990	8,582,231
Oregon	9,129,679	0	0	0	9,129,679
Pennsylvania	30,288,104	0	303,544	303,544	30,591,648
Puerto Rico	10,191,467	0	0	0	10,191,467
Rhode Island	2,580,997	0	113,222	113,222	2,694,219
South Carolina	9,238,956	0	334,512	334,512	9,573,468
South Dakota	4,522,436	658,295	0	658,295	5,180,731
Tennessee	13,880,470	0	0	0	13,880,470
Texas	50,590,207	0	0	0	50,590,207
Utah	9,891,119	0	1,080,217	1,080,217	10,971,336
Vermont	2,118,568	308,383	0	308,383	2,426,951
Virginia	15,847,176	0	557,610	557,610	16,404,786
Washington	14,684,388	0	671,064	671,064	15,355,452
West Virginia	5,176,376	753,483	0	753,483	5,929,859
Wisconsin	13,359,794	0	0	0	13,359,794
Wyoming	3,508,726	510,737	0	510,737	4,019,463
FORMULA TOTAL	719,609,982	8,340,341	13,971,709	22,312,050	741,922,032
Guam	348,011	0	0	0	348,011
Virgin Islands	1,464,957	0	0	0	1,464,957
Indicia Postage	18,000,000	0	0	0	18,000,000
NATIONAL TOTAL	739,422,950	8,340,341	13,971,709	22,312,050	761,735,000

* Funds are allocated to the 12 States whose relative share decreased from PY 1997 to the PY 1998 basic formula amount and which have a Civilian Labor Force (CLF) below one million and are below the median CLF density. These States are held harmless at 100% of their PY 1997 relative share.

** The balance of the 3% funds are distributed to the remaining 29 States losing in relative share from PY 1997 to their PY 1998 total allotment amount.

[FR Doc. 98–11108 Filed 4–24–98; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Applications for a Permit To Fire More Than 20 Boreholes, for the Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the application for a permit to fire more than 20 boreholes, for the use of nonpermissible blasting units, and for the use of nonpermissible explosives and nonpermissible shot-firing units, and posting of warning notices with regard to mis-fired explosives. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Submit comments on or before June 26, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 313 of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 873, a mine operator is required to use permissible explosives in underground coal mines. The Mine Act also provides that under safeguards prescribed by the Secretary of Labor, a mine operator may permit the firing of more than 20 shots and the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Title 30, CFR 75.1321 outlines the procedures by which a permit may be issued for the firing of more than 20 boreholes and/or the use of nonpermissible shot-firing units in underground coal mines. In those instances in which there is a misfire of explosives, 30 CFR 75.1327 requires that a qualified person post each accessible entrance to the affected area with a warning to prohibit entry. Title 30 CFR 77.1909–1 outlines the procedures by which a coal mine operator may apply for a permit to use nonpermissible explosives and/or shot-firing units in the blasting of rock while sinking shafts or slopes for underground coal mines.

II. Current Actions

Title 30, CFR 75.1321, 75.1327 and 77.1901–1 provide MSHA District Managers with the authority to address unusual but reoccurring blasting practices needed for breaking rock types more resilient than coal and for misfires in blasting coal. MSHA uses the information requested to issue permits to mine operators or shaft and slope contractors for the use of nonpermissible explosives and/or shot-firing units under 30 CFR Part 77, Subpart T—Slope and Shaft Sinking. Similar permits are issued by MSHA to underground coal mine operators for shooting more than 20 bore holes and/or for the use of nonpermissible shot firing units when requested under 30 CFR Part 75, Subpart N—Explosives and Blasting. The approved permits allow the use of specific equipment and explosives in limited applications and under exceptional circumstances where standard coal blasting techniques or equipment is inadequate to the task. These permits inform mine management and the miners of the steps to be employed to protect the safety of any person exposed to such blasting while using nonpermissible items. Also, the posting of danger/warning signs at entrances to locations where an misfired blast hole or round remains indisposed is a safety precaution predating the Coal Mine Safety and Health Act.

Type of Review: Extension (without change).

Agency: Mine Safety and Health Administration.

Title: 30 CFR 75.1321, 75.1327, and 77.1909–1—Applications for a permit to fire more than 20 boreholes, for the use of nonpermissible blasting units, and for the use of nonpermissible explosives and nonpermissible shot-firing units, and posting of warning notices with regard to misfired explosives (pertains to coal mining industry).

OMB Number: 1219–0025.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc: 30 CFR 75.1321, 75.1327 and 77.1901–1.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden (hours)
75.1321 Permit Appl	65	On Occasion	65	1 hour	65
75.1327 Misfire Notices Posted	120	On Occasion	120	20 minutes	40

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden (hours)
77.1909–1 Permit Appl	5	On Occasion	5	1 hour	5
Totals			190		110

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $755.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 20, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–11109 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–47–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Hazardous Condition Complaints

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the submission of hazardous conditions complaints addressed in 30 CFR 43.2, 43.4, 43.7, and 43.8. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before June 26, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 103(g) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(g), a representative of miners or any individual miner may submit a written notice of an alleged violation of the Mine Act or mandatory health or safety standard or an imminent danger situation. Such notification requires MSHA to make an immediate inspection. A copy of the notice must be provided to the operator.

Title 30, CFR part 43 implements Section 103(g) of the Mine Act. The regulations outline the procedures for submitting notification of the alleged violation and the actions which MSHA must take after receiving the notice. If MSHA determines that a special inspection is not warranted, a written notice of negative finding shall be issued as soon as possible following the determination. A miner or a representative of miners has the option of requesting in writing an information review of MSHA's decision that no inspection is warranted or in those instances where an MSHA inspector has refused to issue a citation or order with regard to the violation alleged to have existed by the miner.

II. Current Actions

MSHA is required to conduct inspections whenever and however complaints of hazardous conditions are made to the Agency by miners or representatives of miners. This is an Agency responsibility mandated by the provisions of Section 103(g) of the Act and implemented through the provisions of 30 C.F.R. Part 43. MSHA has minimized the paper work burden by providing alternative toll free telephone extensions for verbal and anonymous complaints and providing for the reduction of such complaints to written format by agency personnel. MSHA's effectiveness in enforcing the mandatory safety and health standards is dependent in part on its ability to provide a timely response to hazardous condition complaints in order to retain the confidence of miners and to encourage compliance with health and safety standards between the mandated, periodic inspection events at underground and surface mines and mine facilities.

Type of Review: Revision (with changes to include § 43.2 and 43.8).

Agency: Mine Safety and Health Administration.

Title: Hazardous Conditions Compliants—30 CFR § 43.2, 43.4, 43.7, and 43.8.

OMB Number: 1219–0014.

Affected Public: Business or other for-profit institutions.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden (hours)
43.2 General	272 verbal 350 written 622 total	On occasion	622	.2	124
43.4 Giving notice	All burden included under 43.2				
43.7 Informal review	15	On occasion	15	.2	3
43.8 Informal review	All burden included under 43.7				
Totals	637	On occasion	637	.2	127

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $8.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 21, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–11110 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–97]

Detroit Testing Laboratory, Inc., Recognition as an NRTL

AGENCY: Occupational Safety and Health Administration; Labor.

ACTION: Notice of recognition as a Nationally Recognized Testing Laboratory (NRTL).

SUMMARY: This notice announces the Agency's final decision on the application of Detroit Testing Laboratory, Inc. for recognition as an NRTL under 29 CFR 1910.7.

EFFECTIVE DATE: This recognition will become effective on April 27, 1998 and will be valid for a period of five years from that date, until April 28, 2003, unless terminated prior to that date, in accordance with 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3653, Washington, D.C. 20210, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

Notice is hereby given that the Occupational Safety and Health Administration (OSHA) has recognized Detroit Testing Laboratory, Inc. (DTL) as a Nationally Recognized Testing Laboratory for the equipment or materials listed below. DTL applied for recognition as a Nationally Recognized Testing Laboratory, pursuant to 29 CFR 1910.7, and a notice of the application was published in the **Federal Register** (62 FR 62358, 11/21/97). The notice included a preliminary finding that DTL could meet the requirements for recognition detailed in 29 CFR 1910.7, and invited public comment on the application by January 20, 1998. No comments were received concerning this request for recognition.

Copies of all application documents (Docket No. NRTL–2–97) are available for inspection and duplication at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N2634, Washington, D.C. 20210.

The address of the laboratory covered by this application is: Detroit Testing Laboratory, Inc., 7111 E. Eleven Mile, Warren, Michigan 48092.

Background

Detroit Testing Laboratory, Inc. (DTL), according to the applicant, is a Michigan corporation and was formally incorporated in 1949. The applicant states that the lab was originally founded in 1903 as a partnership, that ownership of the lab changed in 1948 and again in 1968, and that in 1976, the current owner purchased DTL as sole stockholder.

The applicant submitted an application package, and separately submitted a Quality Assurance (QA) Manual (see Exhibits 2A and 2B). The QA Manual includes: An organization chart, position descriptions, and résumés of key personnel; department descriptions including equipment and standards used for departments involved in testing; description of certifications done and standards used for certification; and the details on how calibrations are handled, including descriptions of equipment and standards.

The four primary criteria for recognition are presented below, along with examples which illustrate how DTL has met these criteria.

Capability

Section 1910.7(b)(1) states that for each specified item of equipment or material to be listed, labeled or accepted, the laboratory must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs) to perform appropriate testing. The application and on-site review report indicate that DTL meets these criteria.

The applicant has one main facility at its site in Warren, Michigan, and a smaller test facility in Center Line, Michigan. This smaller site is not included in the applicant's request for recognition. The applicant has natural gas, electric, compressed air, steam, and water available in the laboratory for product testing and for calibrations and tests.

The applicant's QA Manual shows the testing experience of its key testing staff, mentions its certification, and listing and labeling experience with products, and describes its testing capabilities and experience in a number of specific areas. It also contains a list of major instrumentation and equipment.

Quality Assurance (QA) Procedures, Test/Operating procedures (developed on a form, the original of which is kept by each lab), calibration procedures, and audits (including proficiency audits which depends in part on the use of outside private services) are described in the QA Manual. Furthermore, the QA includes an Internal Corrective Action Procedure whereby reports are issued to an area when it operates outside the guidelines of the QA System. The QA Manual also contains a sample handling procedure and procedures on employee training. Written procedures exist for typical tests, per QA Manual.

Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide certain controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These consist of implementation of control procedures for identifying the listed or labeled equipment or materials, inspecting the production runs at factories to assure conformance with test standards, and conducting field inspections to monitor and assure the proper use of identifying marks or labels. The application and on-site review report indicate that DTL meets these criteria.

The application contains the description of the listing and labeling procedure, and indicates ''inspections'' will be done four times per year and periodic compliance testing is done every four years. A sample listing and follow-up agreement was also provided. In addition, ''Instructions for * * * Inspections * * *,'' and a sample inspection form were submitted.

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers subject to the tested equipment requirements, and for any manufacturers or vendors of equipment or materials being tested for these purposes. The application and on-site review report indicate that DTL meets these criteria.

A statement of independence was supplied attesting that DTL is independent of any producer, supplier, or vendor. The applicant claims in the statement that, for products being tested and certified: It has no managerial affiliations with any producer, supplier, or vendor; it has no securities, investments, or stock options in the product lines; the employment security of its personnel is free from influence by any producer, supplier, or vendor; that it is not owned, operated, or controlled by any producers, suppliers, or vendors; and that it is not engaged in promotion or design.

Creditable Reports/Complaint Handling

Section 1910.7(b)(4) provides that the NRTL must maintain effective procedures for producing creditable findings and reports that are objective and without bias, as well as for handling complaints and disputes under a fair and reasonable system. The application and on-site review report indicate that DTL meets these criteria.

The QA Manual contains details on development of test data and reports, and both the application and the QA Manual describe a complaint procedure.

Standards

After publication of the notice of the application and preliminary finding, DTL informed OSHA that one of the standards it had requested for recognition, ANSI/UL 1025 Electric Air Heaters, had been withdrawn by Underwriters Laboratories Inc. (UL), the organization that developed this test standard. DTL subsequently requested recognition for the two standards which replaced ANSI/UL 1025, in a letter dated January 6, 1998.

Inasmuch as the original standard was withdrawn by UL prior to the publication of the application, the notice was in error and OSHA is granting the request to correct the error. Also, OSHA believes that the two new standards are substantially equivalent to the standard withdrawn, and that DTL has the necessary capability to test and certify to those standards.

Final Decision and Order

Based upon a preponderance of the evidence resulting from an examination of the complete application, the supporting documentation, and the OSHA staff finding including On-Site Review Report, dated June 25, 1997 (see Exhibit 3), OSHA finds that Detroit Testing Laboratory, Inc. has met the requirements of 29 CFR 1910.7 to be recognized by OSHA as a Nationally Recognized Testing Laboratory to test and certify certain equipment or materials. Pursuant to the authority in 29 CFR 1910.7, Detroit Testing Laboratory, Inc. is hereby recognized as a Nationally Recognized Testing Laboratory, subject to the limitations and conditions listed below.

Limitations

This recognition is limited to equipment or materials which, under Title 29, require or permit testing, listing, labeling, approval, acceptance, or certification, by a Nationally Recognized Testing Laboratory. This recognition is further limited to the use of the following test standards for the testing and certification of equipment or materials included within the scope of these standards.

DTL asserts by its application that the following standards pertain to equipment or materials that will be used in environments under OSHA's jurisdiction, and OSHA has determined they are appropriate within the meaning of 29 CFR 1910.7(c):

ANSI/UL 234 Low Voltage Lighting Fixtures for Use in Recreational Vehicles

ANSI/UL 1278 Standard for Safety for Movable and Wall- or Ceiling-Hung Electric Room Heaters

UL 2021 Fixed and Location-Dedicated Electric Room Heaters

Conditions

Detroit Testing Laboratory, Inc. must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA shall be allowed access to DTL's facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If DTL has reason to doubt the efficacy of any test standard it is using under this program, it shall promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

DTL shall not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, DTL agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

DTL shall inform OSHA as soon as possible, in writing, of any change of ownership or key personnel, including details;

DTL will continue to meet the requirements for recognition in all areas where it has been recognized; and

DTL will always cooperate with OSHA to assure compliance with the spirit as well as the letter of its recognition and 29 CFR 1910.7.

Signed at Washington, D.C. this 22nd day of April, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–11107 Filed 4–24–98; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–058)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Office of the Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (757) 864–9260.

NASA Case No. LAR 15652–1–CU: Catalyst for Oxidation of Hydrocarbons and Volatile Organic Compounds;

NASA Case No. LAR 15538–1: Method and System for Producing Images of an Object;

NASA Case No. LAR 15611–1: Method and System for Monitoring Sea State Using GPS;

NASA Case No. LAR 15361–1–CU: Simultaneous Measurement of Two or More Gases Using Optical Path Switching;

NASA Case No. LAR 15437–2: A Fire Resistant, Moisture Barrier Membrane (Div of—1);

NASA Case No. LAR 15638–1–CU: Reflective Silvered Polyimide Films Via In-Situ Thermal Reduction of Silver (1) Complexes;

NASA Case No. LAR 15700–1: Blends of Polymers with Reactive and Non-Reactive Additives Having Lower Melt Viscosity;

NASA Case No. LAR 15815–1–CU: Acetylene and Phenylacetylene Terminated Poly(Arlyene Ether Benzimidazoles) CIP of 14965–2–CU.

Dated: April 22, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–11116 Filed 4–24–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 5, 1998
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in Religion, Philosophy, and Modern European History and Culture, submitted to the Division of Research and Education for projects at the March 1, 1998 deadline.
2. *Date:* May 6, 1998
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in World Civilizations, submitted to the Division of Research and Education for projects at the March 1, 1998 deadline.
3. *Date:* May 7, 1998
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in American Studies, submitted to the Division of Research and Education for projects at the March 1, 1998 deadline.
4. *Date:* May 8, 1998
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications for Summer Seminars and Institutes for College and University Teachers in Classical, Medieval, and Early Modern Studies, submitted to the Division of Research and Education for projects at the March 1, 1998 deadline.
5. *Date:* May 11–12, 1998
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Education Development and Demonstration in Humanities Focus Grants, submitted to the Division of Research and Education, for projects at the April 1, 1998 deadline.
6. *Date:* May 14–15, 1998
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications for Education Development and Demonstration in Humanities Focus Grants, submitted to the Division of Research and Education, for projects at the April 1, 1998 deadline.
7. *Date:* May 20, 1998
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications for Humanities Project in Media, submitted to the Division of Public Programs, for projects at the May 4, 1998 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–11106 Filed 4–24–98; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50317 and 50–318]

Baltimore Gas & Electric Company; Calvert Cliffs Nuclear Power Plant Units 1 & 2; Notice of Receipt of Application for Renewal of Facility Operating Licenses Nos. DPR–53 and DPR–69 for an Additional 20 Year Period

The Nuclear Regulatory Commission has received an application from Baltimore Gas and Electric Company dated April 8, 1998, filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 54 for renewal of operating licenses

DPR–53 and DPR–69, which authorize the applicant to operate its Calvert Cliffs Nuclear Power Plant (CCNPP) Units 1 and 2. The current operating licenses for the CCNPP Units 1 and 2 expire on July 31, 2014, and August 13, 2016, respectively. The CCNPP Units are pressurized water reactors designed by Combustion Engineering. The CCNPP Units 1 and 2 are located in Calvert County, Maryland. The acceptability of the tendered application for docketing and other matters, including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** Notices.

A copy of the application is available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C. 20037, and the Local Public Document Room for the CCNPP Units 1 and 2 located in the Calvert County Public Library, 30 Duke Street, Prince Frederick, MD 20678.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, License Renewal Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11122 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

(1.n.) The proposed amendment would revise the Technical Specifications (TSs) surveillance requirement (SR) frequency for verification that the average planar heat generation rate (APLHGR), minimum critical power ratio (MCPR), linear heat generation rate (LHGR), and average power range monitor (APRM) gain and setpoint are within specified limits. Specifically, the frequency would be changed from within 12 hours after completion of a thermal power increase of at least 15 percent of rated thermal power (RTP) to once within 24 hours after greater than or equal to 25 percent RTP, 24 hours thereafter, and prior to exceeding 50 percent RTP.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The change to the Surveillance Frequency will require the verification of the [APLHGR, MCPR, LHGR, and APRM Gain and Setpoints limits] only once during power accession but will require periodic reverification at power to identify trends. [These limits are] used to verify the unit is operating within the initial assumptions of the safety analysis. Significant changes in this parameter are indicative of unanticipated operation, but are not, in themselves, identified as initiators of any previously analyzed accident. Therefore, the change in Frequency of the Surveillance will not significantly increase the probability of an accident previously identified. At low power, there are large inherent margins to the [APLHGR, MCPR, LHGR, and APRM Gain and Setpoints] operating [limits] and during normal operation, change in the [APLHGR, MCPR, LHGR, and APRM Gain and Setpoints] is slow. Therefore, the proposed Frequency is sufficient to assure the parameter remains within limits and the change does not significantly increase the consequences of a previously evaluated accident.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change introduces no new mode of plant operation nor does it require physical modification to the plant. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change has no impact on any safety analysis assumption since the verification of operation within the [APLHGR, MCPR, LHGR, and APRM Gain and Setpoints limits are] still required and is consistent with those assumptions. The proposed Surveillance Frequency has been determined through engineering judgement to be adequate for assuring the [APLHGR, MCPR, LHGR, and APRM Gain and Setpoints do] not exceed the limits. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of 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 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 1, 1996, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11118 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

(3.p.) The proposed amendment would revise the frequency of Technical Specifications (TSs) surveillance requirement (SR) for rod worth minimizer (RWM) channel functional test.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes eliminate the requirement that SRs be completed at an interval shorter than the normal Surveillance Frequency just prior to the start of a special activity in Modes 4 or 5 such as fuel handling, control rod withdrawal or removal, or control rod drive removal. These changes will not result in a significant increase in the probability or consequences of an accident previously evaluated because there is no change to the requirement that the conditions verified by the SR be met throughout the special activity. Additionally, the Surveillance continues to be performed at the normal Frequency and the normal Surveillance Frequency has been shown, based on operating experience, to be adequate for assuring that required conditions are established and maintained. This change is consistent with both SSES CTS 4.0.4 and SSES ITS SR 3.0.4 which requires that a surveillance be performed within the required frequency prior to entering the applicable Mode or Condition. SSES ITS [Improved TS] still requires that if any Surveillance has not been performed within this interval or is determined not to meet the Surveillance Requirement during the activity, the special activity may not be performed or must be stopped if in progress. This ensures the Surveillance Requirements are adequately checked prior to and during these activities.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change will not involve any physical changes to plant systems, structures, or components (SSC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change does not involve a significant reduction in a margin of safety because there is no change to the requirement that the conditions verified by the SR be met throughout the special activity. Additionally, the Surveillance continues to be performed at its normal Frequency and the normal Surveillance Frequency has been shown, based on operating experience, to be adequate for assuring that conditions are established or that equipment is available and capable of performing its intended safety function. SSES ITS still requires that if any Surveillance has not been performed within this interval or is determined not to meet the Surveillance Requirement during the activity, the special activity may not be performed or must be stopped if in progress. This ensures the Surveillance Requirements are adequately checked prior to and during these activities.

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 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the

request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 1, 1996, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 21st day of February 1998.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11120 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

[Docket Nos. 50–387 and 50–388]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

(4.q.) The proposed amendment would relocate the main steam line radiation monitor reactor protection system and isolation trips from the Technical Specifications (TSs) to the plant-controlled Technical Requirements Manual.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes relocate requirements or surveillances for structures, systems, components or variables that do not meet any of the four criteria in the NRC Policy Statement used for defining the scope of Technical Specifications. These relocated requirements are not deleted or changed. Therefore, these changes will not result in any changes to the requirements specified in the SSES CTS (current TS), but will reduce the level of regulatory control on the identified requirements. The level of regulatory control has no impact on the probability or the consequences of an accident previously evaluated, therefore, these changes have no impact on the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will not involve any physical changes to plant systems, structures, or components (SSC), or the manner in which these SSC are operated, maintained, modified, tested, or inspected. The changes in normal plant operation are consistent with the current safety analysis assumptions. The proposed changes will not impose or eliminate any requirements. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety as defined in the bases of any Technical Specification is not reduced. This conclusion is supported by the conclusion that the relocated requirements are those existing SSES Technical Specifications that failed to meet any of the four criteria in the NRC Policy Statement used for defining the scope of Technical Specifications. In addition, the relocated requirements and surveillances for the affected structures, systems, components or variables remain the same as stated in the existing Technical Specifications. Therefore, no reduction in a margin of safety will be permitted.

Removal of these items from Technical Specifications eliminates the requirement for NRC review and approval of revisions in accordance with 10 CFR 50.92. Elimination of this administrative process does not have a margin of safety that can be evaluated. However, the proposed changes are consistent with the BWR Standard Technical Specification, NUREG–1433, Rev 1, which was approved by the NRC. Revising the Technical Specifications to reflect the approved level of detail ensures no 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 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 6, 1996, as supplemented March 2, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11121 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 AND 50–388]

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

(2.o.) The proposed amendment would revise the Technical Specifications (TSs) surveillance requirement for the verification of the average power range monitor (APRM) flow biased simulated thermal power-high time constant from 6 seconds plus or minus 1 second to less than 7 seconds. The lower limit of 5 seconds will be relocated to plant procedures since it is not a condition for operability of this reactor protection system function.

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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes remove from the SSES CTS [Susquehanna Steam Electric Station Current TS] items that are informational or implementing details that are adequately and more appropriately controlled by the licensee. Additionally, the proposed changes remove from the SSES CTS items that are contained in the Code of Federal Regulations or other regulatory documents and, therefore, do not need to be repeated in the SSES ITS. These requirements being moved to another controlled document or removed from Technical Specifications are not deleted or changed. Therefore, these changes will not result in any changes to the requirements specified in the SSES CTS, but will reduce the level of regulatory control on the identified requirements. The level of regulatory control has no impact on the probability or the consequences of an accident previously evaluated, therefore, these changes have no impact on the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will not involve any physical changes to plant systems, structures, or components (SSC), or the manner in which these SSC are operated, maintained, modified, tested, or inspected. The proposed changes will not impose or eliminate any requirements. Therefore, these changes do not create the possibility of

a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety as defined in the bases of any Technical Specification is not reduced. The requirements being moved to another controlled document or removed from Technical Specifications remain the same as stated in the SSES CTS. Therefore, no reduction in a margin of safety will be permitted.

Removal of these items from SSES CTS eliminates the requirement for NRC review and approval of revisions in accordance with 10 CFR 50.92. Elimination of this administrative process does not have a margin of safety that can be evaluated. However, the proposed changes are consistent with the BWR [Boiling Water Reactor] Standard Technical Specification, NUREG–1433, Rev 1, which was approved by the NRC. Revising the Technical Specifications to reflect the approved level of detail ensures no 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 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment

and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 1, 1996, 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11119 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–0734]

Finding of No Significant Impact and Notice of Opportunity for Hearing for the Amendment of Materials License SNM–696, General Atomics, San Diego, CA

AGENCY: Nuclear Regulatory Commission.

ACTION: Finding of no significant impact and notice of opportunity for hearing for the amendment of materials license SNM–696, General Atomics, San Diego, CA.

The U.S. Nuclear Regulatory Commission is considering amendment of Special Nuclear Material License SNM–696, issued to General Atomics (the licensee) located in San Diego, California to incorporate a Site Decommissioning Plan. The Commission has determined not to prepare an environmental impact statement for the proposed action, because the amendment will not have a significant effect on the quality of the human environment for reasons described in the Environmental Assessment (EA).

Summary of the Environmental Assessment

Background

General Atomics (GA) has been authorized by the U.S. Nuclear Regulatory Commission (NRC) and its predecessor, the Atomic Energy Commission, to use special nuclear material in nuclear fuel fabrication and research and development for more than 30 years. Special nuclear material used at the San Diego site included the radioactive materials plutonium and uranium enriched in the isotopes uranium-233 and uranium-235. As operations changed at the site, GA initiated decommissioning activities affecting portions of the site beginning in the mid 1980's. By the early 1990's, fuel fabrication operations involving special nuclear material at the facility had ceased, and in September of 1996, GA's Special Nuclear Material License, SNM–696, was amended to authorize only activities incident to decommissioning. GA also currently has State of California Radioactive Materials License No. 0145–37 to possess and use source and byproduct materials and NRC Reactor Licenses, R–38 and R–67, for two Training Reactor-Isotope-General Atomics research reactors. By application dated October 11, 1996, and supplements dated December 5, 1996; April 18, 1997; and January 15, 1998; GA requested an amendment to its fuel fabrication License SNM–696 to incorporate an overall Site Decommissioning Plan (DP).

Identification of the Proposed Action

The proposed action is the amendment of GA's license to incorporate the DP, which describes the remaining decommissioning activities planned at the GA facility under License SNM–696 and release of the site for unrestricted use. The DP describes the areas and facilities to be decommissioned, the decontamination techniques, and the proposed effluent control and waste management practices that will be used during decommissioning.

GA intends to decommission to radiation levels required for unrestricted use and to terminate License SNM–696 for these areas. Soil will be remediated to levels specified in Option 1 of the Branch Technical Position (BTP), ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations,'' (46 FR 52061; October 23, 1981). Facilities and equipment will be decontaminated to levels specified in ''Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material,'' (USNRC, Policy and Guidance Directive FC 83–23, Division of Industrial and Medical Nuclear Safety, November 4, 1983).

The Need for the Proposed Action

GA is not required to submit an overall site DP because all procedures and activities necessary to carry out decommissioning of the site have been previously approved by the NRC, consistent with the provisions of 10 CFR 70.38(g)(1). However, the incorporation of overall site DP into GA's license reduces the administrative effort for both the licensee and the NRC by reducing the number of documents which must be generated and reviewed. It also facilitates a more consistent and organized decommissioning approach across the facility.

Environmental Impacts for the Proposed Action

The NRC staff performed a radiological dose assessment to estimate the impact from airborne radioactive releases under the proposed action. Only radioactive effluents were considered because non-radioactive releases are expected to be insignificant. In addition, because liquid effluents were released only through the sanitary

sewer system, these releases were considered to be insignificant compared to airborne releases due to dilution of these discharges prior to introduction into any potential drinking water source. Because the closest resident is approximately one mile from the facility and any discharges would be extensively diluted prior to exposure of the resident, the NRC assumed the maximally exposed individual was an on-site, non-radiation worker. (GA currently leases areas of the facility that have been previously released for unrestricted use). The NRC assumed this person was exposed 8 hours/day, 40 hours per week, 50 weeks per year.

During decommissioning, NRC estimated that the annual average release concentrations would be 5×10^{-14} μCi/ml of uranium (of various enrichments) and thorium, 1×10^{-13} μCi/ml of mixed activation and fission products, and 15×10^{-14} μCi/ml of other radionuclides ranging from atomic number 3 to 105. Using these assumptions, the total effective dose equivalent (TEDE) to the maximally exposed individual onsite was estimated to be approximately 0.15 mSv/yr (15 mrem/yr), which is less than one fifth of the dose limit for members of the public specified in 10 CFR 20.1301.

NRC probably overestimated the dose because it assumed that decommissioning of all areas of the facility will be conducted simultaneously, that Th-232 and Sr-90 are the predominant radionuclides released, and that there is no dilution from the release point to the individual exposed. Actual exposures are expected to be far lower. There are an estimated 2,000 employees at the GA facility, which results in a population dose of 0.3 person-Sv (30 person-rem), if every one of these employees received the maximum estimated individual dose. Actual population exposures are expected to be far lower. Doses to off-site members of the public are expected to be orders of magnitude lower due to dilution of the radionuclide concentrations.

An accident analysis was included in a 1995 Environmental Assessment, performed by the U.S. Department of Energy, to analyze impacts from Decommissioning of GA's Hot Cell Facility. This analysis concluded that there was no significant risk from accidents during decommissioning of this facility. This analysis is considered bounding for the decommissioning activities of the proposed action.

Cumulative impacts from the proposed action were also considered. As noted previously, substantial decommissioning activities have been conducted at the site since the mid 1980s. Continuous environmental monitoring of the site throughout this period until the present has not detected any significant environmental impacts. The only on-going activities authorized by the NRC are the decommissioning activities discussed in the proposed action and decommissioning of the Hot Cell Facility, which has been previously approved. The environmental assessment performed for the Hot Cell Facility decommissioning project by the U.S. Department of Energy estimated a dose of 4×10^{-4} mSv/yr (0.04 mrem/yr) to the on-site, member of the public (who was considered to be the maximally exposed individual) and concluded that there were no environmental impacts. Cumulative impacts from decommissioning of the Hot Cell Facility and the operations specified in the site DP are, therefore, also expected to be insignificant. The TRIGA research reactors are currently not operating. The environmental impact from decommissioning of these facilities will be considered under the NRC Reactor Licenses.

Alternatives to the Proposed Action

The alternative to the proposed action is to deny approval of the Site DP and either require that the site be maintained in its contaminated state under the NRC license or terminate the license after completion of partial decommissioning, but impose site or area restrictions to protect the public from residual radioactivity.

This alternative would reduce the quantity of radioactive effluents expected during decommissioning of the facilities to levels suitable for unrestricted use. However, if contamination is left in-place there is a potential for the spread of this material to unaffected areas. Decommissioning at a later time may then result in increased effluents. If GA is unable to release these areas for unrestricted use, the company may also be economically impacted by the inability to sell or lease the facilities and by the resources required to maintain the site. The public would also not have the opportunity to use these areas productively.

Agencies and Persons Consulted

The DP was approved by the State of California by License Amendment dated July 5, 1996. The NRC staff consulted GA and the State of California, Department of Health Services, but did not consult any other State or Federal agencies in preparation of this Environmental Assessment.

Conclusion

Extensive decommissioning operations have been conducted at the GA facility since the mid-1980's. Effluent and environmental monitoring data indicate that all off-site radioactive releases have been below the effluent and dose limits established in 10 CFR Part 20 and have not resulted in any significant human health or environmental impact.

Future decommissioning operations are expected to be similar to decommissioning conducted previously by the facility and are, therefore, not expected to result in any significant environmental impact. This conclusion is also supported by a conservative dose assessment performed by the staff, which estimates a dose to the maximally exposed onsite individual of approximately 0.15 mSv/yr (15 mrem/yr). This is significantly below the dose limit for members of the public of 1 mSv/yr (100 mrem/yr) specified in 10 CFR part 20.

In addition, GA has committed to engineering controls, waste handling methods, and an effluent and environmental sampling program to keep releases as low as reasonably achievable and to ensure continued compliance with applicable laws and regulations.

Given the engineering controls, waste handling procedures, projected doses to members of the public and workers, and demonstrated ability to conduct these activities without adverse impacts to the environment, the staff concludes that the proposed action can be implemented without significant environmental impacts.

This environmental assessment was conducted based on preliminary characterization information. If further characterization data indicates that significantly greater concentrations of radionuclides or significantly different types of radionuclides may be released off-site, or if GA determines that significantly different decommissioning activities will be required that may result in significant impacts to workers or the environment, GA will be required to notify the NRC for review and approval of the proposed decommissioning activities.

Finding of No Significant Impact

The NRC has prepared an Environmental Assessment related to the amendment of Special Nuclear Material License SNM–696. On the basis of this assessment, NRC has concluded that the proposed licensing action would not cause significant environmental impacts and does not

warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a finding of no significant impact is appropriate.

The Environmental Assessment, the license amendment application, and other documents related to this proposed action are available for public inspection and copying at the Commission's public document room in NRC's Region IV office, Harris Tower, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064, and in NRC's headquarters public document room, Gelman Building, 2120 L St., NW., Washington, DC 20037.

Opportunity for a Hearing

Based on the EA and accompanying safety evaluation, NRC is preparing to amend License SNM–696. The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedure for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing processing in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of this publication of the **Federal Register** notice.

The request for a hearing must be filed with the Office of Secretary either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Services Branch.

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including reasons why the requested should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The applicant, General Atomics, 3550 General Atomics Court, San Diego, CA 92121–1194; Attention: Dr. Keith E. Asmussen; and

2. The NRC staff, by delivering to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Any hearing that is requested and granted will be held in accordance with the NRC's Informal Hearing Procedures for Adjudications in Material Licensing Proceedings in 10 CFR part 2, subpart L.

Questions with respect to this action should be referred to NRC's project manager for General Atomics, Charles Gaskin, at (301) 415–8116 or via Internet at ceg1@nrc.gov.

Dated at Rockville, Md., this 20th day of April 1998.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Chief Licensing Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 98–11123 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Draft NUREG–1628 ''Staff Responses to Frequently Asked Questions Concerning Decommissioning of Nuclear Power Reactors''

The Nuclear Regulatory Commission (NRC) is announcing the availability of NUREG–1628, ''Staff Responses to Frequently Asked Question Concerning Decommissioning of Nuclear Power Reactors,'' a draft report for comment dated April 1998.

This document, through a question-and-answer format, provides information to the public on decommissioning. The questions were taken from a variety of sources over the past several years, including written inquiries and questions asked at public meetings and during informal discussions with the NRC staff. The document was prepared in response to (1) the increase in the number of power reactors beginning the decommissioning process, (2) recent changes in the decommissioning regulations, and (3) a perceived lack of information available to members of the public on decommissioning. This document is being issued for public comment. As a result of comments received from the members of the public, the final document may be modified.

The report contains information on the following topics as they relate to decommissioning: definition of decommissioning, decommissioning alternatives, decommissioning experience in the U.S. regulation of decommissioning, low-level waste storage and disposal of wastes associated with facility storage and decommissioning, high-level waste storage and disposal, license termination, hazards associated with decommissioning, financing, and public involvement during the decommissioning process.

Draft NUREG–1628 is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW, (Lower Level), Washington, D.C. A free single copy of the draft NUREG–1628 may be requested by writing to U.S. Nuclear Regulatory Commission, Reproduction, and Distribution and Inventory Services Section, Washington, DC 20555–0001 or by faxing a request to 301–415–2289. For further information contact, John L. Minns, Division of Reactor Program Management. Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3166.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11117 Filed 4–24–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1998.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of April 1, 1998, of 24 rescission proposals and eight deferrals contained in two special messages for FY 1998. These

messages were transmitted to Congress on February 3 and February 20, 1998.

Rescissions (Attachments A and C)

As of April 1, 1998, 24 rescission proposals totaling $20 million had been transmitted to the Congress. Attachment C shows the status of the FY 1998 rescission proposals.

Deferrals (Attachments B and D)

As of April 1, 1998, $3.451 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1998.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

63 FR 7004, Wednesday, February 11, 1998.

63 FR 10076, Friday, February 27, 1998.

Franklin D. Raines,

Director.

Attachment A

STATUS OF FY 1998 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Rescissions proposed by the President	20.1
Rejected by the Congress	.....
Amounts rescinded	.....
Currently before the Congress	20.1

Attachment B

STATUS OF FY 1998 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	4,833.0
Routine Executive releases through April 1, 1998 (OMB/Agency releases of $1,382.2 million.)	1,382.2
Overturned by the Congress	.....
Currently before the Congress	3,450.8

BILLING CODE 3110–01–P

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of April 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Agricultural Research Service	R98-1	223		2-20-98				
Animal and Plant Health Inspection Service								
Salaries and expenses	R98-2	350		2-20-98				
Food Safety and Inspection Service								
Salaries and expenses	R98-3	502		2-20-98				
Grain Inspection, Packers and Stockyards Administration								
Salaries and expenses	R98-4	38		2-20-98				
Agricultural Marketing Service								
Marketing services	R98-5	25		2-20-98				
Farm Service Agency								
Salaries and expenses	R98-6	1,080		2-20-98				
Natural Resources Conservation Service								
Conservation operations	R98-7	378		2-20-98				
Rural Housing Service								
Salaries and expenses	R98-8	846		2-20-98				
Food and Nutrituion Service								
Child nutrition programs	R98-9	114		2-20-98				
Forest Service								
National forest systems	R98-10	1,094		2-20-98				
Reconstruction and construction	R98-11	30		2-20-98				
Forest and rangeland research	R98-12	148		2-20-98				
State and private forestry	R98-13	59		2-20-98				
Wildland fire management	R98-14	148		2-20-98				

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of April 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R98-15	1,188		2-20-98				
Oregon and California grant lands	R98-16	2,500		2-20-98				
Bureau of Relamation								
Water and related resources	R98-17	532		2-20-98				
Bureau of Mines								
Mines and minerals	R98-18	1,605		2-20-98				
United States Fish and Wildlife Service								
Construction	R98-19	1,188		2-20-98				
National Park Service								
Construction	R98-20	1,638		2-20-98				
Bureau of Indian Affairs								
Construction	R98-21	737		2-20-98				
DEPARTMENT OF TRANSPORTATION								
Office of the Secretary								
Payments to air carriers	R98-22	2,499		2-20-98				
Payments to air carriers (Airport and airway trust fund)	R98-23	1,000		2-20-98				
Maritime Administration								
Maritime guaranteed loan (Title XI) program account	R98-24	2,138		2-20-98				
TOTAL, RESCISSIONS		**20,060**	**0**		**0**		**0**	

ATTACHMENT D
Status of FY 1998 Deferrals - As of April 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 4-1-98
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D98-1	2,330,098		2-3-98	1,317,684				1,012,414
International military education and training	D98-2	43,300		2-3-98	41,900				1,400
Foreign military financing program	D98-3	1,483,903		2-3-98	2,400				1,481,503
Foreign military financing loan program	D98-4	60,000		2-3-98					60,000
Foreign military financing direct loan financing account	D98-5	657,000		2-3-98					657,000
Agency for International Development									
International disaster assistance, Executive	D98-6	135,697		2-3-98	20,250				115,447
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D98-7	115,640		2-3-98					115,640
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D98-8	7,369		2-3-98					7,369
TOTAL, DEFERRALS		**4,833,007**	**0**		**1,382,234**			**0**	**3,450,773**

[FR Doc. 98–11154 Filed 4–24–98; 8:45 am]
BILLING CODE 3110–01–C

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 92–19

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 92–19, Application for Deferred or Postponed Retirement: Federal Employees Retirement System (FERS), is used by separated employees to apply for either a deferred or a postponed FERS annuity benefit.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 1,272 forms are completed annually. We estimate it takes approximately 60 minutes to complete the form. The annual estimated burden is 1,272 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before June 26, 1998.

ADDRESSES: Send or deliver comments to John Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–11020 Filed 4–24–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: Standard Form 2808

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a revised information collection. Standard Form (SF) 2808, Designation of Beneficiary: Civil Service Retirement System (CSRS), is used by persons covered by CSRS to designate a beneficiary to receive the lump sum payment due from the Civil Service Retirement and Disability Fund in the event of their death.

Approximately 2,000 of the SF 2808 will be completed annually. We estimate it takes approximately 15 minutes to complete the form. The annual estimated burden is 500 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before May 27, 1998.

ADDRESSES: Send or deliver comments to:

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget and Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–11021 Filed 4–24–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection, Comment Request; SF 85, SF 85P, SF 85P–S, SF 86, and SF 86A

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Proposed collection, comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and 5 CFR 1320.5(a)(I)(vi), this notice announces that OPM has submitted to the Office of Management and Budget (OMB) a request for reclearance of five (5) information collections, described below, and solicits comments on them.

The Standard Form 85, Questionnaire for Non-Sensitive Positions, is completed by appointees to non-sensitive duties with the Federal government. Information collected on this form is used by OPM and other Federal agencies to initiate background investigations required to determine basic suitability for Federal employment in accordance with 5 U.S.C. 3301 and 3302, and E.O. 10577 (5 CFR Rule V). The number of respondents annually who are not Federal appointees is expected to be 10, with a total reporting hours of 5.

The Standard Form 85P, Questionnaire for Public Trust Positions, is completed by persons seeking placement in positions currently labeled ''public trust'' because of their enhanced responsibilities, and in certain sensitive positions that do not require access to classified information. This information collection includes Standard Form 85P–S, Supplemental Questionnaire for Selected Positions. Information collected on the SF 85P and SF 85P–S is used by OPM and other Federal agencies to initiate background investigations required to determine suitability for placement in public trust or other sensitive, non-access positions in accordance with 5 U.S.C. 3301 and 3302; E.O. 10577 (5 CFR Rule V); and OMB Circular A–130, Management of Federal Information Resources, revised June 25, 1993. The number of respondents annually who are not Federal employees is expected to be 1500, with total reporting hours of 1500.

The Standard Form 86, Questionnaire for National Security Positions, is completed by persons performing, or seeking to perform, national security duties for the Federal government. This information collection includes Standard Form 86A, Continuation Sheet for Questionnaires SF 86, SF 85P, and

SF 85, which provides formatted space to continue answers to questions. Information collected is used by OPM and other Federal agencies to initiate background investigations required to determine placement in national security positions in accordance with 42 U.S.C. 2165; 22 U.S.C. 2585; E.O. 10450, Security Requirements for Government Employment; and E.O. 12968, Access to Classified Information. The number of respondents annually who are not Federal employees is expected to be 172,150, with total reporting hours of 258,225.

DATES: Comments on this proposal should be received on or before May 27, 1998.

ADDRESSES: Send or deliver comments to—

Richard A. Ferris, Associate Director, Investigations Service, U.S. Office of Personnel Management, Room 5416, 1900 E Street, NW, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, NW, Washington, DC 20503.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–11022 Filed 4–24–98; 8:45 am]

BILLING CODE 6325–01–U

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Reclearance of a Revised Information Collection; OPM Form 1530

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for reclearance of a revised information collection. OPM Forms 1530, Report of Medical Examination of Person Electing Survivor Benefits (CSRS), is used to collect sufficient information from the required medical examination regarding an annuitant's health. This information is used to determine whether the insurable interest survivor benefits election can be allowed.

Approximately 500 OPM Forms 1530 will be completed annually. We estimate it takes approximately 90 minutes to complete the form. The annual burden is 750 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before May 27, 1998.

ADDRESSES: Send or deliver comments to:

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–11041 Filed 4–24–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a New Information Collection: Form RI 25–51

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a new information collection. RI 25–51, Civil Service Retirement System (CSRS) Survivor Annuitant Express Pay Application for Death Benefits, will be used by the Civil Service Retirement System solely to pay benefits to the widow(er) of an annuitant. This application is intended for use in immediately authorizing payments to an annuitant's widow or widower, based on the report of death, when our records show the decedent elected to provide benefits for the applicant.

Approximately 22,000 RI 25–51 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual estimated burden is 11,000 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before May 27, 1998.

ADDRESSES: Send or deliver comments to:

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–11043 Filed 4–24–98; 8:45 am]

BILLING CODE 6325–01–U

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23118; International Series Release No. 1130; 812–11108]

Cellco Finance N.V.; Notice of Application

April 20, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the ''Act'') from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an order under section 6(c) of the Act exempting applicant from all provisions of the Act. The order would permit applicant to sell certain debt securities and use the proceeds to finance the business activities of Turkcell Iletisim Hizmetleri A.S. (''Turkcell'').

FILING DATE: The application was filed in April 16, 1998.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:00 p.m. on May 11, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, or 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. Applicant, c/o Amicorp N.V., Attn: Jeroen Eichhorn, Caracasbaaiweg 199, Cuaraco, Netherlands Antilles.

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, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is a Netherlands Antilles limited liability corporation. Applicant was organized specifically to raise funds for the operations of Turkcell by issuing debt securities (''Notes'') and lending the proceeds to Turkcell. Turkcell is a joint stock company organized under the laws of the Republic of Turkey and is a leading operator of cellular telephone systems in Turkey.

2. Turkcell has determined to raise capital through applicant because the direct issuance of the Notes by Turkcell would not be feasible under Turkish tax and corporate law. In addition, under Turkish law, significant tax disadvantages may be borne by Turkcell were it to own or control applicant and/or directly guarantee the Notes. For these reasons, all of applicant's common shares will be held by a Netherlands Antilles stichting (the ''Foundation'') for the benefit of an existing charity named in the Foundation's articles of organization (''Charity''). The Foundation will be prohibited by its articles of organizations from transferring the shares of applicant to any other party. The Foundation will have no owners or shareholders, but will be managed by a Netherlands Antilles trust company. The Charity will have no ownership or other rights with regard to the Foundation. Neither the Foundation nor the Charity will pay any consideration in connection with its involvement in the activities described in the application.

3. Applicant intends to issue the Notes in reliance on rule 144A under the Securities Act of 1933 (''1933 Act'') and shortly thereafter file a registration statement under the 1933 Act. Applicant will loan the proceeds of the Notes to Turkcell and assign applicant's right to receive interest and principal payments on the loan to an indenture trustee for the noteholders (the ''Trustee''). The Trustee, which will be a major U.S. commercial bank, will have the right to proceed directly against Turkcell in the event of default on the loan payments. The loan agreement will provide that a default under the Notes and the trust indenture agreement constitutes a default under the loan agreement. In the event of a default under the Notes, the Trustee may declare the outstanding amount of the loan and any accrued but unpaid interest with respect to the loan to be immediately due and payable. Under the trust indenture agreement, if the Trustee does not exercise its rights following a default, holders of at least 25% in aggregate principal amount of the Notes outstanding may direct the Trustee to exercise the rights, or may themselves accelerate the Notes.

4. Turkcell and applicant, in connection with the offering of the Notes, will submit to the jurisdiction of any state or federal court in the Borough of Manhattan in the city of New York, and will appoint an agent to accept any process which may be served, in any suit, action, or proceedings brought against Turkcell or applicant based upon their obligation to the Trustee as described in the application. The consent to jurisdiction and appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due with respect to all outstanding obligations of Turkcell to the Trustee as described in the application have been paid.

5. Applicant will loan at least 85% of any cash or cash equivalents raised by applicant to Turkcell as soon as practicable, but in no event later than six months after applicant's receipt of the cash or cash equivalents. In the event that applicant borrows amounts in excess of the amounts to be loaned to Turkcell at any given time, applicant will invest the excess in temporary investments pending lending the money to Turkcell. All investments by Turkcell, including all temporary investments, will be made in government securities, securities of Turkcell or a company controlled by Turkcell, or debt securities which are exempted from the provisions of the 1933 Act by section 3(a)(3) of the 1933 Act. Applicant's articles of incorporation and the trust indenture relating to the Notes will limit applicant's activities to issuing the Notes or other debt securities, loaning the proceeds to Turkcell and assigning all of applicant's rights to repayment from Turkcell to the Trustee.

Applicant's Legal Analysis

1. Applicant states that it may be viewed as falling technically within the definition of an investment company under section 3(a)(1) of the Act. Applicant requests an exemption under section 6(c) of the Act from all provisions of the Act. Section 6(c) of the Act permits the SEC to grant an exemption from the provisions of the Act if, and to the extent, that such exemption is necessary and appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

2. Applicant states that rule 3a–5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies. Applicant states that it meets all of the requirements of rule 3a–5 except for two, which it cannot meet for Turkish tax reasons.

3. Rule 3a–5(b)(1)(i) under the Act requires that all of applicant's common stock be owned by Turkcell or a company controlled by Turkcell. Applicant argues that, even though for Turkish tax reasons applicant's common stock will be held by the Foundation, applicant was organized to serve solely as a conduit for Turkcell's capital raising activities. Applicant further states that its functions will be limited by its articles of incorporation and the trust indenture agreement to those of a traditional finance subsidiary.

4. Rule 3a–5(a)(1) under the Act requires that applicant's debt securities be directly guaranteed by Turkcell. Applicant states that under the arrangement described in the application, the Trustee will have the right to proceed directly against

Turkcell. Applicant argues that this arrangement is necessitated by Turkish tax law and that the arrangement will provide the noteholders with the functional equivalent of a guarantee by Turkcell. For the above states reasons applicant argues that it is not the type of entity intended to be regulated under the Act.

Applicant's Condition

Applicant agrees that any order granting the requested relief will be subject to the following condition:

Applicant will comply with all provisions of rule 3a–5 under the Act except: (i) With respect to rule 3a–5(b)(1)(i), applicant's common shares will be owned by the Foundation for the benefit of the Charity, and (ii) with regard to rule 3a–5(a)(1), the noteholders will have recourse to Turkcell for payment of principal and interest on the Notes as described in the application. Applicant's articles of incorporation and the trust indenture agreement will: (1) Limit applicant's activities to issuing Notes or other debt securities, loaning the proceeds to Turkcell, and assigning all of its rights to repayment from Turkcell to the Trustee; (ii) prohibit the sale of applicant's common shares held by the Foundation; and (iii) enable the Trustee in the event of a payment default to proceed directly against Turkcell, as assignee of the loan agreement between applicant and Turkcell.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11046 Filed 4–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Key Energy Group, Inc., Common Stock, $.10 Par Value) File No. 1–8038

April 21, 1998.

Key Energy Group, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company's Security has been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A which became effective on March 31, 1998, the New York Stock Exchange, Inc. (''NYSE''). Trading in the Security on the NYSE commenced on April 6, 1998, and concurrently therewith such Security was suspended from trading on the Amex.

In making the decision to withdraw its Security from listing on the Amex, the Company considered the sufficient liquidity provided by its listing and registration on the NYSE and the corresponding reduction in benefits provided by the costs associated with maintaining the Amex listing.

The Company has complied with Rule 18 of the Amex by filing with such Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing on the Amex and by setting forth in detail to such Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

By letter dated March 25, 1998, the Exchange informed the Company that its has no objection to the withdrawal of the Company's Security from listing on the Amex.

By reason of Section 12(b) of the Act, and the rules and regulations thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before May 12, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–11096 Filed 4–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 27, 1998.

A closed meeting will he held on Thursday, April 30, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, April 30, 1998, at 10:00 a.m., will be:

Instituion and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: April 23, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–11207 Filed 4–23–98; 11:42 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAD–14) will hold a meeting on May 6, 1998 from 1:45 p.m. to 3:45 p.m. The entire meeting will be open to the public.

DATES: The meeting is scheduled for May 6, 1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce in Room H 1414, located at 14th Street and Constitution Avenue, NW., Washington, DC., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Rod Rydlun, Department of Commerce, 14th St, and Constitution Ave., NW., Washington, DC 20230, (202) 482–4437 or Bill Daley, Office of the United States Trade Representative, 600 17th St., NW., Washington, DC 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The ISAC 14 will hold a meeting on May 6, 1998 from 1:45 p.m. to 3:45 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. The meeting will be open to the public and press from 1:45 p.m. to 3:45 p.m.

Pate Felts,

Acting Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 98–11151 Filed 4–24–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 98–3745]

Request for Emergency Processing of Currently Approved Information Collection; Voucher for Federal-Aid Reimbursements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501–3520), the FHWA has submitted a request to the Office of Management and Budget (OMB) for emergency processing clearance of a currently approved information collection. OMB clearance, for a six-month period, has been requested by April 30, 1998. The FHWA published its intent to request a three-year renewal to continue the current information collection in the **Federal Register** dated March 10, 1998, at 63 FR 11704. Comments to that notice are due on or before May 10, 1998.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection clearance request may be obtained by contacting the DOT, FHWA Information Collection Liaison, Mr. Earl Coles, Office of Information and Management Services, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–9084. Office hours are from 7:45 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Voucher for Federal-Aid Reimbursements.

OMB Number: 2125–0507.

Background: The forms FHWA PR–20, Voucher for Work Performed Under Provisions of the Federal-Aid and Federal Highway Acts, as amended, and FHWA 1447, Final Voucher for Payment under 23 U.S.C. 117 are used to collect Federal-aid project financial data relative to the expenditure of State funds. The FHWA's Federal-aid Highway Program is a reimbursable program which requires the expenditure of State funds and the reimbursement of same.

Respondents: State Departments of Transportation and State Highway Agencies.

Number of Respondents: 54.

Average Burden per Response: Approximately 1 hour.

Estimated Total Annual Burden: 13,201 hours.

Frequency: The States' use of the subject FHWA forms depends upon how frequently the States seek reimbursement from the FHWA. The frequency could range from daily to monthly. The subject forms are used to support State claims for reimbursement.

Authority: 23 U.S.C. 117 and 121; 23 U.S.C. 315; and 49 CFR 1.48.

Issued on: April 22, 1998.

George S. Moore, Jr.,

Associate Administrator for Administration.

[FR Doc. 98–11170 Filed 4–24–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning April 1, 1998, the rates will be 7 percent for overpayments and 8 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter.

The IRS announced March 30, 1998, that the rates of interest for the third quarter of fiscal year (FY) 1998 (the period of April 1—June 30, 1998) will be 7 percent for overpayments and 8 percent for underpayments. These interest rates are subject to change for the fourth quarter of FY–1998 (the period of July 1–September 30, 1998).

For the convenience of the importing public and Customs personnel the following list of Internal Revenue Service interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)
Before July	063075	6	6
070175	013176	9	9
020176	013178	7	7
020178	013180	6	6
020180	013182	12	12
020182	123182	20	20
010183	063083	16	16
070183	123184	11	11
010185	063085	13	13
070185	123185	11	11
010186	063086	10	10
070186	123186	9	9
010187	093087	9	8
100187	123187	10	9
010188	033188	11	10
040188	093088	10	9
100188	033189	11	10
040189	093089	12	11
100189	033191	11	10
040191	123191	10	9
010192	033192	9	8
040192	093092	8	7
100192	063094	7	6
070194	093094	8	7
100194	033195	9	8
040195	063095	10	9
070195	033196	9	8
040196	063096	8	7
070196	033198	9	8
040198	063098	8	7

Dated: April 22, 1998.

Douglas M. Browning,

Acting Commissioner of Customs.

[FR Doc. 98–11152 Filed 4–24–98; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

TIME AND DATE: 8:00 a.m., Wednesday, April 29, 1998.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The Board meeting will be closed to the public.

MATTER TO BE CONSIDERED:

- Review of commercial, operational and financial issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Joseph Tomkowicz, 301–564–3345.

Dated: April 22, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–11179 Filed 4–22–98; 4:24 pm]

BILLING CODE 8720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on Wednesday and Thursday, May 20–21, 1998, in room 630 of VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

The purpose of the meeting is to review information relating to the health effects of exposure to ionizing radiation. The major items on the agenda for both days will be discussions and analyses of medical and scientific papers concerning the health effects of exposure to ionizing radiation. On the basis of their analyses and discussions, the Committee may make recommendations to the Secretary concerning diseases that are the result of exposure to ionizing radiation. The agenda for the second day will include planning future Committee activities and assignment of tasks among the members.

The meeting is open to the public on both days. Those who wish to attend should contact Ersie Farber-Collins of the Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, N.W., Washington, DC 20420, prior to May 13, 1998, Ms. Farber-Collins may also be reached at 202–273–7268.

Members of the public may submit written questions or prepared statements for review by the Advisory Committee in advance of the meeting. Submitted material must be received at least five (5) days prior to the meeting and should be sent to Ms. Farber-Collins' attention at the address given above. Those who submit material may be asked to clarify if prior to its consideration by the Advisory Committee.

Dated: April 16, 1998.

By Direction of the Acting Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–11029 Filed 4–24–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 63, No. 80
Monday, April 27, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

Correction

In notice document 98–10136, appearing on page 18919, in the issue of Thursday, April 16, 1998, in the **DATES:** section, in the second line, ''[insert date 30 days after date of publication in the FEDERAL REGISTER]'' should read ''May 18, 1998''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contract Negotiations; Gateway National Recreation Area, NY; Recreational Vehicle Park and Campground Facilities Operation

Correction

In notice document 98–9816, appearing on page 18211, in the issue of Tuesday, April 14, 1998, the subject line is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–21–AD]

RIN 2120-AA64

Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P–180 Airplanes

Correction

In proposed rule document 98–7523, beginning on page 14049, in the issue of March 24, 1998, make the following correction:

1. On page 14049, in the third column, the ''Docket No.'' should read as set for above.

2. On the same page, in the same column, under the **ADDRESSES** caption, in the fifth and sixth lines, ''98–CE–121–AD'' should read ''98–CE–21–AD''.

3. On page 14050, in the first column, in the second complete paragraph, in the third line from the bottom, ''97–CE–121–AD'' should read ''98–CE–21–AD''.

4. On the same page, in the same column, under ''**Availability of NPRMs**'' in the third line from the bottom ''97–CE–121–AD'' should read ''98–CE–21–AD''.

5. On the same page, in the same column, under ''**Relevant Service Information**'' in the first line, after ''Bulletin'' insert ''(Mandatory)''.

6. On the same page, in the second column, under ''**Compliance Time of the Proposed AD**'' in the fourth line from the bottom, ''Ad'' should read ''AD''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-ACE-35]

Amendment to Class D and Class E Airspace; Salina, KS; Correction

Correction

In rule document 98–7821, beginning on page 14344, in the issue of Wednesday, March 25, 1998, make the following correction:

§ 71.1 [Corrected]

On page 14345, in the first column, in §71.1, in the sixth line, ''long. 97°37′35″W.'' should read ''long. 97°37′16″W.''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ACE-14]

Proposed Amendment to Class E Airspace; Lawrence, KS; Perryville, MO; Warrensburg, MO; Burlington, IA; Des Moines, IA; Fort Madison, IA; and Dubuque, IA

Correction

In proposed rule document 98–7825, beginning on page 14388, in the issue of Wednesday, March 25, 1998, make the following correction:

§ 71.1 [Corrected]

On page 14389, in §71.1, in the third column, ''**ACE 81 E5 Fort Madison, IA**'' should read ''**ACE IA E5 Fort Madison, IA**''.

BILLING CODE 1505-01-D

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

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S. 419/P.L. 105–168

Birth Defects Prevention Act of 1998 (Apr. 21, 1998; 112 Stat. 43)

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1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
23	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
25	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

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28 Parts:			
1-42	(869–032–00098–1)	36.00	July 1, 1997
43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
0–99	(869–032–00100–5)	27.00	July 1, 1997
100–499	(869–032–00101–4)	12.00	July 1, 1997
500–899	(869–032–00102–2)	41.00	July 1, 1997
900–1899	(869–032–00103–1)	21.00	July 1, 1997
1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
1910 (§§ 1910.1000 to end)	(869–032–00105–7)	29.00	July 1, 1997
1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–032–00107–3)	31.00	July 1, 1997
1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
1–199	(869–032–00109–0)	33.00	July 1, 1997
200–699	(869–032–00110–3)	28.00	July 1, 1997
700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–032–00114–6)	42.00	July 1, 1997
191–399	(869–032–00115–4)	51.00	July 1, 1997
400–629	(869–032–00116–2)	33.00	July 1, 1997
630–699	(869–032–00117–1)	22.00	July 1, 1997
700–799	(869–032–00118–9)	28.00	July 1, 1997
800–End	(869–032–00119–7)	27.00	July 1, 1997
33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–032–00121–9)	36.00	July 1, 1997
200–End	(869–032–00122–7)	31.00	July 1, 1997
34 Parts:			
1–299	(869–032–00123–5)	28.00	July 1, 1997
300–399	(869–032–00124–3)	27.00	July 1, 1997
400–End	(869–032–00125–1)	44.00	July 1, 1997
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36 Parts			
1–199	(869–032–00127–8)	20.00	July 1, 1997
200–299	(869–032–00128–6)	21.00	July 1, 1997
300–End	(869–032–00129–4)	34.00	July 1, 1997
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38 Parts:			
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40 Parts:			
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52 (52.1019–End)	(869–032–00137–5)	32.00	July 1, 1997
53–59	(869–032–00138–3)	14.00	July 1, 1997
60	(869–032–00139–1)	52.00	July 1, 1997
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63–71	(869–032–00141–3)	57.00	July 1, 1997
72–80	(869–032–00142–1)	35.00	July 1, 1997
81–85	(869–032–00143–0)	32.00	July 1, 1997
86	(869–032–00144–8)	50.00	July 1, 1997
87-135	(869–032–00145–6)	40.00	July 1, 1997
136–149	(869–032–00146–4)	35.00	July 1, 1997
150–189	(869–032–00147–2)	32.00	July 1, 1997
190–259	(869–032–00148–1)	22.00	July 1, 1997
260–265	(869–032–00149–9)	29.00	July 1, 1997
266–299	(869–032–00150–2)	24.00	July 1, 1997
300–399	(869–032–00151–1)	27.00	July 1, 1997
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425–699	(869–032–00153–7)	40.00	July 1, 1997
700–789	(869–032–00154–5)	38.00	July 1, 1997
790–End	(869–032–00155–3)	19.00	July 1, 1997
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
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7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
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42 Parts:			
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400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
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43 Parts:			
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1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
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45 Parts:			
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1200–End	(869–032–00169–3)	39.00	Oct. 1, 1997
46 Parts:			
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70–89	(869–032–00172–3)	11.00	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
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47 Parts:			
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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.